Rules

RULE

Department of Agriculture and Forestry
Office of the Commissioner

Scrapies
(LAC 7:XXI.101 and 121)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of the Commissioner, has amended regulations regarding the exportation of sheep and mutton.

In an effort to prevent the introduction and subsequent spread of scrapie, a disease of sheep and goats, this rule change would require owners of sheep and registered goats to put an official ear tag (in lieu of an official tattoo) in each animals ear prior to showing or selling the animal.

These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals
Chapter 1. General Provisions
§101. Definitions

* * *

Flock Plan—a written agreement, between the owner of the flock and a veterinarian employed by the LDAF or USDA, APHIS, VS, approved by the State Veterinarian to control scrapie in sheep and goats.

* * *

Official Identification for Scrapie—an electronic identification, state or federally approved tamper-resistant ear tag, or a flank or ear tattoo, which has been recorded in a book of record of a sheep or goat registry or association. When an animal is identified by an ear or flank tattoo either a registration certificate or a certificate of veterinary inspection shall accompany the animal. In the case of goats registered with the American Dairy Goat Association, the tattoo may be applied at the tail web.

* * *

Scrapie Affected Animal—any animal that tests positive for scrapie on an APHIS- approved live animal screening test is considered an affected animal.

* * *

Source Flock—a flock in which one animal diagnosed as scrapie positive at the age of 72 months or less was born.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 12:289 (May 1986), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), amended LR 28:1170 (June 2002).

§121. Requiring the Reporting of Contagious Diseases

A. In order to improve the protection of the livestock industry from the effects of contagious diseases of livestock, all veterinarians licensed in the State of Louisiana are required to report to the state veterinarian, by telephone or wire, within 24 hours after diagnosis or tentative diagnosis, the occurrence or suspected occurrence of the following contagious diseases: anthrax, Avian Influenza (OIE List A Disease), brucellosis, equine encephalomyelitis, equine infectious anemia, hog cholera, Infectious Encephalomyelitis, Infectious Laryngotracheitis (other than vaccine induced), Newcastle (OIE List A disease), Ornithosis, Paramyxovirus (other than Newcastle Disease), pseudorabies, pullorum/typhoid, scabies, scrapie, transmissible spongioform encephalopathies, tuberculosis, vesicular condition or any other disease condition which may seriously threaten the welfare of the livestock and poultry industry.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2094 and R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:813 (October 1989), LR 16:391 (May 1990), LR 23:197 (February 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner LR 28:1170 (June 2002).

Bob Odom
Commissioner

0206#049

RULE

Department of Agriculture and Forestry
State Market Commission

Labeling, Advertising, and Displaying of Eggs
(LAC 7:V.927 and 929)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Market Commission, has amended regulation regarding the extension of the shelf life of fresh eggs and the labeling of all cartons of eggs with "Safe Handling" instructions.

Section 927 is being amended due to improvements in refrigeration and egg processing, use of inline production and a reduction in the delay between the processing and stocking of eggs in retail stores, which can be as early as the next day, allows the shelf life of eggs in retail stores to be extended from 30 to 45 days.

The United States Department of Agriculture is now requiring all egg containers or cartons containing eggs that have not been specifically processed to destroy all live salmonellae prior to distribution for sale to the ultimate

consumer to be printed or stamped with a "Safe Handling" instruction. The purpose of the amendment to §929 is to bring state regulations in to conformity with the federal requirements and to aid in the development of uniform egg regulations on both a federal and state level.

These rules comply with and are enabled by R.S. 3:405 and 3:412.

Title 7
AGRICULTURE AND ANIMALS
Part V. Advertising, Marketing and Processing
Chapter 9. Market Commission–Poultry and Eggs
Subchapter A. Certification of Official State Grades of Poultry, Poultry Products and Shell Eggs

§927. Destination Tolerances; Additional Inspection Fees

A. No eggs shall be sold for resale to the consumers below U.S. Grade B, nor shall any eggs be sold as fresh eggs if the eggs are over 45 days of age. Eggs 45-60 days of age after package date may be returned to the processor or sent to a breaker. Eggs older than 60 days from date of package will be destroyed on the premises in the presence of the inspector/grader.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 19:1124 (September 1993), amended LR 23:295 (March 1997), LR 28:1171 (June 2002).

§929. Labeling, Advertising and Displaying of Eggs

A. - H. …

I. All cartons and containers containing shell eggs that have not been specifically processed to destroy all live salmonellae prior to distribution for sale to the ultimate consumer shall contain the following statement on each such carton or container:

> "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm and cook foods containing eggs thoroughly."

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, State Market Commission, May 1969, amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1123 (September 1993), amended LR 28:1171 (June 2002).

Bob Odom
Commissioner

0206#048

RULE

Department of Agriculture and Forestry
Structural Pest Control Commission

Contracts for Termite Control Work (LAC 7:XXV.119)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, has amended regulations regarding combination liquid spot and bait and baiting system termite treatments. These regulations were inadvertently deleted from the register.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to allow a liquid spot and a bait and baiting system treatment to be contracted with one contract and to set the fee for said contract.

These rules comply with and are enabled by R.S. 3:3203.

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control
Chapter 1. Structural Pest Control Commission

§119. Contracts for Termite Control Work

A. The licensee must enter into a written agreement for termite work with the property owner employing him, which agreement must:

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than one year after the treatment is made;
3. guarantee treatment of the property in accordance with minimum specifications for termite control work set forth in §141 hereof; and
4. provide for at least one inspection of the property prior to expiration of the agreement;
5. include an inspection diagram;
6. provide for the treatment of all subterranean termites.

B. Each contract for termite control work shall cover only one unit or one individual property, provided that the contract may include a garage appurtenant to the unit or individual property.

C. Contracts for spot termite treatments must guarantee the area treated for a period of one year.

D. Contracts for combination liquid spot and bait and baiting system termite treatments shall follow the requirements under §119.A, B, E and F.

E. The licensee must report to the commission, no later than the tenth day of each month, each contract for termite work which he has entered into and performed during the previous month. If no contracts were entered into or performed during the previous month, the licensee must report this fact to the commission no later than the tenth of each month.

F. The licensee shall pay a $5 fee for each standard contract and shall pay an $8 fee for each combination contract for liquid spot and bait and baiting system treatments reported under §119.E above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3363 and R.S. 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 28:1171 (June 2002).

Bob Odom
Commissioner

0206#047

RULE

Department of Economic Development
Office of Financial Institutions

NSF Collection Fees (LAC 10:XV.507)

Editor's Note: The following Rule is being repromulgated to correct a typographical error. The orginal rule may be viewed on page 990 of the May 20, 2000 *Louisiana Register*.

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with the Collection Agency Regulation Act, R.S. 9:3576.1, et seq., and specifically, R.S. 9:3576.4, and pursuant to Louisiana Attorney General Opinion 98-257, the acting commissioner of financial institutions hereby repromulgates the following rule that regulates the licensing, operations and practices of collection agencies and debt collectors to protect the welfare of the citizens of Louisiana, by clarifying the amount of fees which may be collected by collection agencies and debt collectors for debts involving checks returned for nonsufficient funds.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC
Part XV. Other Regulated Entities
Chapter 5. Debt Collection Agencies
§507. Collection of Nonsufficient Funds Fees

A. Purpose. In connection with the recovery of sums represented by returned checks for their clients, certain debt collection agencies are collecting service fees in excess of those allowed by law. The commissioner of the Office of Financial Institutions is statutorily mandated to implement the provisions of the Collection Agency Regulation Act, (CARA), R.S. 9:3516.1, et seq., as amended, to regulate the licensing, operations, and practices of collection agencies and debt collectors to protect the welfare of the citizens of Louisiana. This rule is being promulgated to clarify the amount of fees and charges which may be collected by debt collection agencies for debts involving checks returned for nonsufficient funds.

B. Definitions. The definitions for the terms utilized in this rule are the same as those provided for in the definitions section of the CARA, and specifically R.S. 9:3576.3.

C. Collection by a debt collection agency. In a debt collection agency's collection of claims represented by checks returned to its clients for nonsufficient funds, the debt collection agency may collect only those fees and charges allowed by Louisiana law, including but not limited to R.S. 9:2782.

D. Action. The commissioner may order a debt collection agency to return any fees and charges in excess of those allowed by Louisiana law. Failure to comply with this rule or the commissioner's order shall constitute a violation of the CARA and may subject the debt collection agency to administrative and/or enforcement action by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3576.4

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:990 (May 2000), repromulgated LR.28:1172 (June 2002).

Doris B. Gunn
Deputy Commissioner

0206#058

RULE

Board of Elementary and Secondary Education

Bulletin 102**C** Louisiana Physical Education Content Standards
(LAC 28:LIII.Chapters 1 - 11)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted Bulletin 102, *Louisiana Physical Education Content Standards*. Bulletin 102 will be printed in codified format as Part LIII of Title 28 of the Louisiana Administrative Code. The *Louisiana Physical Education Content Standards* will be disseminated to local school districts following publication. The standards and benchmarks therein will be used to guide curriculum development for all physical education courses. Implementation of the guidelines set forth in the *Louisiana Physical Education Content Standards* will improve educational practices and coherence in the local physical education programs. The *Louisiana Physical Education Content Standards* will align the curriculum with desired changes to promote a more relevant physical education curriculum for all students.

Title 28
EDUCATION
Part LIII. Louisiana Physical Education Content Standards
Subpart 1. Teaching and Learning Criteria
Chapter 1. General Provisions
§101. Introduction

A. Louisiana State Physical Education Standards are based on the National Physical Education Standards developed by the National Association for Sport and Physical Education. This standards document is not a state curriculum or a predetermined course of study, rather, it speaks of competencies, defining what a student should know and be able to do. Teachers in the state of Louisiana are encouraged and empowered to create their own physical education curriculum that would best help their students meet these standards.

B. Standards-based reform seeks to establish clear, attainable standards at internationally competitive levels for all students. Because the standards are consensus statements about what a student should "know and be able to do," they provide a basis for student assessment, and for evaluating programs, at national, state, and local levels.

C. A significant benefit to physical education offered through the delineation of a comprehensive set of standards and accompanying assessments is that they combat the uninformed idea that physical education is an "academically

soft" area of study. The standards ascribe academic standing to physical education. They say there is such a thing as achievement, that knowledge and skills matter, and that mere willing participation is not the same as education.

D. Educational reform initiatives include aligning assessment to a program with a fully integrated teaching process that provides meaningful information about student learning and achievement. The transformation of assessment programs is moving toward performance-based assessments that focus on high-priority objectives and significant outcomes for students. The primary goal of assessment should be the enhancement of learning, rather than the documentation of learning for the purpose of determining a grade.

E. The Louisiana State Content Standards are presented in grade clusters (K-2, 3-5, 6-8, and 9-12) representing the configuration of most Louisiana school systems and developmentally appropriate physical education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002).

§103. Louisiana Standards Foundation Skills

A. The Louisiana Content Standards Task Force has developed the following foundation skills which should apply to all disciplines. These foundation skills are listed numerically in parentheses at the end of each benchmark.

1. Communication. Communication is a process by which information is exchanged and a concept of *meaning* is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

a. reading;
b. writing;
c. speaking;
d. listening;
e. viewing; and
f. visually representing.

2. Problem Solving. Problem solving involves the identification of an obstacle or challenge and the application of knowledge and thinking process which include reasoning, decision making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. Resource Access and Utilization. Resource Access and Utilization is the process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential in all learning processes. These resource tools include:

a. pen;
b. pencil and paper;
c. audio/video material;
d. word processors;
e. computers;
f. interactive devices;
g. telecommunication; and
h. other emerging technologies.

4. Linking and Generating Knowledge. Linking and generating knowledge is the effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continued improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. Citizenship. Citizenship is the application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

a. working respectfully and productively together for the benefit of the individual and the community;
b. being accountable for one's civil, constitutional, and statutory rights; and
c. mentoring others to be productive citizens and lifelong learners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1173 (June 2002).

§105. Definitions/Descriptions

Benchmark—behavior that indicates progress toward a content standard.

CTAPE—criterion referenced assessment tool available through the Louisiana Department of Education. This assessment measures basic motor competencies for children ages 6 and up. *CTAPE* will discriminate between children who have average motor skills and children who have significantly below average motor skills. *CTAPE* consists of six testing levels based on chronological age.

Daily Physical Education—minimum daily instructional period of at least 30 minutes in elementary education and 50 minutes in middle and high school.

Developmentally Appropriate—takes into account those aspects of teaching and learning that change with the age and experience of the learner.

Event Task—a performance task that can be completed within 50 minutes. The task is loosely structured and written broadly enough to allow for multiple solutions or many possible correct answers. It should be engaging so as to capture the interest of the students and replicate or simulate a real world experience.

Group Project—an assessment project completed by several students working cooperatively. As opposed to an event task that can be completed in a single class period, the group project usually takes more than one class period to complete and may include time spent outside of class. *Group projects* may be performance-based (presentation of dance, creation of a new game) or involve class presentation of results, displays, wall charts.

Health-Enhancing Physical Activity—regular physical activity that results in maintaining physical fitness and improvement in health and well being across the life span.

Health Related Fitness—level of physiological functioning in:

1. cardiovascular endurance;
2. strength;
3. muscular endurance;
4. flexibility; and
5. body composition.

*Interview*C one-to-one discussion with a planned sequence of questions designed to obtain information (e.g., cognitive, affective, statistical). They are often regarded as teacher-to-student interviews for the purposes of obtaining information on student thoughts, feelings and understandings. Student-to-student or student-to-persons in the community interviews, however, may be used for such purposes as analyzing activity patterns or computing frequency of exercise.

*Locomotor Skill/Movements*C basic movements performed while moving the body from place to place (e.g., walk, run, hop, jump, skip, gallop, slide).

*Manipulative Skill*C movement done to or with objects with hands or involving the feet or other parts of the body.

*Movement Concepts*C movements that reinforce concepts such as time, space, effort and relationships.

*Nonlocomotor Skill*C movement of the body around an axis or joint (e.g., bend, stretch, twist, reach).

*Observation (Teacher/Student)*C the most utilized form of assessment in physical education. Teachers observe students on a regular basis as part of the instructional process. *Teacher observation* can also be used systematically to provide data on student performance, collect information on the instructional process or as a means of evaluation. All students or a sample of students representing different skill levels can be assessed. There are many tools teachers can use to record observational data including anecdotal records, checklists, rating scales, or scoring rubrics. All of these tools can be used whether in live observation or with video analysis by the teacher or by the students in peer assessment or self-assessment. The value of the information recorded in each of these cases is enhanced if teachers have a clear idea of what they are looking for in their observations and attend to issues related to the reliability and validity of the data they collect.

*Observational Record*C observational data includes anecdotal records, checklists, rating scales, or scoring rubrics either live or videotaped by teachers or students.

*Parental Support*C record of student regularity, progress, process or product of participation that has been verified by the parent(s). The report may include verification by signature of a student's recorded report or by anecdotal comments of the parent or person who has observed the out-of-class performance.

*Peer Observation*C

1. the observation of students by other students to assess competence in performance of skill and demonstration of selected critical elements of skill. It is most often used for the observation of critical elements that lead to a mature execution of a particular skill. Informal *peer observation* is used throughout teaching to help students evaluate progress toward the goal (inclusion of all components for a gymnastics routine or creative dance, correct pathway of travel in response to task).

2. *Peer observation feedback* includes:
   a. verbal discussion;
   b. verbal response;
   c. thumbs up or thumbs down; and
   d. written feedback.

3. Videotape is a helpful support technology for *peer observation*.

*Performance Assessment*C form of assessment in which students are asked to produce or create something demonstrating knowledge.

*Portfolio*C collections of a student's work assembled over time (*Feuer and Fulton, 1993*). They include various pieces of evidence documenting student achievement of a goal. *Portfolios* have been used by artists and models for many years to demonstrate their best work. The focus in student portfolios is on:

1. student thinking;
2. growth over time;
3. views of oneself as a learner; and
4. problem-solving.

*Role Playing*C students are given a scenario and then asked to simulate the characters they portray, or act out the situation that has been set for them. These dialogues can be written or verbalized. Students have the opportunity to portray real world situations. Students are required to use reasoning and problem solving to deal with the reality of the experience as it unfolds.

*Rubric*C rating scale and list of criteria by which student knowledge, skills or performance can be assessed.

*Self-Assessment*C

1. the student assesses personal progress as opposed to being assessed by the teacher or by other students. *Self-assessments* include:
   a. rating scales for levels of performance;
   b. participation;
   c. recording performance scores (e.g., distance, accuracy);
   d. summary reports after a series of assessment tasks (e.g., dribbling, throwing for accuracy and distance, jump shooting, physical fitness profiles); and
   e. questionnaires of likes and dislikes in activities.

2. *Self-assessment* is a part of logs, journals and portfolios as students evaluate personal performance or progress toward goals.

*Standard*C what students should know and be able to do.

*Student Journal*C student record of participation, results, responses to, feelings, perception, or reflections about actual happenings or results. Entries, made at regular intervals over time, may serve as indicators of success, failure, benefits, or other intangible products of participation. Entries are not viewed as right or wrong since they are reflections about personal performance including social and psychological perspectives. Students may describe both positive and negative behavior. Journal entries are used to summarize, compare and contrast like and unlike experiences, provide opportunity for self-analysis of personal meaning and quality of participation, record behavior adjustments, compare results of other assessment options including conditions which contribute, enhance, or limit participation, and as a resource of suggestions for change. Journal entries can be reviewed to determine how a student processes both internal and external information about his or her performance.

*Student Log*C

1. students record performance of specific behaviors over a period of time that identifies:
   a. products;
   b. time intervals;
   c. decisions/choices; and
   d. reflections.

2. Recorded items should indicate critical factors relative to expected results. Information may show:

a. performance changes;
b. sequence of behaviors;
c. choices;
d. feelings;
e. documentation of conditions;
f. progress;
g. process, and/or
h. regularity of participation.

3. *Logs* may be kept by individual students, small groups, or whole classes. Information can be used in combination with other assessment options to justify program changes and to make predictions.

*Student Project***C**students engage in building a scenario, determining goals, planning a program of participation to achieve outcomes, and implementing the plan to the completion of the goals. Student projects provide for a range of strategies and results including the following: the application of the processes of data collection, goal setting, planning, analysis, decision making, problem solving; development and application of skill and knowledge to real-life situations to solve problems or create "new" interventions to reach personal goals. These may include:

1. multiple objectives or outcomes;
2. combine multiple assessment options (e.g., logs, journals, and reports);
3. student autonomy in choosing procedures and reaching conclusions;
4. solo or multiple students;
5. multiple resources;
6. changes in status, behaviors or conditions;
7. authenticity;
8. performance products;
9. flexibility of time (complexity of task determines time); and
10. integration of multiple content areas, concepts and applications.

*Wellness***C**individual exercise programs based on health and healthy lifestyle issues including physical, intellectual, emotional, social and spiritual dimensions.

*Written Tests***C**

1. encompass multiple choice, true/false, matching, essay, short answer and fill-in-the-blank test formats traditionally used to examine:

a. knowledge;
b. comprehension;
c. application;
d. analysis;
e. synthesis; and
f. evaluation of the knowledge base in physical education.

2. Broadly speaking, such tests could include other test formats such as oral examinations and examinations that use drawings or pictures to elicit student responses.

3. *Written tests* are commonly used for short quizzes or for longer formal examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1173 (June 2002).

§107. Louisiana Physical Education Standards

A. Demonstrates competency in many movement forms and proficiency in a few movement forms. (1,2,5)

1. The intent of this standard is the development of movement competence and proficiency. Movement competence implies the development of sufficient ability to enjoy participation in physical activities and establishes a foundation to facilitate continued motor skill acquisition and increased ability to engage in appropriate motor patterns in daily physical activities. The development of proficiency in a few movement forms gives the student the capacity for successful and advanced levels of performance to further increase the likelihood of participation. In the primary years students develop maturity and versatility in the use of fundamental skills (e.g., running, skipping, throwing, striking) that are further refined, combined and varied during the middle school years. These motor patterns, now having evolved into specialized skills (e.g., a specific dance step, chest pass, catching with a glove), are used in increasingly more complex movement environments (more players or participants, rules, and strategies) through the middle school years. On the basis of interest and ability, high school students select a few activities for regular participation within which proficiency will be developed. In preparation for adulthood, students should have acquired the basic skills to participate in a wide variety of leisure and work-related physical activities and advanced skills in at least two or three areas.

B. Applies movement concepts and principles to the learning and development of motor skills. (1,2,4)

1. This standard concerns the ability of the learner to use cognitive information to understand and enhance motor skill acquisition and performance. This includes the application of concepts from disciplines such as:

a. motor learning and development;
b. sport psychology and sociology;
c. biomechanics; and
d. exercise physiology.

2. Specifically this would include concepts like increasing force production through the summation of forces, effects of anxiety on performance, and the principle of specificity of training. Knowledge of such concepts and practice applying these concepts enhances the likelihood of independent learning and, therefore, more regular and effective participation in physical activity.

a. During the lower elementary years emphasis is placed on establishing a movement vocabulary and the initial application of introductory concepts (e.g., for absorption, principles governing equilibrium, application of force).

b. Through the upper elementary and middle school years an emphasis is placed on learning more and increasingly complex concepts. In addition, emphasis is placed on applying and generalizing these concepts to real life physical activity situations (e.g., managing stress and the effect of growth spurt on movement performance).

c. During the high school years the student should possess sufficient knowledge of concepts to independently and routinely use a wide variety of increasingly complex concepts (e.g., performance trends associated with learning new motor skills, specificity of training).

d. By graduation the student should have developed sufficient knowledge and ability to independently use their knowledge to acquire new skills while continuing to refine existing ones.

C. Exhibits a physically active lifestyle. (1,2,3,4,5)

1. The intent of this standard is to establish patterns of regular participation in meaningful physical activity. This standard should connect what is done in the physical education class with the lives of students outside of physical education. While participation within the physical education class is important, what the student does outside the physical education class is critical to developing an active, healthy lifestyle. Students are more likely to participate if they have had opportunities to develop movement competence and they should be encouraged to participate in vigorous and unstructured play. As students get older the structure of activity tends to increase and the opportunities for participation in different types of activity increase outside of the physical education class. Attainment of this standard should develop an awareness of those opportunities and encourage a broad level of participation. Cognitive understandings develop from an initial awareness of cause and effect relationships between activity, and its immediate and identifiable effects on the body, to an increased understanding of the role of physical activity on the physiological body, social opportunities and relationships, and emotional well being. This yields a comprehensive perspective on maintaining the idea of a healthy lifestyle.

D. Achieves and maintains a health-enhancing level of physical fitness. (2,3,4,5)

1. The intent of this standard is for the student to achieve a health-enhancing level of physical fitness. Students should be encouraged to develop higher levels of basic fitness and physical competence as needed for many work situations and active leisure participation. Health-related fitness components include cardiorespiratory endurance, muscular strength and endurance, flexibility and body composition. Expectations for students' fitness levels should be established on a personal basis, taking into account variation in entry levels rather than setting a single set of standards for all children at a given grade level.

a. For elementary children, the emphasis is on promoting an awareness of fitness components and having fun while participating in health-enhancing activities that promote physical fitness.

b. Middle school students gradually acquire a greater understanding of the fitness components, how each is developed and maintained, and the importance of each in overall fitness.

c. Secondary students are able to design and develop an appropriate personal fitness program that enables them to achieve desired levels of fitness. Thus student should have both the ability and willingness to accept responsibility for personal fitness which fosters an active, healthy lifestyle.

E. Demonstrates responsible personal and social behavior in physical activity settings. (1,2,5)

1. The intent of this standard is the achievement of self-initiated behaviors that promote personal and group success in activity-oriented settings. These include safe practices, adherence to rules and procedure, etiquette, cooperation, teamwork, ethical behavior in sport, and positive social interaction.

2. Achievement of this standard in the lower elementary grades begins with recognition of classroom rules and procedures, as well as a focus on safety. In the upper elementary levels, students identify the purposes for rules and procedures and become involved in decision-making processes to establish rules and procedures for specific activity situations. High school students initiate responsible behavior, function independently and responsibly, while positively influencing the behavior of others in physical activity settings.

F. Demonstrates understanding and respect for differences among people in physical activity settings. (1,5)

1. The intent of this standard is to develop respect for individual similarities and differences through positive interaction among participants in physical activity. Similarities and differences include characteristics of culture, ethnicity, motor performance, disabilities, physical characteristics (e.g., strength, size, shape), gender, race, and socio-economic status.

a. Elementary school students begin to recognize individual similarities and differences and participate cooperatively in physical activity.

b. By middle school, students participate cooperatively in physical activity with persons with diverse characteristics and backgrounds.

c. High school students are expected to be able to participate with all people, recognize the value of diversity in physical activity, and develop strategies for inclusion of others.

G. Understands that physical activity provides opportunities for enjoyment, challenge, self-expression, and social interaction. (1,4)

1. This standard is designed to develop an awareness of the intrinsic values and benefits of participation in physical activity that provides personal meaning. Physical activity can provide opportunity for self-expression and social interaction and can be enjoyable, challenging, and fun. These benefits entice people to continue participation in activity throughout the life span.

a. Elementary school children derive pleasure from movement sensations and experience challenge and joy as they sense a growing competence in movement ability.

b. At the middle school level, participation in physical activity provides important opportunities for challenge, social interaction and group membership, as well as opportunities for continued personal growth in physical skills and their applied settings.

c. Participation at the high school level continues to provide enjoyment and challenge as well as opportunities for self-expression and social interaction. As a result of these intrinsic benefits of participation, students will begin to actively pursue lifelong physical activities that meet their own needs.

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Subpart 3. Cluster Levels

Chapter 3. Content Standards and Benchmarks

§301. Coding Key for Benchmarks

A. Standards are broad goals for student achievement in a content area. Each standard is followed by a set of benchmarks.

B. The benchmarks state what a student should know and be able to do in order to reach the standard. The key below will explain the coding used for the benchmarks contained in this document.

1. The first number indicates the standards number.
2. The capitol letter represents the cluster level.
3. The third symbol is a second number, which represent the benchmark number.
4. The letters for each grade cluster level are below:

P**C** represents the primary cluster level, grades K-2

E**C** represents the elementary cluster level, grades 3-5

M**C** represents the middle school cluster level, grades 6-8

H**C** represents the high school cluster level, grade 9

Example: 2-E-4 would represent benchmark four for standard two on the Elementary Level (grades 3-5).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1177 (June 2002).

Chapter 5. Grades K-2 C Primary Cluster Level

§501. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

1. Intent. The intent of this standard is to enable students to demonstrate maturelocomotor and nonlocomotor patterns and combine these movements in smooth, rhythmical and sequential patterns in a variety of conditions.

B. Benchmarks

1-P-1	Performs locomotor and non-locomotor skills at a basic level progressing to simple sequences utilizing shapes, levels, directions, pathways, and ranges.	(2,4)
1-P-2	Demonstrates ways to manage body weight in a variety of situations alone or within a group (e.g., hanging, climbing, and balancing in symmetrical and asymmetrical shapes).	(1,3,4)
1-P-3	Performs manipulative skills using a variety of equipment in different environmental conditions (e.g., striking with self, partner, or in a game situation).	(1,2,4,5)
1-P-4	Performs basic rhythmic skills alone, with a partner or within a group.	(1,2,5)

C. Suggested Assessment Methods

1. Teacher observation
2. Group project
3. Self assessment
4. Peer observation
5. Checklist
6. Video analysis

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1177 (June 2002).

§503. Standard 2

A. Standard 2 applies movement concepts and principals to the learning and development of motor skills.

1. Intent. The intent of this standard is to enable students to demonstrate elements of fundamental skills and to use them in relation to the concepts of space, effort and relationships.

B. Benchmarks

2-P-1	Integrates other content areas through movement.	(1,2,3,4,5)
2-P-2	Demonstrates and uses a variety of relationships with objects (e.g., over/under, behind, alongside, through).	(1,2,4)
2-P-3	Identifies fundamental movement patterns	(1,2,4)
2-P-4	Establishes a beginning movement vocabulary (e.g., personal space, high/low levels, fast/slow speeds, light/heavy weights, balance, twist).	(1,2,4)
2-P-5	Applies appropriate concepts to performance (change direction while running).	(1,2,4)

C. Suggested Assessment Methods

1. Teacher observation
2. Group project
3. Self assessment
4. Peer observation
5. Checklist
6. Written test
7. Video analysis

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§505. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

1. Intent. The intent of this standard is to enable students to develop positive attitudes toward regular physical activity and its effect on personal well being.

B. Benchmarks

3-P-1	Participates regularly in vigorous activities outside of physical education class.	(1,2,3,4,5)
3-P-2	Acknowledges that physical activity is good for personal well being.	(1,2,3,4,5)
3-P-3	Experiences and expresses satisfaction from participation in physical activity.	(1,2,4,5)

C. Suggested Assessment Methods

1. Group project
2. Self assessment
3. Peer observation
4. Student journal
5. Interview
6. Portfolio
7. Role playing
8. Criterion-Related Assessment (C-TAPE-Competency Test for Adapted Physical Education)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1177 (June 2002).

§507. Standard 4

A. Standard 4 achieves and maintains a health-enhancing level of physical fitness.

1. Intent. The intent of this standard is to encourage students to participate in activities that promote health-related fitness.

B. Benchmarks

4-P-1	Sustains activity from moderate to vigorous intensity levels while participating in physical activity.	(2,4)
4-P-2	Identifies physiological signs of moderate physical activity (e.g., fast heart rate, sweating, increased breathing).	(1,2,4)
4-P-3	Demonstrates activities that increase muscular strength and endurance.	(1,2,4)
4-P-4	Demonstrates moving each joint through a full range of motion.	(1,2,4)

C. Suggested Assessment Methods

1. Teacher observation
2. Self assessment
3. Peer observation
4. Group project
5. Parental report
6. Portfolio
7. Student log
8. Written test
9. Checklist - teacher, student, and parent

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1178 (June 2002).

§509. Standard 5

A. Standard 5 demonstrates responsible personal and social behavior in physical activity settings.

1. Intent. The intent of this standard is to enable students to demonstrate safe practices, rules and procedures with little or no reinforcement.

B. Benchmarks

5-P-1	Demonstrates established protocols with little reinforcement (e.g., playground, classroom, and gymnasium).	(1,2,4,5)
5-P-2	Acknowledges the importance of being aware of one's surroundings and acting in a safe manner in physical activity settings.	(1,2,4,5)
5-P-3	Works cooperatively (e.g., takes turns, is supportive, assists partner) with another to complete an assigned task.	(1,2,4,5)
5-P-4	Applies the elements of socially acceptable conflict resolution in physical activity settings (e.g., cooperation, sharing, consideration).	(1,2,4,5)

C. Suggested Assessment Methods

1. Portfolio
2. Teacher observation
3. Student journal
4. Observational record
5. Parental reporting
6. Checklist – teacher, student, and parent

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1178 (June 2002).

§511. Standard 6

A. Standard 6 demonstrates an understanding and respect for differences among people in physical activity settings.

1. Intent. The intent of this standard is to encourage students to identify and demonstrate concepts of cooperation, sharing and consideration regardless of differences.

B. Benchmarks

6-P-1	Recognizes the importance of seeking out, participating with, and showing respect for people of like and different physical abilities.	(1,2,5)
6-P-2	Interacts with others regardless of personal differences (e.g., gender, ethnicity, disability).	(1,2,5)
6-P-3	Demonstrates a willingness to help a fellow student who has difficulty completing a skill	(1,2,5)

C. Suggested Assessment Methods

1. Written assessment
2. Oral assessment
3. Checklist
4. Student journal
5. Portfolio
6. Observational record
7. Interview
8. Role playing
9. Teacher observation
10. Group project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1178 (June 2002).

§513. Standard 7

A. Standard 7 understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

1. Intent. The intent of this standard is to encourage students to demonstrate cooperation with others in dyads and small groups and to express their feelings through activity.

B. Benchmarks

7-P-1	Describes the feelings that result from challenges, successes, and failures in physical activity, alone or in groups.	(1,2,4)
7-P-2	Distinguishes feelings about and during physical activity.	(1,2,4)
7-P-3	Displays a willingness to participate in new activities.	(1,2,4)

C. Suggested Assessment Methods

1. Written Assessment
2. Oral assessment
3. Checklist
4. Student journal
5. Student portfolio
6. Role playing
7. Teacher observation
8. Interview
9. Group project

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Chapter 7. Grades 3-5C Elementary Cluster Level

§701. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

1. Intent. The intent of this standard is to demonstrate refined fundamental movement patterns. Attainment of mature motor patterns and variations of skills and skill combinations are performed. In addition, students should be able to acquire some specialized skills basic to a movement form and to use those skills with a partner.

B. Benchmarks

1-E-1	Demonstrates mature forms in locomotor, non-locomotor, and manipulative skills (e.g., locomotor - run, jump, skip; non-locomotor - bend, stretch, lunge; manipulative - catching, throwing, kicking).	(1,3,5)
1-E-2	Combines a variety of motor skills for specific sports (e.g., catches, dribbles and passes basketball to a moving partner).	(1,3,5)
1-E-3	Exhibits ability to manipulate objects with the skills necessary to participate in games and lead-up activities (e.g., engages in simple games requiring manipulative skills).	(2,3,5)
1-E-4	Demonstrates the ability to create rhythmic movement patterns and dances (e.g., performs rhythmic body movements and communicates ideas and feelings with and without music).	(1,4)

C. Suggested Assessment Methods

1. Teacher observation
2. Event task
3. Peer observation
4. Student log
5. Performance assessment
6. Observational record

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1179 (June 2002).

§703. Standard 2

A. Standard 2 applies movement concepts and principles to the learning and development of motor skills.

1. Intent. The intent of this standard is to enable students to use critical elements to refine personal performance of fundamentals and selected specialized motor skills. They should be able to identify and apply concepts that impact the quality of movement performance in increasingly complex movement situations.

B. Benchmarks

2-E-1	Integrates movement concepts with other content areas (e.g., measuring distances and timing races or events).	(2,4)
2-E-2	Applies critical elements to improve personal performance in fundamental and selected specialized motor skills (e.g., describes and demonstrates body positions for each part of an overhand throw).	(1,4)
2-E-3	Recognizes and describes critical elements of more complex movement patterns (e.g., describes the use of the arms, as well as the legs, in performing the running long jump for maximum distance).	(1.4)
2-E-4	Employs the concept of efficient and effective practice to improve skills in appropriate settings (e.g., repeating the skill of basketball lay-ups in a gym or playground setting).	(2.5)

C. Suggested Assessment Methods

1. Teacher observation
2. Student log
3. Event task
4. Peer observation
5. Written test
6. Observational record

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1179 (June 2002).

§705. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

1. Intent. The intent of this standard is to develop an awareness of participation in physical activity as a conscious decision and personal choice for both enjoyment and health-related benefits.

B. Benchmarks

3-E-1	Describes the physical, emotional, and psychological benefits of participation in health-related activities	(1,5)
3-E-2	Identifies several moderate to vigorous physical activities that provides personal pleasure (e.g., participates in youth league soccer after school, or joins in a pick-up game of basketball).	(1,4,5)
3-E-3	Selects and participates regularly in physical activities for the purpose of improving skill and health (engages in activities that promote cardiovascular fitness)	(2,4)

C. Suggested Assessment Methods

1. Student log
2. Written test
3. Group project
4. Observational record
5. Technology use

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1179 (June 2002).

§707. Standard 4

A. Standard 4 achieves and maintains a health-enhancing level of physical fitness.

1. Intent. The intent of this standard is to match different types of physical activity with underlying physical fitness components including moderate to vigorous physical activities in a variety of settings.

B. Benchmarks

4-E-1	Identifies several activities related to each component of health-related fitness.	(1,4)
4-E-2	Participates in self-assessment for health-related fitness and meets the standards for that particular test for their appropriate age group.	(1,2,4)
4-E-3	Selects an activity program that is designed to improve health-related fitness.	(2)
4-E-4	Adopts personal goals based upon results of fitness assessments.	(1,2,3,4,5)
4-E-5	Achieves reasonable levels in all components of health-related fitness.	(1,2,3,4,5)

C. Suggested Assessment Methods

1. Student project
2. Student log

3. Student journal
4. Written test

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1179 (June 2002).

§709. Standard 5

A. Standard 5 demonstrates responsible personal and social behavior in physical activity settings.

1. Intent. The intent of this standard is to develop activity-specific safe practices, rules, procedures and etiquette.

B. Benchmarks

5-E-1	Demonstrates good sportsmanship and fair play in a variety of settings	(1,2,5)
5-E-2	Recognizes and avoids unsafe practices and situations	(2,4,5)
5-E-3	Works cooperatively with teachers and peers to reach a common goal	(1,2,5)
5-E-4	Exhibits independence and ability to succeed in groups	(1,2,5)
5-E-5	Accepts and gives constructive feedback	(1,2,5)

C. Suggested Assessment Methods
1. Teacher observation
2. Event task
3. Group project
4. Student journals
5. Observational record

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1180 (June 2002).

§711. Standard 6

A. Standard 6 demonstrates understanding and respect for differences among people in physical activity settings.

1. Intent. The intent of this standard is to build on the foundation laid in early grades that encourages students to develop cultural/ethnic self-awareness.

B. Benchmarks

6-E-1	Displays positive attitudes toward self and others through physical activity.	(1,5)
6-E-2	Demonstrates tolerance for individual differences.	(1,5)
6-E-3	Explores the role of culture in physical activities of other countries.	(1,4,5)

C. Suggested Assessment Methods
1. Group project
2. Student log
3. Student project
4. Portfolio
5. Teacher Observation

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1180 (June 2002).

§713. Standard 7

A. Standard 7 understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

1. Intent. The intent of this standard is to identify activities that will challenge, encourage and promote the enjoyment and commitment to engaging in regular physical activities.

B. Benchmarks

7-E-1	Exhibits positive feelings about participation in physical activity.	(1,5)
7-E-2	Engages in the challenge of new activities.	(1,3,4)
7-E-3	Participates enthusiastically in independent and interactive physical activities.	(1,2,3,5)
7-E-4	Participates in and designs games, gymnastics and dance to increase skill competence.	(1,2,3,4,5)
7-E-5	Acknowledges the role of games, sports, and dance in getting to know and understand self and others.	(1,4,5)

C. Suggested Assessment Methods
1. Group project
2. Portfolio
3. Student log
4. Teacher observation
5. Student project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1180 (June 2002).

Chapter 9. Grades 6-8C Middle School Cluster Level

§901. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

B. The middle school student is expected to acquire competence in a variety of movement forms. As a result of an increased ability to vary skills, students are able to participate successfully in dance activities, outdoor pursuits, and modified versions of team and individual sports. In order to do this, students should have gained competence in the basic skills and their application to modified versions of these movement forms.

C. Benchmarks

1-M-1	Demonstrates the ability to combine locomotor, non-locomotor, and manipulative skills (e.g., combines running, stopping, throwing, shooting and kicking)	(3)
1-M-2	Exhibits basic strategies related to specific lead-up games (e.g., basic offense and defense; strategies related to cooperative activities)	(1,2,4)
1-M-3	Demonstrates basic competency in more complex motor skills and more advanced specialized skills (e.g. hand dribble and foot dribble to prevent an opponent from stealing) related to specific sports activities (e.g., participates in modified versions of team sports such as basketball, volleyball, softball, soccer)	(2,4)
1-M-4	Demonstrates the ability to create rhythmic movement patterns (e.g., performs movements and routines in activities such as square dance, line dance, modern dance, aerobics, kick boxing, Tai Chi, Yoga)	(1,2,4,5)
1-M-5	Demonstrates strategies for net and invasion games (e.g., keeping object going with partner using striking pattern, placing ball away from opponent in a racket sport, hand and foot dribble while preventing an opponent from stealing the ball)	(1,2,4,5)

D. Suggested Assessment Methods
1. Teacher observation
2. Role playing
3. Self assessment
4. Group project
5. Written test
6. Student project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1180 (June 2002).

§903. Standard 2

A. Standard 2 applies movement concepts and principles to the learning and development of motor skills.

B. Middle school students' increasing competence affords them opportunities to develop more advanced knowledge and understanding. This is exemplified through their growing understanding and application of more advanced movement and game strategies, critical elements of advanced movement skills, and the identification of characteristics representative of highly skilled performance. Concepts of practice in relation to performance can be understood and applied, and are indicative of the increasing complexity of discipline-specific knowledge that can be used (e.g., lengthening the lever increases linear velocity).

C. Benchmarks

2-M-1	Analyzes and applies basic concepts to improve movement, dance, fitness, game and sports skills being practiced (e.g., throws softball different distances using varied trajectories and amounts of force).	(2,4)
2-M-2	Demonstrates how practicing movement skills improves performance (e.g., maintains a log of practice attempts for throwing a softball at a target, compares differences in successful throws from first attempts to last attempts).	(4)
2-M-3	Analyzes and applies advanced movement and game strategies (e.g., guards another player who is dribbling a basketball, attempts to prevent a pass or shot; demonstrates game strategies involved in playing tennis, pickle ball, bounce ball).	(2,4)
2-M-4	Recognizes and applies principles necessary for safe and skilled physical performance (e.g., never shoot an arrow up into the air; always include a warm-up and cool-down component as part of the activity).	(2,4)

D. Suggested Assessment Methods
1. Teacher observation
2. Role playing
3. Self-assessment
4. Student log

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1181 (June 2002).

§905. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

B. The middle school student should participate in at least one physical activity outside of the school setting on a regular basis. It is the intent of this standard to increase awareness of the opportunities for participation and interest in participating in a superfluous of different kinds of physical activity experiences. Students should be able to independently set physical activity goals and participate in individualized programs of physical activity and exercise based on the results of fitness assessments, personal fitness goals and interest. Greater and more specific understanding of long-term health benefits and understanding the relationship of health maintenance to the quality of lifelong health is expected.

C. Benchmarks

3-M-1	Identifies opportunities in the school and community for regular participation in physical activity (e.g., rollerblading, bicycling, hiking intramural activities and extracurricular activities).	(2,3,4)
3-M-2	Explores a variety of new physical activities for personal interest in and out of physical education class (e.g., participates in games, sports, dance and outdoor pursuits both in and out of school based on individual interests and capabilities; explores new activities on the Internet).	(2,3,4)
3-M-3	Establishes and pursues personal physical activity goals through regular physical activity (e.g., participates in an individualized physical activity program designed with the help of the teacher).	(1,2,3,4)
3-M-4	Describes the elements of a healthy lifestyle (e.g., explains the health-related and skill-related components of a healthy lifestyle; uses heart rate monitors to discuss cardiovascular health).	(1,2,3,4)

D. Suggested Assessment Methods
1. Teacher observation
2. Interview
3. Self-assessment
4. Student project
5. Portfolio
6. Parental Report
7. Student log

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1181 (June 2002).

§907. Standard 4

A. Standard 4 achieves and maintains a health-enhancing level of physical fitness.

B. Students at this level should participate in physical activities that address each component of health-related fitness, including muscular strength and endurance flexibility, body composition, as well as cardiorespiratory endurance. They can assess their personal fitness status for each component. Students are introduced to the various principles of training (e.g., threshold, overload, specificity) and how they can be utilized in improving physical fitness. At this level, students should be able to interpret the results of physical fitness assessments and use this information to assist in the development of individualized physical fitness goals with little assistance from the teacher.

C. Benchmarks

4-M-1	Participates in and sustains moderate to vigorous physical activity in a variety of settings (e.g., activity should elevate heart rate to target heart rate zone).	(4)
4-M-2	Develops individual goals for each of the health-related fitness components (e.g., assess individual fitness levels and set individual goals based on fitness results).	(2,4)
4-M-3	Participates in self-assessment for health-related fitness and meets the standards for that particular test for their appropriate age group.	(3,4)
4-M-4	Analyzes and applies basic principles of training to improve health-related fitness [e.g., addresses development of a workout plan, warm-up, cool-down, and includes such principles as FITT (frequency, intensity time and type), overload, specificity].	(2,4)

D. Suggested Assessment Methods
1. Teacher observation
2. Written test
3. Observational record
4. Student project
5. Peer Observation

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1181 (June 2002).

§909. Standard 5

A. Standard 5 demonstrates responsible personal and social behavior in physical activity settings.

B. Students are beginning to seek greater independence from adults. They make appropriate decisions to resolve conflicts arising from the powerful influence of peers and to follow pertinent practices, rules and procedures necessary for successful performance. They practice appropriate problem-solving techniques to resolve conflicts when necessary in competitive activities. Students reflect on the benefits of the role of rules, procedures, safe practices, ethical behavior, and positive social interaction in physical activity settings.

C. Benchmarks

5-M-1	Participates in cooperative activities in both leadership and follower roles.	(1,2,4,5)
5-M-2	Utilizes time effectively to complete assigned tasks.	(3,4)
5-M-3	Participates in establishing and following rules, procedures and etiquette that are safe and effective for specific activity situations.	(1,2,4)

D. Suggested Assessment Methods
1. Teacher assessment
2. Group project
3. Peer observation
4. Student log
5. Self-assessment
6. Student project
7. Written test
8. Event task

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1182 (June 2002).

§911. Standard 6

A. Standard 6 demonstrates understanding and respect for differences among people in physical activity settings.

B. At the middle school level, the concept of physical activity as a microcosm of modern culture and society is introduced. Students should be able to recognize the role of physical activity in understanding diversity in modern culture. Students continue to include and support each other and respect the limitations and strengths of group members.

C. Benchmarks

6-M-1	Analyzes, describes and participates in simple forms of dances and games of various cultures from around the world (e.g., incorporate the history of individual sports or discuss the history of the Olympics).	(3,4)
6-M-2	Recognizes commonalties and differences in people of different genders, cultures, ethnicity, abilities and skill levels, and seeks to learn more about both.	(2,4,5)
6-M-3	Recognizes the role of sport, games and dance in getting to know and understand others of like and different backgrounds (e.g., write a report on the history and their impact today).	(3,5)

D. Suggested Assessment Methods
1. Teacher Observation
2. Student Log
3. Self-Assessment
4. Interview
5. Portfolio
6. Student Project
7. Role Playing
8. Event Task
9. Group Project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1182 (June 2002).

§913. Standard 7

A. Standard 7 understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

B. A primary reason middle school students seek physical activity is for group membership and positive social interaction. Physical activities provide a positive outlet for competition with peers and serve as a means of gaining the respect and recognition of others. Skill expertise is increasingly valued. Physical activity can increase self-confidence and self-esteem as students discover renewed enjoyment of participation. Feelings of independence are beginning to be important as well. Physical activities can provide confidence as students start to take steps toward independence. Challenge is found in both high levels of competition as well as in new or different activities. As students experience a greater awareness of feelings, the avenues of self-expression provided by dance, gymnastics and various sport activities become increasingly more important.

C. Benchmarks

7-M-1	Participation in challenging activities and in activities requiring the utilization of newly acquired skills (e.g., participates in recreational opportunities outside of school according to their abilities).	(2,4)
7-M-2	Identifies the social, emotional and physical benefits of participation in physical activities (e.g., students explain the benefits of physical activity).	(1,4)
7-M-3	Demonstrates enjoyment from participation in physical activities.	(5)

D. Suggested Assessment Methods
1. Teacher observation
2. Student log
3. Self-assessment
4. Student project
5. Portfolio
6. Event task

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Chapter 11. Grades 9-12C High School Cluster Level

§1101. Standard 1

A. Standard 1 demonstrates competency in many movement forms and proficiency in a few movement forms.

B. Students in grades 9 and above have reached a high level of competency in movement forms and are ready to attempt mastery in some chosen activities. Through observation, analysis and practice, they develop movement skills to the highest level possible for them at this developmental stage. They participate in a variety of individual, dual and team sports as well as in recreational games, dance and challenge activities.

C. Benchmarks

1-H-1	Demonstrates proficiency in applying advanced skills, strategies and rules for specific activities (e.g., plays games such as racquet, field and court sports that require advanced eye/body coordination and high levels of strategy.	(1,2,3,4,5)
1-H-2	Develops outdoor and lifelong leisure pursuits.	(1,3,4,5)

D. Suggested Assessment Methods
1. Teacher observation
2. Portfolio
3. Observational record
4. Written test
5. Performance assessment

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1183 (June 2002).

§1103. Standard 2

A. Standard 2 applies movement and principles to the learning and development of motor skills.

B. Students at this grade level are beginning to specialize in a few movement forms leading toward proficiency. They bring together many disciplines such as physics and anatomy to gain a better understanding of how and why they move as they do. They predict performance outcomes based on movement principles and plan their goals accordingly.

C. Benchmarks

2-H-1	Synthesizes previously learned skills and incorporates them into dynamic physical activity settings.	(1,2,3,4)
2-H-2	Identifies and applies critical elements to enable the development of movement competence/proficiency (e.g., applies biomechanical concepts and principles to analyze and improve performance of self and others).	(1,2,3,4)

D. Suggested Assessment Methods
1. Teacher observation
2. Student project
3. Observational record
4. Peer observation
5. Group project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1183 (June 2002).

§1105. Standard 3

A. Standard 3 exhibits a physically active lifestyle.

B. Students participate in a variety of physical activities that can be continued for a lifetime. Students at this level should be able to develop sound strategies for incorporating physical activity into a comprehensive lifetime activity plan.

C. Benchmarks

3-H-1	Utilizes available community resources to promote an active lifestyle (e.g., develop strategies to deal with participation that will occur over their life span).	(1,2,3,4,5)
3-H-2	Participates in lifetime recreational activities specific to fitness components (e.g., rock climbing, backpacking, power walking, rollerblading, orienteering).	(1,2,3,4,5)
3-H-3	Participates regularly in physical activities that contribute to improved physical fitness and wellness.	(3,4,5)

D. Suggested Assessment Methods
1. Teacher observation
2. Student report
3. Observational record
4. Portfolio
5. Student journal
6. Interview
7. Group project

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1183 (June 2002).

§1107. Standard 4

A. Standard 4 achieves and maintains a health-enhancing level of physical fitness.

B. Students should begin to choose and participate on a regular basis in physical activities that enable them to achieve and maintain health-related fitness. Students should be able to interpret information from fitness tests and begin to design, with teacher guidance, a health-related fitness plan.

C. Benchmarks

4-H-1	Participates in a variety of health-enhancing physical activities in both school and non-school settings.	(3,4,5)
4-H-2	Identifies and evaluates personal physiological response to exercise (e.g., monitor body responses before, during and after exercise by checking such factors as heart rate, perceived exertion, recovery time and adequate fluid intake).	(2,3,4)
4-H-3	Designs health-related fitness programs based on accurately assessed fitness profiles.	(1,2,3,4,5)

D. Suggested Assessment Methods
1. Teacher observation
2. Written test
3. Observational record
4. Student project
5. Peer observation

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1183 (June 2002).

§1109. Standard 5

A. Standard 5 demonstrates responsible personal and social behavior in physical activity settings.

B. Students demonstrate responsible personal and social behavior through following safe practices, rules, procedures and etiquette in all physical activity settings. Students do so with an understanding of their responsibility as a positive influence on the behavior of others. They anticipate potential conflicts and strive to prevent them from happening or quickly resolve conflicts that do occur in socially accepted ways.

C. Benchmarks

5-H-1	Demonstrates safe and appropriate use and care of equipment and facilities (e.g., anticipated potentially dangerous situations related to physical activity).	(1,3,4)
5-H-2	Identifies the inherent risks associated with physical activity in extreme environments (e.g., describe safety techniques to use to avoid dehydration, over-exertion, heat exhaustion and hypothermia during physical activity in extreme environments).	(1,2,4,5)
5-H-3	Initiates and models independent and interdependent personal behaviors in physical activity settings.	(1,2,5)

D. Suggested Assessment Methods
1. Teacher observation
2. Student project
3. Observational record
4. Student report
5. Self-assessment
6. Peer observation
7. Written tests

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1184 (June 2002).

§1111. Standard 6

A. Standard 6 demonstrates understanding and respect for differences in physical activity settings.

B. Students recognize the influence of sport on society. They analyze the effects of cultural differences on the various types of sports activities seen in different parts of the world. They explore the history and purposes of international competitions. They compare games and physical activities in different countries and describe how multiculturalism influences these games. Students begin to develop their own feelings about inclusion of people with physical, cultural and emotional differences in the physical activities in which they participate.

C. Benchmarks

6-H-1	Explores how age, gender, ethnicity, culture and economic status affect physical activity selection and participation.	(1,2,3,4,5)
6-H-2	Develops and integrates strategies for inclusion of *all* in physical activities.	(1,2,3,4,5)

D. Suggested Assessment Methods
1. Teacher observation
2. Student report
3. Observational record
4. Group project
5. Portfolio

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1184 (June 2002).

§1113. Standard 7

A. Standard 7 understands that physical activity provides the opportunity for enjoyment, challenge, self-expression, and social interaction.

B. Students enjoy expressing their feelings through play and other physical activities. Student members of competitive teams or activity groups experience positive feelings associated with individual and group successes and learn how to control feelings of disappointment in losing situations. Students seek out challenging activities without fear. They recognize and discuss the value of participation in physical activities and the social interaction it provides.

C. Benchmarks

7-H-1	Participates for enjoyment in a variety of physical activities in competitive and recreational settings (e.g., identifies participation factors that contribute to enjoyment and achievement of a team).	(1,2,4,5)
7-H-2	Identifies positive aspects of participation in several different physical and social activities with others (e.g., jogging, dancing, walking, recreational activities.	(1,2,4,5)
7-H-3	Illustrates benefits of physical education on social and emotional well-being (e.g., participates in physical activities to relax and relieve stress).	(1,2,5)

D. Suggested Assessment Methods
1. Written report
2. Student journal
3. Student projects
4. Portfolio
5. Event task

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1184 (June 2002).

Subpart 5. Cluster Level Charts

Chapter 15. Physical Education Standards by Levels

§1501. Standards 1-7

A. Standard I

Physical Education Standards by Levels	
Standard I: Demonstrates competency in many movement forms and proficiency in a few movement forms.	
Level P: Primary (K-2)	**Level E: Elementary (Grades 3-6)**
1-P-1 Performs locomotor and non-locomotor skills at a basic level progressing to simple sequences utilizing shapes, levels, directions, pathways, and ranges. 1-P-2 Demonstrates ways to manage body weight in a variety of situations alone or within a group. 1-P-3 Performs manipulative skills using a variety of equipment in different environmental conditions. 1-P-4 Performs basic rhythmic skills, alone, with a partner or within a group.	1-E-1 Demonstrates mature forms in locomotor, non-locomotor and manipulative skills. 1-E-2 Combines a variety of motor skills for specific sports. 1-E-3 Exhibits ability to manipulate objects with the skills necessary to participate in games and lead-up activities. 1-E-4 Demonstrates the ability to create rhythmic movement patterns and dances.

Physical Education Standards by Levels	
Standard I: Demonstrate competency in many movement forms and proficiency in a few move ment forms.	
Level M: Middle School (Grades 6-8)	**Level H: High School (Grades 9-12)**
1-M-1 Demonstrates ability to combine skills. 1-M-2 Exhibits basic strategies related to specific lead-up games. 1-M-3 Demonstrates basic competency in more complex motor and advanced specialized skills related to specific sports activities. 1-M-4 Demonstrates the ability to create rhythmic movement patterns. 1-M-5 Demonstrates strategies for net and invasion games.	1-H-1 Demonstrates proficiency in applying advanced skills, strategies and rules for specific activities. 1-H-2 Develops outdoor and lifelong leisure pursuits.

B. Standard II

Physical Education Standards by Levels	
Standard II: Applies movement concepts and principals to the learning and development of motor skills.	
Level P: Primary (K-2)	**Level E: Elementary (Grades 3-6)**
2-P-1 Integrates other content areas through movement. 2-P-2 Demonstrates and uses a variety of relationships with objects. 2-P-3 Identifies fundamental movement patterns. 2-P-4 Establishes a beginning movement vocabulary. 2-P-5 Applies appropriate concepts to performance.	2-E-1 Integrates movement concepts with other content areas. 2-E-2 Applies critical elements to improve personal performance in fundamental and selected specialized motor skills. 2-E-3 Recognizes and describes critical elements of more complex movement patterns. 2-E-4 Employs the concept of efficient and effective practice to improve skills in appropriate settings.

Physical Education Standards by Levels	
Standard II: Applies movement concepts and principals to the learning and development of motor skills.	
Level M: Middle School (Grades 6-8)	**Level H: High School (Grades 9-12)**
2-M-1 Analyzes and applies basic concepts to improve movement, dance, fitness, game and sports skills being practiced. 2-M-2 Demonstrates how practicing movement skills improves performance. 2-M-3 Analyzes and applies advanced movement and game strategies. 2-M-4 Recognizes and applies principles necessary for safe and skilled physical performance.	2-H-1 Synthesizes previously learned skills and incorporates them into dynamic physical activity settings. 2-H-2 Identifies and applies critical elements to enable the development of movement competence/ proficiency.

C. Standard III

Physical Education Standards by Levels	
Standard III: Exhibits a physically active lifestyle.	
Level P: Primary (K-2)	**Level E: Elementary (Grades 3-6)**
3-P-1 Participates regularly in vigorous activities outside of physical education class. 3-P-2 Acknowledges that physical activity is good for personal well being. 3-P-4 Experiences and expressed satisfaction from participation in physical activity.	3-E-1 Describes the physical, emotional, and psychological benefits of participation in health-related activities. 2-E-2 Identifies several moderate to vigorous physical activities that provide personal pleasure. 3-E-3 Selects and participates regularly in physical activities for the purpose of improving skills and health.

Physical Education Standards by Levels	
Standard III: Exhibits a physically active lifestyle.	
Level M: Middle School (Grades 6-8)	**Level H: High School (Grades 9-12)**
3-M-1 Identifies opportunities in the school and community for regular participation in physical activity. 3-M-2 Explores a variety of new physical activities for personal interest in and out of physical education class. 3-M-3 Establishes and pursues personal physical activity goals through regular physical activity. 3-M-4 Describes the elements of a healthy lifestyle.	3-H-1 Utilizes available community resources to promote an active lifestyle. 3-H-2 Participates in lifetime recreational activities specific to fitness components. 3-H-3 Participates regularly in physical activities that contribute to improved physical fitness and wellness.

D. Standard IV

Physical Education Standards by Levels	
Standard IV: Achieves and maintains a health-enhancing level of physical fitness.	
Level P: Primary (K-2)	**Level E: Elementary (Grades 3-6)**
4-P-1 Sustains activity from moderate to vigorous intensity levels while participating in physical activity. 4-P-2 Identifies physiological signs of moderate physical activity. 4-P-3 Demonstrates activities that increase muscular strength and endurance. 4-P-4 Demonstrates moving each joint through a full range of motion.	4-E-1 Identifies several activities related to each component of health-related fitness. 4-E-2 Participates in self-assessment for health-related fitness and meets the standards for that particular test for their appropriate fitness. 4-E-3 Selects an activity program designed to improve health-related fitness. 4-E-4 Adopts personal goals based upon results of fitness assessments.

Physical Education Standards by Levels	
Standard IV: Achieves and maintains a health-enhancing level of physical fitness.	
Level M: Middle School (Grades 6-8)	**Level H: High School (Grades 9-12)**
4-M-1 Participates in and sustains moderate to vigorous physical activity in a variety of settings. 4-M-2 Develops individual goals for each of the health- related fitness components. 4-M-3 Participates in self-assessment for health-related fitness and meets the standards of that age group. 4-M-4 Analyzes and applies basic principles of training to improve health-related fitness.	4-H-1 Participates in a variety of health-enhancing physical activities in both school and non-school settings. 4-H-2 Identifies and evaluates personal physiological response to exercise. 4-H-3 Designs health-related fitness programs based on accurately assessed fitness profiles.

E. Standard V

Physical Education Standards by Levels	
Standard V: Demonstrates responsible personal and social behavior in physical activity settings.	
Level P: Primary (K-2)	**Level E: Elementary (Grades 3-6)**
5-P-1 Demonstrates established protocols with little reinforcement. 5-P-2 Acknowledges the importance of being aware of one's surroundings and acting in a safe manner in physical activity settings. 5-P-3 Works cooperatively with another to complete an assigned task. 5-P-4 Applies the elements of socially acceptable conflict resolution in physical activity settings.	5-E-1 Demonstrates good sportsmanship and fair play in a variety of settings 5-E-2 Recognizes and avoids unsafe practices and situations. 5-E-3 Works cooperatively with teachers and peers to reach a common goal. 5-E-4 Accepts and gives constructive feedback.

Physical Education Standards by Levels	
Standard V: Demonstrates responsible personal and social behavior in physical activity settings.	
Level M: Middle School (Grades 6-8)	**Level H: High School (Grades 9-12)**
5-M-1 Participates in cooperative activities in both leadership and follower roles. 5-M-2 Utilizes time effectively to complete assigned tasks. 5-M-3 Participates in establishing and following rules, procedures, and etiquette that are safe and effective for specific activity situations.	5-H-1 Demonstrates safe and appropriate use and care of equipment and facilities. 5-H-2 Identifies the inherent risks associated with physical activity in extreme environments.

F. Standard VI

Physical Education Standards by Levels	
Standard VI: Demonstrates an understanding for differences among people.	
Level P: Primary (K-2)	**Level E: Elementary (Grades 3-6)**
6-P-1 Recognizes the importance of seeking out, participating with, and showing respect for people of like and different physical abilities. 6-P-2 Interacts with others regardless of personal differences. 6-P-3 Demonstrates a willingness to help a fellow student who has difficulty completing a skill.	6-E-1 Displays positive attitudes toward self and others through physical activity. 6-E-2 Demonstrates a tolerance for individual differences. 6-E-3 Explores the role of culture in physical activities of other countries.

Physical Education Standards by Levels	
Standard VI: Demonstrates an understanding for differences among people.	
Level M: Middle School (Grades 6-8)	**Level H: High School (Grades 9-12)**
6-M-1 Analyzes, describes and participates in simple forms of dances and games of various cultures from around the world. 6-M-2 Recognizes commonalties and differences in people of different genders, cultures, ethnicity, abilities and skill levels and seeks to learn more about them.	6-H-1 Explores how age, ethnicity, culture and economic status affect physical activity selection and participation. 6-H-2 Develops and integrates strategies for inclusion of all in physical activities.

G. Standard VII

Physical Education Standards by Levels	
Standard VII: Understands that physical activity provides opportunity for enjoyment, challenges, etc.	
Level P: Primary (K-2)	**Level E: Elementary (Grades 3-6)**
7-P-1 Describes the feelings that result from challenges, successes and failures in physical activity, alone or in groups. 7-P-2 Distinguishes feelings about and during physical activity. 7-P-3 Displays a willingness to participate in new activities.	7-E-1 Exhibits positive feelings about participation in physical activity. 7-E-2 Engages in the challenge of new activities. 7-E-3 Participates enthusiastically in independent and interactive physical activities. 7-E-4 Participates in and designs games, gymnastics and dance to increase skill competence. 7-E-5 Acknowledges the roles of games, sports, and dance in getting to know and understand self and others.

Physical Education Standards by Levels	
Standard VII: Understands that physical activity provides opportunity for enjoyment, challenges, etc.	
Level M: Middle School (Grades 6-8)	**Level H: High School (Grades 9-12)**
7-M-1 Participates in challenging activities and in activities requiring the utilization of newly acquired skills.	7-H-1 Participates for enjoyment in a variety of physical activities in competitive and recreational settings.
7-M-2 Identifies the social, emotional and physical benefits of participation in physical activities.	7-H-2 Identifies positive aspects of participation in several different physical and social activities with others.
7-M-3 Demonstrates enjoyment from participation in physical activities.	7-H-3 Illustrates benefits of physical education on social and emotional well-being.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1185 (June 2002).

Weegie Peabody
Executive Director

0206#009

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A., promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Revisions to Bulletin 741, *Louisiana Handbook for School* Administrators, Standards 2.116.13 and 2.116.15, will allow students to receive 1/2 unit of Carnegie credit for GEE 21 Remediation by attending a minimum of 40 hours of summer school and will allow school districts to offer a minimum of 50 hours of instruction in GEE 21 Remediation in summer school for 1/2 unit of credit. These changes will allow students to earn Carnegie credit while getting needed remediation in an effort to increase their scores above the *Unsatisfactory* achievement level on the GEE 21.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.A(10), (11), and (15); R.S. 17:7(5), (7), and (11); R.S. 17:10, and 11; R.S. 17:22(2), and (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 26:635 (April, 2000), LR 26:1260 (June, 2000), LR 28:1187 (June 2002).

Proposed Policy

2.116.13 In order to be eligible to receive credit, summer school students shall be in attendance a minimum of 70 hours for 1/2 unit of new credit, 47 hours for 1/2 unit of repeat credit, or 40 hours for 1/2 unit of credit for GEE 21 Remediation.

2.116.15 Summer schools shall offer 90 hours of instruction for 1/2 unit of new credit, 60 hours of instruction for 1/2 unit of repeat credit, and 50 or more hours for 1/2 unit for GEE 21 Remediation.

* * *

Weegie Peabody
Executive Director

0206#011

RULE

Board of Elementary and Secondary Education

Bulletin 904—Guidelines for the Submission of a Charter School Proposal—Fiscal Oversight Procedures (LAC 28:I.904)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 904—*Guidelines for the Submission of a Charter School Proposal* referenced in LAC 28:I.904. The revisions will improve the monitoring of fiscal and programmatic compliance issues common to charter schools and improve the delivery of technical assistance to charter schools that receive state and/or federal funding from BESE or LDOE. This action is required by Act 991 (HB 1282) of the 2001 Regular Session, which revised the charter school law by adding two new subsections that deal with the fiscal practices and reporting requirements of charter schools.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations

§904. Charter Schools

A. Initial Budgets As Submitted In Charter School Proposals. The current guidelines approved by BESE require Type 2 charter schools to provide detailed budget data in their proposal. This data is reviewed by BESE staff, the proposal review committee, and the LDOE Division of Education Finance. The budget, as well as the entire proposal is incorporated into the charter agreement. The budget must include:

1. summary of revenues for years 1-5 (including all funding sources);
2. summary of expenditures by category, for years 1-5;
3. details of budget expenditures by object code, for years 1-5;
4. explanatory narratives by object code of budget expenditures;
5. spreadsheets comparing revenues and expenditures for years 1-5;

6. assurances that the charterer will adhere to the Local Government Budget Act (R.S. 39:1301-1315). [Each charter school will submit an annual operating budget to BESE no later than July 1 of each year using the standard budget summary forms and budget detail forms developed by BESE and LDOE, and using guidance provided in the LAUGH Handbook (Bulletin 1929).]

B. Financial Reporting

1. Each charter school will submit an Annual Financial Report to LDOE that is required around September 30 of each year.

2. Each charter school will submit quarterly reports to BESE listing revenues and expenditures for that quarter and cumulative for the fiscal year to date. Those reports will be due on October 15, January 15, April 15 and July 15, using forms developed by BESE and LDOE.

C. State And Federal Allocations By Student Membership Count. Each Type 2 charter school must include in its original proposal projections of student enrollment for the first five years.

1. State Allocations

a. Enrollment projections are verified with the school principal or other designated school representative prior to the beginning of each school year.

b. The current guidelines approved by BESE require that initial monthly allocations shall be calculated by the LDOE, Division of Education Finance, using these projected student counts each year, and once the October 1 student counts are submitted, monthly allocations are re-calculated and adjusted to reflect the actual student count.

c. In order to provide for adjustments in allocations made to Type 2 charter schools, an additional pupil membership count will be conducted on or about February 15 to reflect any changes in pupil enrollment that may occur after October 1 of each year. Any allocation adjustment made pursuant to this February 15 count shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year.

d. The data acquired from the pupil membership counts will be used by LDOE for trend analysis to project allocations for the next school year.

2. Federal Allocations

a. The Division of Education Finance will provide to BESE staff with a quarterly report of allocations of federal program funds made to charter schools.

b. The responsible Division/Program Directors within LDOE will provide periodic reports to BESE on the status of the federally funded program(s) at each charter school.

c. Charter schools must submit copies of invoices or similar documentation to BESE to substantiate all reimbursement requests for federal grant funds issued from the BESE office. All requests for reimbursements must be signed by the duly authorized representative of the charterer.

D. Audits of State And Federal Funds. The guidelines and the charter agreement include language notifying each charter school that it is subject to audit by BESE, LDOE, the Legislative Auditor, and any other appropriate state official.

1. The charterer must agree to follow state audit and reporting requirements established by the Legislative Auditor and R.S. 24:513-556.

E. General Fiscal Procedures

1. The charter school guidelines and/or the charter contract signed by each charterer stipulates that:

a. "The parties acknowledge that the Louisiana Department of Education is developing procedures and rules to ensure fiscal and educational accountability for charter schools, the content of which shall be incorporated into this contract upon their adoption as regulations by BESE."

b. "The charterer shall present all documentation requested by BESE or LDOE relative to compliance with law, guidelines or contract within 10 days."

c. "Charterer shall allow representatives from BESE, the Louisiana Department of Education, the Louisiana Legislative Auditor, any other appropriate state officials, and contracted evaluators to visit the school site at any time to insure that the school is being operated pursuant to its charter and applicable laws and regulations."

d. "Charterer shall allow the state officials full access to its financial and educational records, reports, files and documents of any kind."

e. "Charterer further agrees to supply timely all reports, test results and other information which are required under its charter, state law and regulations."

2. Any charter school that receives state or federal money directly from BESE or LDOE. The president or chairman of the non-profit corporation (charterer) that operates the charter school will be the official contact and duly authorized representative for all notices or inquiries issued by BESE, LDOE, or other state or federal agencies. The board of directors of the non-profit corporation may identify and officially designate by board motion, a member of that board of directors other than the president or chairman who will serve as their duly authorized representative. Copies of all notices or inquiries will also be provided to the school principal.

3. All transactions or requests submitted by the charterer to BESE must be signed by the duly authorized representative of the charterer.

F. Technical Assistance

1. BESE and LDOE will conduct annual fiscal and programmatic inservice meetings or workshops. It is the responsibility of the charterer to send appropriate staff or representatives of the charter school to these inservice meetings.

2. BESE and LDOE will provide charterer with copies of:

a. LAUGH Guide (Louisiana Accounting and Uniform Government Handbook) (LDOE Bulletin 1929);

b. Best Financial Practices for Louisiana Local Government (Louisiana Legislative Auditor);

c. School Activity Accounts (Accounting, Auditing, and Financial Reporting) (Louisiana Legislative Auditor).

NOTE: However, it is the responsibility of the charterer to institute and implement acceptable programmatic and fiscal procedures.

G. Remedies and Penalties

1. Per BESE action in December 1999, the Board will withhold funds to charter schools that do not submit requested data by designated deadlines to Board staff, the Department, and the evaluators contracted by BESE until such time as the required information is provided.

2. Any failure by the charterer to provide required fiscal or programmatic information will be reported to BESE at its next scheduled meeting. The duly authorized representative of the charterer must then appear before BESE at that meeting to explain the failure to provide the required information.

3. R.S. 17:3992 provides for revocation of a charter upon determination by the chartering authority that the charter school or its officers or employees did any of the following:

a. committed a material violation of any of the conditions, standards, or procedures provided for in the approved charter;

b. failed to meet or pursue within the agreed timelines any of the academic and other educational results specified in the approved charter;

c. failed to meet generally accepted accounting standards of fiscal management;

d. violated any provision of law applicable to a charter school, its officers, or employees.

H. - K. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971-3973, 3981-3983, 3991-3993, 3995-3999, and 4001; and R.S. 39:75.C(1)(b).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:1683 (September 1998); amended LR 25:249 (February 1999); LR 26:460 (March 2000), LR 28:1187 (June 2002).

Weegie Peabody
Executive Director

0206#010

RULE

Board of Elementary and Secondary Education

Bulletin 1566—Guidelines for Pupil Progression
(LAC 28:XXXIX.905 and 1301)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education has amended Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:I.907.A. The rule change mandates the number of required hours per subject for the fourth and eighth grade Summer Remediation Program at 50 hours. Prior to this rule change, the minimum number of instructional hours per subject was recommended at 50 to 60, but actually ranged from 27 to 145 hours. The action is necessary to ensure statewide uniformity in the Summer Remediation Program.

Title 28
EDUCATION
Part XXXIX. Bulletin 1566—Guidelines for Pupil Progression

§905. Definition and Purpose

A. - B.3. …

4. Beginning in the summer of 2000, remediation in the form of summer school shall be provided to students who score at the *unsatisfactory* level on LEAP 21st Century (LEAP 21) English language arts or mathematics tests. Summer remediation shall consist of a minimum of 50 hours of instruction per subject.

5. - 7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2073 (November 1999), amended LR 28:1189 (June 2002).

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A.1. - 2. …

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who score at the *unsatisfactory* level on the spring tests.

B.1. - 2. …

3. LEAs shall offer a minimum of 50 hours per subject of summer remediation and retest opportunities in English language arts and mathematics at no cost to students who did not take the spring LEAP 21 tests or who score at the *unsatisfactory* level on the spring tests.

4. - 9. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:1008 (July 2001), amended LR 28:1189 (June 2002).

Weegie Peabody
Executive Director

RULE

Board of Elementary and Secondary Education

Teacher Certification Appeals Council
(LAC 28:I.107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended the Louisiana Administrative Code, Title 28:I.107.A. The revisions change the composition and terms of office of the Teacher Certification Appeals Council.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 1. Organization

§107. Board Appeals Councils

A. Teacher Certification Appeals Council

1. Authority: Title 28:I.105, Chapter 1, *Louisiana Administrative Code*.

2. Membership: nine members representing the following categories/organizations:

a. three from universities—recommendations made by the Dean's Council:

i. at least one must represent a nonpublic university; and

ii. at least one must represent a university participating in a Practitioner Teacher Program;

b. three classroom teachers from the following teacher organizations:

i. Associated Professional Educators of Louisiana (APEL);

ii. Louisiana Association of Educators (LAE); and

iii. Louisiana Federation of Teachers (LFT);

c. three from administrator organizations (one from each of the following):

i. Louisiana Association of Principals (LAP);

ii. Louisiana Association of School Personnel Administrators (LASPA); and

iii. Louisiana School Supervisors Association (LSSA).

3. Referrals/Responsibilities

a. Evaluate the appeals of persons seeking Louisiana certification under the standards in Bulletin 746, Louisiana Standards for State Certification of School Personnel, whose appeals cannot be processed according to the guidelines in §315.D.

b. Submit a written record of its findings and recommendations to the appropriate Standing or Special Committee, composed of Board members, for its review and recommendation to the full Board.

c. Evaluate the appeals documents, including the transcripts of appellants, for consideration of Bulletin 746 (minimum requirements) waiver.

d. Make recommendations to the appeals committee on waivers of minimum certification standards.

e. The Appeals Council, in the absence of mitigating circumstances, shall not be required to consider appeals of persons who are non-degreed and/or lack the required NTE/PRAXIS Scores.

f. All matters referred by the Board.

4. Terms of Office

a. Representatives must be active members of the category and organization being represented. Once a member retires and/or becomes employed in a different capacity, the member would become ineligible to continue to serve and would be replaced by the organization.

b. Members shall serve three-year terms, renewable once.

c. Terms of the three categories of membership shall be staggered to provide continuity to the appeals process.

5. Expenses

a. Travel expenses shall be paid by the Board in accordance with state travel regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:359 (October 1978), amended LR 5:346 (November 1979), LR 15:962 (November 1989), LR 16:297 (April 1990), LR 22:1124 (November 1996), LR 24:283 (February 1998), LR 24:1093 (June 1998), LR 28:1189 (June 2002).

Weegie Peabody
Executive Director

0206#008

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Corrective Action Management Units
(LAC 33:V.109, 2601, 2602, 2603,
2605, and 2607)(HW081*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.109, 2601, 2602, 2603, 2605, and 2607 (Log #HW081*).

This rule is identical to federal regulations found in 67 FR 2962, January 22, 2002, No. 14, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

Corrective Action Management Units (CAMUs) are special units created under the Resource Conservation and Recovery Act (RCRA) to facilitate treatment, storage, and disposal of hazardous wastes managed for implementing cleanup, and to remove the disincentives to cleanup that the application of RCRA to these wastes can sometimes impose. The original CAMU regulations were promulgated on February 16, 1993. The state is adopting the federal amendments verbatim.

The previous LAC 33:V.2603.Temporary Units (TU) is moved to §2604. Text remains the same. In this rule §2603 is now titled "Corrective Action Management Units (CAMUs)." This rule amends the 1993 CAMU rule in six ways. It establishes a specific definition, distinct from the definition of remediation waste, to govern the types of wastes that are eligible for placement in CAMUs. More detailed minimum design and operating standards are established for CAMUs in which waste will remain after closure, with opportunities for the administrative authority of an authorized state to approve alternate design standards under certain circumstances. Treatment requirements are established for wastes that are placed in CAMUs, including minimum treatment standards, with opportunities to adjust treatment requirements under certain circumstances. More specific information is required for CAMU applications, and there shall be public notice and a reasonable opportunity for public comment before final CAMU determinations are made. New requirements are established for CAMUs that will be used only for treatment and storage. Certain types of existing CAMUs will be "grandfathered" and allowed to

continue to operate under the 1993 rule. The rule also amends the regulations for "staging piles" to expressly allow for mixing, blending, and other similar physical operations intended to prepare wastes for subsequent management or treatment. It also adds a new provision allowing off-site placement of hazardous CAMU-eligible waste in hazardous waste landfills, if the waste is treated to meet CAMU treatment standards (somewhat modified). The basis and rationale for this rule are to mirror the federal regulations and to maintain state and federal equivalency in the RCRA program.

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

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 1. General Provisions and Definitions
§109. Definitions

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

* * *

Corrective Action Management Unit (CAMU)—Repealed.

* * *

Remediation Waste—all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, 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 28:1191 (June 2002).

Chapter 26. Corrective Action Management Units and Special Provisions for Cleanup
§2601. Applicability of Corrective Action Management Unit (CAMU) Regulations

A. Except as provided in Subsection B of this Section, CAMUs are subject to the requirements of LAC 33:V.2604.

B. CAMUs that were approved before April 22, 2002, or for which substantially complete applications (or equivalents) were submitted to the department on or before November 20, 2000, are subject to the requirements in LAC 33:V.2602 for grandfathered CAMUs. CAMU waste, activities, and design shall not be subject to the standards in LAC 33:V.2604, so long as the waste, activities, and design remain within the general scope of the CAMU as approved.

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 26:285 (February 2000), LR 28:1191 (June 2002).

§2602. Grandfathered Corrective Action Management Units (CAMUs)

A. To implement remedies under LAC 33:V.3322 or RCRA Section 3008(h), or to implement remedies at a permitted facility that is not subject to LAC 33:V.3322, the administrative authority may designate an area at the facility as a CAMU under the requirements in this Section. CAMU means an area within a facility that is used only for managing remediation wastes for implementing corrective action or cleanup at the facility. A CAMU must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

1. Placement of remediation wastes into or within a CAMU does not constitute land disposal of hazardous wastes.

2. Consolidation or placement of remediation wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

B. The administrative authority may designate a regulated unit (as defined in LAC 33:V.3301.B) as a CAMU, or may incorporate a regulated unit into a CAMU, under the following conditions.

1. The regulated unit is closed or closing, meaning it has begun the closure process under LAC 33:V.3513 or 4383.

2. Inclusion of the regulated unit will enhance implementation of effective, protective, and reliable remedial actions for the facility.

3. The LAC 33:V.Chapters 33, 35, and 37 requirements and the unit-specific requirements of Chapters 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 43 that applied to that regulated unit shall continue to apply to that portion of the CAMU after incorporation into the CAMU.

C. The administrative authority shall designate a CAMU in accordance with the following.

1. The CAMU shall facilitate the implementation of reliable, effective, protective, and cost-effective remedies.

2. Waste management activities associated with the CAMU shall not create unacceptable risks to humans or to the environment resulting from exposure to hazardous wastes or hazardous constituents.

3. The CAMU shall include uncontaminated areas of the facility only if including such areas for the purpose of managing remediation waste is more protective than management of such wastes at contaminated areas of the facility.

4. Areas within the CAMU where wastes remain in place after closure of the CAMU shall be managed and contained so as to minimize future releases, to the extent practicable.

5. The CAMU shall expedite the timing of remedial activity implementation, when appropriate and practicable.

6. The CAMU shall enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU.

7. The CAMU shall, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

D. The owner/operator shall provide sufficient information to enable the administrative authority to designate a CAMU in accordance with the criteria in LAC 33:V.2603.

E. The administrative authority shall specify, in the permit or order, requirements for CAMUs, which include the following.

1. The areal configuration of the CAMU shall be provided.

2. Requirements for remediation waste management shall include the specification of applicable design, operation, and closure requirements.

3. Requirements for groundwater monitoring shall be sufficient to:

a. continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of hazardous constituents in groundwater from sources located within the CAMU; and

b. detect and subsequently characterize releases of hazardous constituents to groundwater that may occur from areas of the CAMU in which wastes will remain in place after closure of the CAMU.

4. Closure and post-closure requirements shall include the following:

a. closure of CAMUs, which shall:

i. minimize the need for further maintenance; and

ii. control, minimize, or eliminate, to the extent necessary to protect human health and the environment, for areas where wastes remain in place, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground, to surface waters, or to the atmosphere;

b. requirements for closure of CAMUs that shall include the following, as appropriate and as deemed necessary by the administrative authority, for a given CAMU:

i. requirements for excavation, removal, treatment, or containment of wastes;

ii. for areas in which wastes will remain after closure of the CAMU, requirements for capping of such areas; and

iii. requirements for removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU;

c. in establishing specific closure requirements for CAMUs under LAC 33:V.2603.E, the administrative authority shall consider the following factors:

i. CAMU characteristics;

ii. volume of wastes that remain in place after closure;

iii. potential for releases from the CAMU;

iv. physical and chemical characteristics of the waste;

v. hydrological and other relevant environmental conditions at the facility that may influence the migration of any potential or actual releases; and

vi. potential for exposure of humans and environmental receptors if releases were to occur from the CAMU; and

d. post-closure requirements, as necessary to protect human health and the environment, including for areas where wastes will remain in place, monitoring and maintenance activities, and the frequency with which such activities shall be performed, to ensure the integrity of any cap, final cover, or other containment system.

F. The administrative authority shall document the rationale for designating CAMUs and shall make such documentation available to the public.

G. Incorporation of a CAMU into an existing permit must be approved by the administrative authority according to the procedures for department-initiated permit modifications under LAC 33:V.323 or according to the permit modification procedures of LAC 33:V.321.C.

H. The designation of a CAMU does not change EPA's existing authority to address cleanup levels, media-specific points of compliance to be applied to remediation at a facility, or other remedy selection decisions.

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 28:1191 (June 2002).

Editor's Note: The previous §2603.Temporary Units (TU) has been changed to §2604. The text remains the same.

§2603. Corrective Action Management Units (CAMUs)

A. To implement remedies under LAC 33:V.3322 or RCRA Section 3008(h), or to implement remedies at a permitted facility that is not subject to LAC 33:V.3322, the administrative authority may designate an area at the facility as a CAMU under the requirements in this Section. CAMU means an area within a facility that is used only for managing CAMU-eligible wastes for implementing corrective action or cleanup at the facility. A CAMU must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

1. Definition. *CAMU-Eligible Waste*—

a. all solid and hazardous wastes and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup. As-generated wastes (either hazardous or nonhazardous) from ongoing industrial operations at a site are not CAMU-eligible wastes;

b. wastes that would otherwise meet the description in Subparagraph A.1.a of this Section are not CAMU-eligible wastes when:

i. the wastes are hazardous wastes found during cleanup in intact or substantially intact containers, tanks, or other non-land-based units found above ground, unless the wastes are first placed in the tanks, containers, or non-land-based units as part of cleanup or the containers or tanks are excavated during the course of cleanup; or

ii. the administrative authority exercises the discretion in Paragraph A.2 of this Section to prohibit the wastes from management in a CAMU; and

c. notwithstanding Subparagraph A.1.a of this Section, when appropriate, as-generated nonhazardous waste may be placed in a CAMU when such waste is being used to facilitate treatment or the performance of the CAMU.

2. The administrative authority may prohibit, where appropriate, the placement of waste in a CAMU when the administrative authority has or receives information that such wastes have not been managed in compliance with applicable land disposal treatment standards of LAC 33.V.Chapter 22, applicable unit design requirements of Chapters 5, 18, 19, 21, 23, 24, 25, 27, 28, 29, 32, and 35, or applicable unit design requirements of Chapter 43 or that noncompliance with other applicable requirements of this Chapter likely contributed to the release of the waste.

3. Prohibition Against Placing Liquids in CAMUs

a. The placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not sorbents have been added) in any CAMU is prohibited except when placement of such wastes facilitates the remedy selected for the waste.

b. The requirements in LAC 33:V.2515.C for placement of containers holding free liquids in landfills apply to placement in a CAMU except when placement facilitates the remedy selected for the waste.

c. The placement of any liquid that is not a hazardous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made in accordance with LAC 33:V.2515.F.

d. The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with LAC 33:V.2515.D. Sorbents used to treat free liquids in CAMUs must meet the requirements of LAC 33:V.2515.F.

4. Placement of CAMU-eligible wastes into or within a CAMU does not constitute land disposal of hazardous wastes.

5. Consolidation or placement of CAMU-eligible wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

B. The administrative authority may designate a regulated unit (as defined in LAC 33:V.3301.B) as a CAMU or may incorporate a regulated unit into a CAMU under the following conditions.

1. The regulated unit is closed or closing, meaning it has begun the closure process under LAC 33:V.3513 or 4383.

2. Inclusion of the regulated unit will enhance implementation of effective, protective, and reliable remedial actions for the facility.

3. The LAC 33:V.Chapters 33, 35, and 37 requirements and the unit-specific requirements of Chapters 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 43 that applied to the regulated unit shall continue to apply to that portion of the CAMU after incorporation into the CAMU.

C. The administrative authority shall designate a CAMU that will be used for storage and/or treatment only in accordance with Subsection F of this Section. The administrative authority shall designate all other CAMUs in accordance with the following.

1. The CAMU shall facilitate the implementation of reliable, effective, protective, and cost-effective remedies.

2. Waste management activities associated with the CAMU shall not create unacceptable risks to humans or to the environment resulting from exposure to hazardous wastes or hazardous constituents.

3. The CAMU shall include uncontaminated areas of the facility, only if including such areas for the purpose of managing CAMU-eligible waste is more protective than management of such wastes at contaminated areas of the facility.

4. Areas within the CAMU where wastes remain in place after closure of the CAMU shall be managed and contained so as to minimize future releases, to the extent practicable.

5. The CAMU shall expedite the timing of remedial activity implementation, when appropriate and practicable.

6. The CAMU shall enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU.

7. The CAMU shall, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

D. The owner/operator shall provide sufficient information to enable the administrative authority to designate a CAMU in accordance with the criteria in this Section. This must include, unless not reasonably available, information on:

1. the origin of the waste and how it was subsequently managed (including a description of the timing and circumstances surrounding the disposal and/or release);

2. whether the waste was listed or identified as hazardous at the time of disposal and/or release; and

3. whether the disposal and/or release of the waste occurred before or after the land disposal requirements of LAC 33:V.Chapter 22 were in effect for the waste listing or characteristic.

E. The administrative authority shall specify, in the permit or order, requirements for CAMUs, which include the following.

1. The areal configuration of the CAMU shall be provided.

2. Except as provided in Subsection G of this Section, requirements for CAMU-eligible waste management shall include the specification of applicable design, operation, treatment, and closure requirements.

3. Minimum Design Requirements. CAMUs, except as provided in Subsection F of this Section, into which wastes are placed must be designed in accordance with the following.

a. Unless the administrative authority approves alternate requirements under Subparagraph E.3.b of this Section, CAMUs that consist of new, replacement, or laterally expanded units must include a composite liner and a leachate collection system that is designed and constructed to maintain less than a 30 cm depth of leachate over the liner. For purposes of this Section, *composite liner* means a system consisting of two components: the upper component must consist of a minimum 30 mil flexible membrane liner (FML), and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than $1x10^{-7}$ cm/sec. FML components consisting of high density polyethylene (HDPE) must be at least 60 mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component.

b. Alternate Requirements. The administrative authority may approve alternate requirements if:

i. the administrative authority finds that alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents into the groundwater or surface water at least as effectively as the liner and leachate collection systems in Subparagraph E.3.a of this Section; or

ii. the CAMU is to be established in an area with existing significant levels of contamination, and the administrative authority finds that an alternative design, including a design that does not include a liner, would prevent migration from the unit that would exceed long-term remedial goals.

4. Minimum Treatment Requirements. Unless the wastes will be placed in a CAMU for storage and/or treatment only in accordance with Subsection F of this Section, CAMU-eligible wastes that, absent this Section, would be subject to the treatment requirements of LAC 33:V.Chapter 22 and that the administrative authority determines contain principal hazardous constituents must be treated to the standards specified in Subparagraph E.4.c of this Section.

a. Principal hazardous constituents are those constituents that the administrative authority determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.

i. In general, the administrative authority will designate as principal hazardous constituents:

(a). carcinogens that pose a potential direct risk from ingestion or inhalation, at the site, at or above 10^{-3} risk level; and

(b). non-carcinogens that pose a potential direct risk from ingestion or inhalation, at the site, an order of magnitude or greater over their reference dose.

ii. The administrative authority will also designate constituents as principal hazardous constituents, when appropriate, when risks to human health and the environment posed by the potential migration of constituents in wastes to groundwater are substantially higher than cleanup levels or goals at the site. When making such a designation, the administrative authority may consider such factors as constituent concentrations and fate and transport characteristics under site conditions.

b. In determining which constituents are principal hazardous constituents, the administrative authority must consider all constituents that, absent this Section, would be subject to the treatment requirements in LAC 33:V.Chapter 22.

c. Waste that the administrative authority determines contains principal hazardous constituents must meet treatment standards determined in accordance with Subparagraph E.4.d or e of this Section.

d. Treatment Standards for Wastes Placed in CAMUs

i. For non-metals, treatment must achieve 90 percent reduction in total principal hazardous constituent concentrations, except as provided by Clause E.4.d.iii of this Section.

ii. For metals, treatment must achieve 90 percent reduction in principal hazardous constituent concentrations as measured in leachate from the treated waste or media (tested according to the TCLP) or 90 percent reduction in total constituent concentrations (when a metal removal treatment technology is used), except as provided by Clause E.4.d.iii of this Section.

iii. When treatment of any principal hazardous constituent to a 90 percent reduction standard would result in a concentration less than 10 times the Universal Treatment Standard for that constituent, treatment to achieve constituent concentrations less than 10 times the Universal Treatment Standard is not required. Universal Treatment Standards are identified in LAC 33:V.Chapter 22, Table 7.

iv. For waste exhibiting the hazardous characteristic of ignitability, corrosivity, or reactivity, the waste must also be treated to eliminate these characteristics.

v. For debris, the debris must be treated in accordance with LAC 33:V.2230 or by methods described in or to levels established under Clauses E.4.d.i-iv or Subparagraph E.4.e of this Section, whichever the administrative authority determines is appropriate.

vi. Alternatives to TCLP. For metal bearing wastes for which metals removal treatment is not used, the administrative authority may specify a leaching test other than the TCLP (Method 1311, EPA Publication SW-846, as incorporated by reference in LAC 33:V.110.A.11) to measure treatment effectiveness, provided the administrative authority determines that an alternative leach testing protocol is appropriate for use and that the alternative more accurately reflects conditions at the site that affect leaching.

e. Adjusted Standards. The administrative authority may adjust the treatment level or method in Subparagraph E.4.d of this Section to a higher or lower level, based on one or more of the following factors, as appropriate. The adjusted level or method must be protective of human health and the environment:

i. the technical impracticability of treatment to the levels or by the methods in Subparagraph E.4.d of this Section;

ii. the levels or methods in Subparagraph E.4.d of this Section would result in concentrations of principal hazardous constituents that are significantly above or below cleanup standards applicable to the site (established either site-specifically or promulgated under state or federal law);

iii. the views of the affected local community on the treatment levels or methods in Subparagraph E.4.d of this Section, as applied at the site, and for treatment levels, the treatment methods necessary to achieve these levels;

iv. the short-term risks presented by the on-site treatment method necessary to achieve the levels or treatment methods in Subparagraph E.4.d of this Section; and

v. the long-term protection offered by the engineering design of the CAMU and related engineering controls:

(a). when the treatment standards in Subparagraph E.4.d of this Section are substantially met and the principal hazardous constituents in the waste or residuals are of very low mobility;

(b). when cost-effective treatment has been used and the CAMU meets the RCRA Subtitle C liner and leachate collection requirements for new land disposal units at LAC 33:V.2503.L and M;

(c). when, after review of appropriate treatment technologies, the administrative authority determines that cost-effective treatment is not reasonably available, and the CAMU meets the RCRA Subtitle C liner and leachate collection requirements for new land disposal units at LAC 33:V.2503.L and M;

(d). when cost-effective treatment has been used and the principal hazardous constituents in the treated wastes are of very low mobility; or

(e). when, after review of appropriate treatment technologies, the administrative authority determines that cost-effective treatment is not reasonably available, the principal hazardous constituents in the wastes are of very low mobility, and either the CAMU meets or exceeds the liner standards for new, replacement, or laterally expanded CAMUs in Subparagraphs E.3.a and b of this Section or the CAMU provides substantially equivalent or greater protection.

f. The treatment required by the treatment standards must be completed prior to, or within a reasonable time after, placement in the CAMU.

g. For the purpose of determining whether wastes placed in CAMUs have met site-specific treatment standards, the administrative authority may, as appropriate, specify a subset of the principal hazardous constituents in the waste as analytical surrogates for determining whether treatment standards have been met for other principal hazardous constituents. This specification will be based on the degree of difficulty of treatment and analysis of constituents with similar treatment properties.

5. Except as provided in Subsection F of this Section, CAMUs shall have requirements for groundwater monitoring and corrective action that are sufficient to:

a. continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of hazardous constituents in groundwater from sources located within the CAMU;

b. detect and subsequently characterize releases of hazardous constituents to groundwater that may occur from areas of the CAMU in which wastes will remain in place after closure of the CAMU; and

c. provide notification to the administrative authority and corrective action as necessary to protect human health and the environment from releases to groundwater from the CAMU.

6. Except as provided in Subsection F of this Section, CAMUs shall have the following closure and post-closure requirements:

a. closure of CAMUs, which shall:

i. minimize the need for further maintenance; and

ii. control, minimize, or eliminate, to the extent necessary to protect human health and the environment, for areas where wastes remain in place, post-closure escape of hazardous wastes, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground, to surface waters, or to the atmosphere;

b. requirements for closure of CAMUs that shall include the following, as appropriate and as deemed necessary by the administrative authority, for a given CAMU:

i. requirements for excavation, removal, treatment, or containment of wastes; and

ii. requirements for removal and decontamination of equipment, devices, and structures used in CAMU-eligible waste management activities within the CAMU;

c. in establishing specific closure requirements for CAMUs under this Subsection, the administrative authority shall consider the following factors:

i. CAMU characteristics;

ii. volume of wastes that remain in place after closure;

iii. potential for releases from the CAMU;

iv. physical and chemical characteristics of the waste;

v. hydrological and other relevant environmental conditions at the facility that may influence the migration of any potential or actual releases; and

vi. potential for exposure of humans and environmental receptors if releases were to occur from the CAMU;

d. cap requirements, as follows:

i. at final closure of the CAMU, for areas in which wastes will remain after closure of the CAMU, with constituent concentrations at or above remedial levels or goals applicable to the site, the owner or operator must cover the CAMU with a final cover designed and constructed to meet the following performance criteria, except as provided in Clause E.6.d.ii of this Section:

(a). provide long-term minimization of migration of liquids through the closed unit;

(b). function with minimum maintenance;

(c). promote drainage and minimize erosion or abrasion of the cover;

(d). accommodate settling and subsidence so that the cover's integrity is maintained; and

(e). have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present; and

ii. the administrative authority may determine that modifications to Clause E.6.d.i of this Section are needed to facilitate treatment or the performance of the CAMU (e.g., to promote biodegradation); and

e. post-closure requirements as necessary to protect human health and the environment and to include, for areas where wastes will remain in place, monitoring and maintenance activities, and the frequency with which such activities shall be performed, to ensure the integrity of any cap, final cover, or other containment system.

F. CAMUs used for storage and/or treatment only are CAMUs in which wastes will not remain after closure. Such CAMUs must be designated in accordance with all of the requirements of this Section, except as follows.

1. CAMUs that are used for storage and/or treatment only and that operate in accordance with the time limits established in the staging pile regulations at LAC 33:V.2605.D.1.c, H, and I are subject to the requirements for staging piles at LAC 33:V.2605.D.1.a and b and 2, E, F, J, and K in lieu of the performance standards and requirements for CAMUs in Subsection C and Paragraphs E.3 - 6 of this Section.

2. CAMUs that are used for storage and/or treatment only and that do not operate in accordance with the time limits established in the staging pile regulations at LAC 33:V.2605.D.1.c, H, and I:

a. must operate in accordance with a time limit, established by the administrative authority, that is no longer than necessary to achieve a timely remedy selected for the waste; and

b. are subject to the requirements for staging piles at LAC 33:V.2605.D.1.a and b and 2, E, F, J, and K in lieu of the performance standards and requirements for CAMUs in Subsection C and Paragraphs E.4 and 6 of this Section.

G. CAMUs into which wastes are placed where all wastes have constituent levels at or below remedial levels or goals applicable to the site do not have to comply with the requirements for liners at Subparagraph E.3.a of this Section, requirements for caps at Subparagraph E.6.d of this Section, groundwater monitoring requirements at Paragraph E.5 of this Section or, for treatment and/or storage-only CAMUs, the design standards at Subsection F of this Section.

H. The administrative authority shall provide public notice and a reasonable opportunity for public comment before designating a CAMU. Such notice shall include the rationale for any proposed adjustments under Subparagraph E.4.e of this Section to the treatment standards in Subparagraph E.4.d of this Section.

I. Notwithstanding any other provision of this Section, the administrative authority may impose additional requirements as necessary to protect human health and the environment.

J. Incorporation of a CAMU into an existing permit must be approved by the administrative authority according to the procedures for department-initiated permit modifications under LAC 33:V.323 or according to the permit modification procedures of LAC 33:V. 321.C.

K. The designation of a CAMU does not change EPA's existing authority to address cleanup levels, media-specific points of compliance to be applied to remediation at a facility, or other remedy selection decisions.

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 28:1192 (June 2002).

§2605. Staging Piles

NOTE: This Section is written in a special format to make it easier to understand the regulatory requirements. Like other department and USEPA regulations, this establishes enforceable legal requirements. For this Section, *I* and *you* refer to the owner/operator.

A. What Is a Staging Pile? A staging pile is an accumulation of solid, non-flowing remediation waste (as defined in LAC 33:V.109) that is not a containment building and is used only during remedial operations for temporary storage at a facility. A staging pile must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the staging pile originated. Staging piles must be designated by the administrative authority according to the requirements in this Section. For the purposes of this Section, storage includes mixing, sizing, blending, or other similar physical operations as long as they are intended to prepare the wastes for subsequent management or treatment.

B. - M. …

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 26:285 (February 2000), amended LR 28:1196 (June 2002).

§2607. Disposal of CAMU-Eligible Wastes in Permitted Hazardous Waste Landfills

A. The administrative authority with regulatory oversight at the location where the cleanup is taking place may approve placement of CAMU-eligible wastes in hazardous waste landfills not located at the site from which the waste originated, without the wastes meeting the requirements of LAC 33:V.Chapter 22, if the conditions in Paragraphs A.1-3 of this Section are met.

1. The waste must meet the definition of CAMU-eligible waste in LAC 33:V.2603.A.1.

2. The administrative authority with regulatory oversight at the location where the cleanup is taking place shall identify principal hazardous constituents in such waste, in accordance with LAC 33:V.2603.E.4.a and b, and require that such principal hazardous constituents are treated to any of the following standards specified for CAMU-eligible wastes:

a. the treatment standards under LAC 33:V.2603.E.4.d;

b. treatment standards adjusted in accordance with LAC 33:V.2603.E.4.e.i, iii, iv, or v.(a); or

c. treatment standards adjusted in accordance with LAC 33:V.2603.E.4.e.v.(b) when treatment has been used and that treatment significantly reduces the toxicity or mobility of the principal hazardous constituents in the waste, minimizing the short-term and long-term threat posed by the waste, including the threat at the remediation site.

3. The landfill receiving the CAMU-eligible waste must have a RCRA hazardous waste permit, meet the requirements for new landfills in LAC 33:V.Chapter 25, and be authorized to accept CAMU-eligible wastes. For the purposes of this requirement, "permit" does not include interim status.

B. The person seeking approval shall provide sufficient information to enable the administrative authority with regulatory oversight at the location where the cleanup is taking place to approve placement of CAMU-eligible waste in accordance with Subsection A of this Section. Information required by LAC 33:V.2603.D.1-3 for CAMU applications must be provided, unless it is not reasonably available.

C. The administrative authority with regulatory oversight at the location where the cleanup is taking place shall provide public notice and a reasonable opportunity for public comment before approving CAMU-eligible waste for placement in an off-site permitted hazardous waste landfill, consistent with the requirements for CAMU approval at LAC 33:V.2603.H. The approval must be specific to a single remediation.

D. Applicable hazardous waste management requirements in LAC 33:V. Chapters 5, 18, 19, 21, 23, 24, 25, 27, 28, 29, 32, and 35, including recordkeeping requirements to demonstrate compliance with treatment standards approved under this Section, for CAMU-eligible waste must be incorporated into the receiving facility permit through permit issuance or a permit modification, providing notice and an opportunity for comment and a hearing. Notwithstanding LAC 33:V.307.A, a landfill may not receive hazardous CAMU-eligible waste under this Section unless its permit specifically authorizes receipt of such waste.

E. For each remediation, CAMU-eligible waste may not be placed in an off-site landfill authorized to receive CAMU-eligible waste in accordance with Subsection D of this Section until the following additional conditions have been met.

1. The landfill owner/operator shall notify the administrative authority responsible for oversight of the landfill and persons on the facility mailing list, maintained in accordance with LAC 33:V.717.A.5, of his or her intent to receive CAMU-eligible waste in accordance with this Section. The notice must identify the source of the remediation waste, the principal hazardous constituents in the waste, and treatment requirements.

2. Any comments from persons on the facility mailing list, including objections to the receipt of the CAMU-eligible waste, shall be provided to the administrative authority within 15 days of notification.

3. The administrative authority shall have the opportunity to object to the placement of the CAMU-eligible waste in the landfill for a period of 30 days after notification. The administrative authority may extend the review period an additional 30 days because of public concerns or insufficient information.

4. CAMU-eligible wastes shall not be placed in the landfill until the administrative authority has notified the facility owner/operator that he or she does not object to its placement.

5. If the administrative authority objects to the placement or does not notify the facility owner/operator that he or she has chosen not to object, the facility shall not receive the waste, notwithstanding LAC 33:V.307.A, until the objection has been resolved or the owner/operator obtains a permit modification in accordance with the procedures of LAC 33:V.321.C specifically authorizing receipt of the waste.

6. As part of the permit issuance or permit modification process of Paragraph D of this Section, the administrative authority may modify, reduce, or eliminate the notification requirements of this Subsection as they apply to specific categories of CAMU-eligible waste, based on minimal risk.

F. Generators of CAMU-eligible wastes sent off-site to a hazardous waste landfill under this Section must comply with the requirements of LAC 33:V.2245.D. Off-site facilities treating CAMU-eligible wastes to comply with this Section must comply with the requirements of LAC 33:V.2247.C, except that the certification must be with respect to the treatment requirements of Paragraph A.2 of this Section.

G. For the purposes of this Section only, the "design of the CAMU" in LAC 33:V.2603.E.4.e.v means design of the permitted RCRA Subtitle C landfill.

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 28:1196 (June 2002).

James H. Brent, Ph.D.
Assistant Secretary

0206#006

RULE

Office of the Governor
Division of Administration
Office of State Uniform Payroll

Direct Deposit (LAC 4:III.Chapter 3 and 5)

In accordance with R.S. 39:247 and R.S. 42:455, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll has adopted the following rule regarding direct deposit of employee pay and direct deposit of vendor payments and electronic receipt of supporting data, respectively. The purpose of the rule is to set requirements for employees and vendors paid through the statewide ISIS Human Resource System for direct deposit of employee pay and for direct deposit of vendor payments and electronic receipt of supporting data, to establish waivers (exceptions to the rule), and to establish guidelines for enforcement of the rule. Electronic processing of employee pay and the electronic processing of vendor payments and supporting data is the direction that the private sector, Federal Government, and many states are moving towards. Direct deposit is a fast, safe, and proven service that is provided at minimal or no cost to employees and vendors.

Title 4
ADMINISTRATION
Part III. Payroll
Chapter 3. Direct Deposit of Employee Pay
§301. Definitions

*Agency***C**any one of the 20 major departments of state government or any subdivision thereof.

*Automated Clearing House (ACH)***C**the network, operated by the Federal Reserve Bank, which establishes procedures and guidelines regarding electronic transfer of funds.

*Compensation***C**any form of monetary pay issued to an employee for services performed.

*Condition of Employment***C**policy requiring a particular requirement to be met in order for offer of employment to be given.

*Department Head***C**the person responsible for the operation of a department.

*Direct Deposit***C**the automatic deposit, through electronic transfer of funds, of employees' compensation into a checking or savings account at a bank, savings and loan, or credit union of their choice.

*Direct Deposit Enrollment Authorization Form***C**the standard form developed by the Division of Administration, Office of State Uniform Payroll, completed by the employee, giving the employing agency authority to process employee specific direct deposit bank account information in the ISIS Human Resource System for the electronic transfer of funds.

*Division of Administration (DOA)***C**the Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

Electronic Processing**C**method of automatically transferring data/funds through computers rather than through hard copy.

*Employee Administration***C**the section within an agency responsible for payroll and human resources.

Employing Agency**C**the agency for which an employee is currently working.

*Financial Institution***C**a bank, savings and loan, or credit union who is established as a receiver of ACH payments.

Geographical Barrier**C**an obstacle based on the physical location of an employee in relation to the physical location of a financial institution that would impede an employee's ability to obtain funds from the financial institution.

ISIS Human Resource System**C**the integrated statewide information system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

*Net Pay***C**the amount of compensation due to the employee after taking an employees wages and compensation earned and deducting all voluntary and involuntary deductions.

*Office of State Uniform Payroll (OSUP)***C**the section within the Division of Administration primarily responsible for the DOA statewide payroll system and administration of the rules governing state employee payroll deductions.

*Physical/Mental Disability Barrier***C**an obstacle based on a physical or mental impairment that would impede an employee's ability to obtain an account at a financial institution or impede an employee's ability to obtain funds from a financial institution.

*Primary Bank Account***C**an employee's checking or savings account at a financial institution to which net pay is deposited.

*Prospective Employee***C**a person to whom an agency wishes to issue an offer of employment.

*Representative***C**a person appointed by the Department Head to handle the operation of the department.

*Secondary Bank Account***C**an employee's checking or savings account at a financial institution to which a fixed dollar amount or percentage of net pay is deposited.

*Third Party Account***C**bank account established for a person other than the employee.

*Wage***C**payment for services to an employee.

*Waiver***C**authorization by the Division of Administration, Office of State Uniform Payroll, for an exception to the enforcement of this rule.

*Waiver Form***C**the standard form developed by the Division of Administration, Office of State Uniform Payroll, completed by the employee to request a waiver from the requirement of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1197 (June 2002).

§303. Direct Deposit of Employee Pay

A. Beginning July 1, 2002, all employees paid through the ISIS Human Resource System are required to receive wage and compensation payments via direct deposit through the Automated Clearing House (ACH). Employees must complete an approved direct deposit enrollment authorization form to establish direct deposit of net pay to the employee's primary bank account at an approved financial institution. Employees may choose to send, via direct deposit, a fixed dollar amount or a percentage of net pay to a secondary bank account by completing an approved direct deposit enrollment authorization form for a secondary account. These forms can be obtained from the Employee Administration office of the employing agency. Completed forms must be forwarded to the Employee Administration office of the employing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1198 (June 2002).

§305. Direct Deposit of Employee Pay to a Third Party's Account

A. Direct deposit of employee pay cannot be set up to go to a third party's account. This includes any account where the employee is not named on the account. Exceptions may be made by the employing agency for deposits to a dependent's account or to the account of a parent/guardian, when the employee is a dependent of the parent/guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1198 (June 2002).

§307. Condition of Employment

A. Direct deposit of pay must be considered a condition of employment, and agencies shall not submit job offers to prospective employees who are not willing to receive their wage and compensation payments via direct deposit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1198 (June 2002).

§309. Request for Direct Deposit Waiver

A. Employees may request a waiver of the requirement for direct deposit by completing and submitting to the Employee Administration office of the employing agency a request for direct deposit waiver on an approved waiver form. The approved form can be obtained from the Employee Administration office of the employing agency. The Employee Administration Office is required to submit all requests for waivers to the Department Head or Representative. The Department Head or Representative must approve or deny the waiver based on reasonableness of the request. Approved waivers must be submitted to the Office of State Uniform Payroll for final approval/denial. The Office of State Uniform Payroll will approve, or deny, the request for waiver and return the form to the agency who must then notify the employee of the status of the request for waiver. The agency must maintain a copy of the waiver form with the employee's records with a notation as to when the employee was notified of the waiver status. Waivers may be approved for geographical barriers, physical/mental disability barrier, or inability to establish an account at any financial institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1199 (June 2002).

§311. Enforcement of Rule

A. Wage and compensation payments will be placed in a holding account until such time that employee completes an approved direct deposit enrollment authorization form and forwards said form to the Employee Administration office of the employing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1199 (June 2002).

§313. Department/Agency Responsibility

A. Departments/Agencies are responsible for incorporating within the hiring process notification of direct deposit as a condition of employment, enforcing compliance with this rule, reviewing and approving/denying employee requests for waivers, forwarding approved waivers to the Office of State Uniform Payroll for final approval/denial of waivers, notifying employees of the final decision on the waivers, maintaining record of waivers, reporting to the Commissioner of Administration any employees not complying with this rule, and withholding job offers to prospective employees failing to comply with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1199 (June 2002).

Chapter 5. Direct Deposit of Vendor Payments and Electronic Receipt of Supporting Data

§501. Definitions

Child Support—involuntary employee deduction ordered by a court for payment for support of a child.

Direct Deposit—the automatic deposit, through electronic transfer of funds, of vendor pay into a checking or savings account at a bank, savings and loan, or credit union of their choice.

Direct Deposit Enrollment Authorization Form—the standard form developed by the Division of Administration, Office of State Uniform Payroll, completed by the vendor, giving the Division Of Administration, Office of State Uniform Payroll authority to process vendor specific direct deposit bank account information in the ISIS Human Resource System for the electronic transfer of funds.

Director—the leader responsible for the operation of the Office of State Uniform Payroll.

Division of Administration (DOA)—the Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

Electronic—Method of automatically transferring data/funds through computers rather than through hard copy.

Financial Institution—a bank, savings and loan, or credit union who is established as a receiver of ACH payments.

Garnishment—Involuntary employee deduction ordered by a court for payment to a creditor.

Involuntary Payroll Deduction—any reduction of net pay which is required by federal or state statute, or by court ordered action.

ISIS Human Resource System—the integrated statewide information system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Levy—involuntary employee deduction ordered by the court for payment of unpaid federal and/or state taxes.

Office of State Uniform Payroll (OSUP)—the section within the Division of Administration primarily responsible for the DOA statewide payroll system and administration of the rules governing state employee payroll deductions.

Payment Processing Costs—costs associated with establishing bank accounts and receipt of funds and data electronically, including internal costs and financial institution costs.

Prospective Vendor—any company, corporation, or organization which has submitted an application to be approved as a vendor for state payroll deduction or a vendor which has submitted an application for approval of an additional product or a change to an existing product.

Supporting Data—information to support the electronic payment, including employees' amounts and other related data.

Undue Hardship—an unwanted burden placed on a vendor as a result of receiving payment and supporting data electronically.

Vendor—any company, corporation, or organization approved to participate in payroll deduction through the ISIS Human Resource System.

Vendor Payment—payment to vendor for voluntary and involuntary employee payroll deductions with the vendor through the ISIS Human Resource System.

Voluntary Payroll Deduction—any reduction of net pay made under written authority of an employee, which is not required by federal or state statute, or by court ordered action and which the employee is free to accept or decline.

Waiver—authorization by the Division of Administration, Office of State Uniform Payroll, for an exception to the enforcement of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1199 (June 2002).

§503. Direct Deposit of Vendor Payments and Electronic Receipt of Supporting Data

A. Effective July 1, 2002, all vendors having either voluntary or involuntary payroll deductions through the ISIS Human Resource System must accept payments for deductions via direct deposit or other approved electronic means and must accept supporting data via an approved electronic means. Vendors must complete an approved direct deposit enrollment authorization form and forward said form to the Office of State Uniform Payroll to establish direct deposit of vendor payments to the vendor's bank account at an approved financial institution. Approved direct deposit enrollment forms can be obtained from the Office of State Uniform Payroll. Prior to a new vendor being approved and established in the ISIS Human Resource System, the Office of State Uniform Payroll must receive a completed approved direct deposit enrollment authorization form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1200 (June 2002).

§505. Request for Direct Deposit Waiver

A. Vendors may request a waiver of this rule by submitting in writing a formal request to the Director of the Office of State Uniform Payroll. Upon receipt of formal request, the Office of State Uniform Payroll will approve or deny the request for waiver and notify the vendor in writing within 15 days of receipt of request for waiver. Waivers may be approved if the vendor can prove that use of direct deposit and/or electronic receipt of supporting data will cause an undue hardship or will significantly increase payment processing costs.

B. Vendors receiving payments for garnishment, child support, and levies are exempt from the requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1200 (June 2002).

§507. Enforcement of Rule

A. Vendor payments will be placed in a holding account until such time that vendor completes an approved direct deposit enrollment authorization form and forwards said form to the Office of State Uniform Payroll.

B. Failure to adhere to this rule will result in termination of payroll deduction privileges.

C. Current and prospective vendors requesting to receive new payroll deductions through the Payroll Deduction Rule (LAC 4:III.Chapter 1) will be denied acceptance for refusal to receive payments via direct deposit or other approved electronic means and receive supporting data via an approved electronic means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 28:1200 (June 2002).

Mark Drennen
Commissioner

0206#073

RULE

Office of the Governor
Indigent Defense Assistance Board

Indigent Defense Assistance and Representation of Defendants Sentenced to Death
(LAC 22:XV.Chapters 1 - 5)

The Louisiana Indigent Defense Assistance Board has adopted rules and guidelines for direct and indirect assistance of judicial district indigent defender boards within the regulations established by R.S. 15:151 et seq.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XV. Indigent Defense Assistance Board

Chapter 1. Purpose and Definitions

§101. Purpose

A. The purpose of these guidelines is to effectuate an equitable distribution of state funds to the 41 judicial district indigent defender boards based on articulated, quantifiable, and verifiable criteria and improve the delivery of defense services to the poor within the authority of the Constitution of the United States and the Constitution and laws of the State of Louisiana. The Louisiana Indigent Defense Assistance Board has adopted these rules pursuant to R.S. 15:151.2 (F).

1. The purpose of these guidelines is to effectuate a program of legal representation to indigent individuals sentenced to death within the authority of the Constitution of the United States and the Constitution and laws of the State of Louisiana.

2. These rules and guidelines are designed to provide for prompt representation on appeal and curb the acute problems of unnecessary delay in the filing of an application for post-conviction relief in capital cases; to instill public confidence in the process of appellate and post-conviction review; to construct a financially sound and publicly accountable programmatic approach for the delivery of defense services to indigent individuals sentenced to death; and, to efficiently and effectively provide for judicial review and finality of capital appellate and post-conviction proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151 through 15:151.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1200 (June 2002).

§103. Definitions

A. For the purposes of this rule, the following definitions shall apply.

Appellate Case—a criminal proceeding in which a review as of right is exercised by or on behalf of an individual seeking judicial redress of a final judgment in accordance with Const. Art. I, Sec. 19 (1974), C.Cr.P. Arts. 911-913, and Ch.C. Arts. 330 and 710(B).

Arrest—the taking of one person into custody by another. To constitute an arrest, there must be an actual restraint of the person. The restraint may be imposed by force or may result from the submission of the person arrested to the custody of the one arresting him or her.

Capital Case—a criminal proceeding involving the arrest or indictment of an individual whereby the accused, if found guilty, may be sentenced to death.

Case—a statistical construct used to report the number of defendants to be represented by a judicial district indigent defender board for a period of time exceeding one hour in a single proceeding of the number of bills of information, indictments, charges, or petitions brought against an individual in a single proceeding.

Caseload—the total number of cases handled by a district indigent defender board or individual attorney. Caseloads are reported to the LIDAB in the caseload categories established by the LIDAB. These categories include, but are not limited to: Capital Trial Cases; Capital Appellate Cases; Capital Post-Conviction Cases; Non-Capital Felony Trial Cases; Non-Capital Felony Appeal Cases; Non-Capital Felony Post-Conviction Cases; Misdemeanor Trial Cases; Traffic Trial Cases; Juvenile Delinquency Cases; Child In Need of Care Cases; Families In Need of Services Cases; Juvenile Appellate Cases; Mental Health Cases; Probation Revocation Cases; and Other Cases.

Certification Program—the combination of all procedures, regulations, guidelines and rules of the LIDAB mandated by La. S.Ct. Rule XXXI. Unless otherwise indicated, this term applies to both the Capital and Appellate Certification Programs.

Certified Counsel—an attorney that has been authorized through the appropriate certification program to serve as lead or associate counsel in capital trial cases and/or felony appellate cases on behalf of an indigent client.

Confinement—the placement of an individual into physical custody by authority of law pursuant to Titles 14, 15, 32, and 40 of the Louisiana Revised Statutes, the Louisiana Code of Criminal Procedure, the Louisiana Children's Code, and all other laws providing criminal penalties for violation of their provisions. Confinement shall include physical custody arising from an arrest, a conviction, a finding of delinquency, an order of commitment to a juvenile shelter or detention facility, or an order of commitment to a public or private mental institution or institution for the mentally retarded.

Criminal Proceeding—any litigation involving the investigation or commission of any offense punishable by imprisonment, confinement, or custody.

Custody—the detention or confinement of an individual as a result of, or incidental to, an instituted or anticipated criminal, mental health, or juvenile proceeding.

Defense Services—include all reasonable and necessary steps involved in representing an individual in accordance with constitutional and statutory law, rules of the Louisiana Supreme Court, and the Louisiana State Bar Association Rules of Professional Conduct.

Direct Assistance—financial aid provided to a judicial indigent defender board by the Louisiana Indigent Defense Assistance Board, including grant-in-aid programs, technical assistance grants, and reimbursement of expenses for defense experts and specialized scientific tests.

Expert Witness—an individual recognized as an authority on a subject based on the person's knowledge, skill, experience, training, or education. To be considered an expert witness under this rule, it is not necessary that the individual be called to testify at a criminal, mental health, or juvenile proceeding.

Grant Application—the formal process whereby a judicial district indigent defender board requests assistance from the LIDAB for financial or technical assistance for a specific need or purpose.

Grant-in-Aid Program—formal procedures, rules, and regulations established by the LIDAB to provide direct financial assistance to a judicial district indigent defender board based on the LIDAB's funding levels, the judicial district indigent defender board's demonstrated need, and compliance with the LIDAB's guidelines.

Imprisonment—confinement of a person in a jail or state correctional facility.

Independent Financial Audit—a formal review of all financial records of a judicial district indigent defender board by an independent certified public accountant in accordance with government approved accounting practices.

Indigency Standards—those procedures provided in R.S. 15:147-149.

Indirect Assistance—non-financial support provided by the LIDAB to a judicial district indigent defender board. Such support includes, but is not limited to, assistance in the development and improvement of administrative and management practices, the sharing of technical information, and the provision of specialized continuing legal education programs.

Judicial District Indigent Defender Board—a public entity established pursuant to R.S. 15:144-146.

Juvenile Proceedings—those proceedings instituted pursuant to provisions of the Louisiana Children's Code wherein the services of a judicial district indigent defender board are specifically required.

Local Counsel—counsel that is certified by the Louisiana Indigent Defense Assistance Board as qualified to represent indigents in capital cases within a judicial district wherein he or she resides or regularly practices law.

Louisiana Indigent Defense Assistance Board—a nine-member board established within the office of the governor pursuant to R.S. 15:151, et seq. for the purpose of providing supplemental assistance to judicial district indigent defender boards to the extent required by the Constitution and laws of Louisiana or the Constitution of the United States of America.

May—permissive.

Regional Defense Service Centers—regional service centers established pursuant to R.S. 15:151.

Shall—mandatory.

Specialized Continuing Legal Education—includes courses and seminars primarily focused on criminal defense-oriented issues and skills and approved by the Mandatory Continuing Legal Education Committee for continuing legal education credit.

*Specialized Scientific Testing***C**includes any specialized testing outside the ken of lay persons that is carried out on behalf of an indigent person and authorized by a court of competent jurisdiction as necessary to the defense.

*Supplemental Assistance***C**includes direct and indirect financial support and non-financial support of defender programs, including, but not limited to, improvement of administrative procedures, exchange of information, budgetary management and continuing legal education.

AUTHORITY NOTE: Promulgated by the Louisiana Indigent Defense Assistance Board in accordance with R.S. 15:151.2 (D)-(F)]

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1200 (June 2002).

Chapter 3. Guidelines and Eligibility Criteria

§301. Eligibility Criteria for Direct and Indirect Supplemental Assistance

A. A district indigent defender board shall not be eligible to receive supplemental assistance from the Indigent Defense Assistance Board unless the following criteria are met.

1. All courts within the judicial district are assessing at least $25 in court costs in accordance with R.S. 15:146, provided the amount of court costs being assessed shall not bar supplemental assistance to cover the costs of defense services in capital cases.

2. The judicial district indigent defender board has instituted and is complying with a system to assure that defense services are limited only to those who meet indigency standards after reasonable inquiry, including compliance with R.S. 15:147. In all proceedings where defense services are provided by a judicial district indigent defender board, the board shall file, in the record of the proceedings, a written certification attesting to the individual's indigency, signed by the client or a representative of the judicial district indigent defender board.

3. A judicial district indigent defender board is providing legal services and related expenses only to the extent required by the Constitution of Louisiana or the Constitution of the United States of America or specific statutory provisions affording the right of counsel to indigents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1202 (June 2002).

§303. Guidelines for Direct and Indirect Supplemental Assistance

A. The Louisiana Indigent Defender Assistance Board provides direct and indirect supplemental assistance to the state's 41 judicial district indigent defender boards in accordance with R.S. 15:151 et seq. and the following guidelines.

1. Supplemental assistance to be provided shall take into account the provision of defense services by the judicial district indigent defender board for indigent persons arrested or detained in connection with the investigation or commission of any offense or charged with an offense punishable by imprisonment, custody, or confinement.

2. Supplemental assistance to be provided shall take into account the employment by the judicial district indigent defender board of other than trial counsel or counsel from within the judicial district to provide services for appeals. A district indigent defender board shall institute and comply with a policy for providing certified counsel in appellate cases in accordance with S.Ct. Rule XXXI.

3. Supplemental assistance to be provided shall take into account the failure of the judicial district indigent defender board to provide local counsel in capital cases. A judicial district indigent defender board shall institute and comply with a policy for providing certified counsel in capital cases in accordance with S.Ct. Rule XXXI.

4. Supplemental assistance to be provided shall consider the cost to a judicial district indigent defender board of specialized scientific testing and expert witnesses.

5. Supplemental assistance to be provided shall consider the administrative expenses and management practices and efficiencies of the judicial district indigent defender board, including its level of cooperation with the Louisiana Indigent Defense Assistance Board.

6. Supplemental assistance to be provided shall consider compensation rates set by the judicial district indigent defender board to remunerate an attorney retained to handle a specific case or class of cases.

7. Supplemental assistance to be provided shall consider the provision by the judicial district indigent defender board of financial, caseload, staffing, and other information reasonably necessary to carry out the enumerated powers of the Louisiana Indigent Defense Assistance Board.

8. Supplemental assistance to be provided shall consider the number of capital and appellate cases, the use of expert witnesses and specialized testing, and other clearly demonstrated needs of a judicial district indigent defender board. The provision of these defense services by a judicial district indigent defender board shall be handled in accordance with the certification programs mandated by S.Ct. Rule XXXI.

9. Supplemental assistance to be provided shall consider the participation of a judicial indigent defender board in regional defense service centers as provided in R.S. 15:150.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.2 (D), (F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1202 (June 2002).

§305. General Certification Guidelines for Capital Appellate and Post-Conviction Counsel

A. The following standards shall be applied to contract attorney certification under any part of this Rule.

1. The attorney shall be familiar with the practice and procedure of the criminal courts of Louisiana and shall be a member in good standing of Louisiana State Bar Association or admitted to practice pro hac vice.

2. The attorney shall be familiar with the use of expert witnesses and evidence, including but not limited to, psychiatric and forensic evidence.

3. Within one year of an initial application for certification by the Louisiana Indigent Defense Assistance Board, the attorney shall complete a minimum of 12 hours of

Board-approved training primarily involving advocacy in the field of capital appellate or post-conviction defense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1202 (June 2002).

§307. Certification Guidelines for Capital Appellate Counsel

A. To be certified to serve as counsel in the appeal of a capital case, an attorney shall satisfy the following minimum standards.

1. Be familiar with the practice and procedure of the Louisiana Supreme Court in the appeal of capital cases and the practice and procedure of the United States Supreme Court in the application for writs of certiorari in capital cases;

2. Be an experienced and active trial or appellate practitioner with at least five years experience in the field of criminal defense;

3. Have prior experience within the last five years as counsel of record in the appeal of no fewer than three felony convictions in federal or state court; and

4. Have prior experience within the last five years as counsel of record in the appeal or post-conviction application, in federal or state court, of at least one case where a sentence of death was imposed.

5. In cases in which applicants lack the requirements of A, B, C or D above, the Chair of the Board of the Louisiana Indigent Defense Assistance Board may grant permission for that applicant to be certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1203 (June 2002).

§309. Certification Guidelines for Capital Post-Conviction Counsel

A. To be certified to serve as counsel for purposes of state post-conviction, an attorney shall satisfy the following minimum standards.

1. Be familiar with the substantive law and the practice and procedure of the courts of Louisiana in the review of capital post-conviction applications.

2. Be familiar with federal habeas corpus statutory law, practice and procedure, particularly including federal review of state capital post-conviction procedures.

3. Be an experienced and active trial, appellate, or post-conviction practitioner with at least three years experience in the field of criminal defense; and,

4. Have prior experience within the last three years as counsel of record in a capital post-conviction application, in state or federal court, or at least one case where a sentence of death was imposed, demonstrating clear competence and diligence in the representation provided.

5. In cases in which applicants lack the requirements of A, B, C or D above, the Chair of the Board of the Louisiana Indigent Defense Assistance Board or Director of the Capital Post-Conviction Project of Louisiana may grant permission for that applicant to be certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1203 (June 2002).

Chapter 5. Procedure for Supplemental Assistance and Appointment of Counsel for Indigent Defendants Sentenced to Death

§501. Grant-in-Aid Programs

A. The Louisiana Indigent Defense Assistance Board may provide direct assistance to judicial district indigent defender boards based on the LIDAB's funding levels, a judicial district indigent defender board's demonstrated need, and compliance with the following guidelines. Grant-in-aid programs established by the LIDAB are intended to provide supplemental assistance to qualifying district indigent defender boards for all criminal and juvenile proceedings where the right to the assistance of counsel provided by the state has been established. All judicial district indigent defender boards willing to comply with the standards, guidelines, and policies of the Louisiana Indigent Defense Assistance Board are eligible to apply for supplemental assistance.

1. Supplemental assistance is available to a judicial district indigent defender board to assist it in improving the quality of indigent defense on a continuing basis. The major goals of these programs are the following:

a. to lower public defender workloads to levels consistent with recognized standards of professionalism and national caseload standards;

b. to increase the availability of trained and qualified attorneys certified to handle capital and appellate matters on behalf of indigent clients;

c. to provide more effective attorney unit support in the form of investigators, paralegals, secretaries, technology, and other forms of office support;

d. to improve criminal defense knowledge and skill through training, specialized continuing legal education, and improved supervision;

e. to defray the costs of expert witnesses and specialized scientific testing; and

f. to improve the process by which an individual is determined to be in need of state-provided defense services.

2. Supplemental assistance provided to a judicial district indigent defender board under these programs may be used for any or all of the following purposes:

a. hiring or retaining attorneys for the provision of defense services;

b. adjusting attorney salaries in accordance with the guidelines established by the Louisiana Indigent Defense Assistance Board;

c. defraying the costs of attorney unit support in accordance with the guidelines established by the Louisiana Indigent Defense Assistance Board;

d. defraying the costs of expert witnesses and specialized scientific testing in accordance with the guidelines established by the Louisiana Indigent Defense Assistance Board; and

e. defraying the costs of defense-oriented continuing legal education and specialized training programs.

3. Supplemental assistance provided to a judicial district indigent defender board under these programs may not be used for any of the following purposes:

a. the acquisition of land and/or buildings;

b. the construction or renovation of buildings;

c. the purchasing of furnishings and/or decorations;

d. the payment of non-defense-oriented continuing legal education or specialized training programs;

e. the provision of defense services to an individual not eligible to receive state-provided services;

f. the payment for out-of-state travel, food, and/or lodging not relating to the defense of a client in a particular case;

g. the payment for automobile rental, purchase, maintenance, or repair;

h. the payment for lobbying efforts in the legislature or any other governmental body for funding or changes in the law; and

i. the payment for any item or service not specifically approved by the Louisiana Indigent Defense Assistance Board in a judicial district indigent defender board's grant application.

4. A judicial district indigent defender board applying for supplemental assistance shall certify the following to the Louisiana Indigent Defense Assistance Board:

a. that a minimum of $25 in court costs is assessed and being collected within the district in accordance with R.S. 15:146;

b. that the district board is willing to comply with the guidelines, policies, and procedures of the Louisiana Indigent Defense Assistance Board relative to the management and administrative practices of district indigent defender boards;

c. that the district indigent defender board is maintaining monthly, verifiable caseload statistics and will provide them to the Louisiana Indigent Defense Assistance Board on a calendar-year quarterly basis;

d. that the district indigent defender board is maintaining monthly financial statements, providing total revenues by type, total expenditures by type, fund balances by type, and the amount of compensation paid to staff, contract, and/or appointed counsel and will provide this information to the Louisiana Indigent Defense Assistance Board on a calendar-year quarterly basis;

e. that the district indigent defender board has prepared an independent financial audit on an annual basis and will provide this audit report to the Louisiana Indigent Defense Assistance Board in a timely manner; and

f. That the district indigent defender board has submitted complete and accurate information in its application for supplemental assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:151.2 (D)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1203 (June 2002).

§503. Appointment of Appellate and Post-Conviction Counsel in Death Penalty Cases

A. The Louisiana Indigent Defense Assistance Board, through its director, shall, within 30 days of formal notice from a court having jurisdiction over the appeal of the capital case of an indigent, cause to have counsel enrolled to represent the defendant on direct appeal.

B. The Louisiana Indigent Defense Assistance Board, through its director, shall, within 30 days of finality of an indigent capital defendant's appeal, cause to have counsel enrolled to represent the defendant for purposes of state post-conviction proceedings.

C. To the extent funding is available, the Louisiana Indigent Defense Assistance Board may create, manage, and/or contract with a separate entity, with such staff and support personnel as are necessary, to provide counsel to represent capital defendants on direct appeal to the Supreme Court of Louisiana and/or to seek post-conviction relief, if appropriate, in state and federal court, subject to Paragraph E below.

D. In the event staff counsel of said separate entity is not available for appointment on an appeal or in post-conviction proceedings, the Louisiana Indigent Defense Assistance Board shall cause to have counsel enrolled certified by it in accordance with the applicable provisions of §§107-110 below, provided that in no event shall contract counsel be remunerated at a rate in excess of salary levels of any staff attorneys of said entity as determined by the Louisiana Indigent Defense Assistance Board.

E. Counsel appointed by the Louisiana Indigent Defense Assistance Board may accept appointments from a federal court to represent capital defendants, provided funding for these defense services is provided by the appointing federal court and provided no state-appropriated funds are expended for the representation of capital defendants in federal court.

F. Any attorney who desires to be certified under the guidelines of this Rule shall do so in accordance with the policies and procedures established by the Louisiana Indigent Defense Assistance Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E) - (F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1204 (June 2002).

§505. Monitoring and Removal of Certification of Capital Appellate and Post-Conviction Counsel

A. Attorneys certified by the Louisiana Indigent Defense Assistance Board within the guidelines of this Rule shall be monitored to ensure eligibility.

1. An attorney who fails to maintain his or her status and educational requirements as defined in §107 above shall not be considered certified for purposes of appointment in capital cases, provided an attorney may seek re-certification once the criteria of that section are satisfied.

2. Where there is compelling evidence that an attorney has inexcusably ignored basic responsibilities of an effective lawyer, resulting in prejudice to an indigent client's case, the attorney shall not be considered certified for purposes of appointment in capital cases. In this instance, an attorney shall be given an opportunity to respond in writing to specific charges of ineffectiveness.

3. Representation of a capital client establishes an inviolable attorney-client relationship. Thus, an attorney's eligibility to represent an indigent client may not be reviewed, except by a court of proper jurisdiction, on the basis of conduct involving a case in which the attorney is presently actively representing the client.

4. An attorney decertified under this Rule shall not be re-certified unless the decertification is shown to have been erroneous or it is established to the satisfaction of a majority

of the Board that the cause of the failure to meet basic responsibilities has been identified and corrected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1204 (June 2002).

§507. Workload

A. The following standards shall serve as guides to attorneys eligible for appointment as capital appellate or post-conviction counsel.

1. Attorneys accepting appointments pursuant to this Rule should provide each indigent client with quality representation in accordance with constitutional and professional standards. Capital counsel should not accept workloads which, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations.

2. To determine maximum workload, an attorney should consider, among other factors, quality of representation, speed of turnover of cases, percentage of cases being litigated, extent of support services available, court procedures, and involvement in complex litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board, LR 28:1205 (June 2002).

§509. Support Services in Capital Appellate and Post-Conviction Cases

A. Counsel appointed in accordance with this Rule shall secure all proper and necessary support services, including, but not limited to, investigative, expert, mitigation, and any other support services necessary to prepare and present an adequate defense. An attorney should use all available support services and facilities needed for an effective performance at every stage of the proceedings. Counsel should seek financial and technical assistance from all possible sources, provided expenses are within the guidelines established by the Louisiana Indigent Defense Assistance Board.

B. Funds to pay for reasonably necessary services, to the extent funds are available, shall be provided only upon a written showing to the director or supervisor of any entity responsible for capital appellate or capital post-conviction representation pursuant to §106, specifically identifying the nature of the services, the cost of such services, and the need for such services.

C. A written application for support services which requests funding in excess of the Louisiana Indigent Defense Assistance Board's established guidelines must be submitted to the Louisiana Indigent Defense Assistance Board, through its Director, for review and must be accompanied by specific justification for additional funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:149.1 and 15:151.2(E)-(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Indigent Defense Assistance Board. LR 28:1205 (June 2002).

Edward R. Greenlee
Director

0206#012

RULE

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

Authorized Practice
(LAC 46:XLVII.4513)

Editor's Note: The following Rule is being repromulgated to correct a typographical error. The orginal rule may be viewed on pages 487-89 of the March 20, 2002 *Louisiana Register*.

In accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et seq., the Board of Nursing (board) and the Board of Medical Examiners pursuant to the authority vested in the board by R.S.37:918 (12) and 37:1031-1035, has repromulgated the Professional and Occupational Standards pertaining to the authorized practice of Advanced Practice Registered Nurses, specifically LAC 46:XLVII.4513.C.5d.i-iv. to correct a clerical error. The corrected text is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses
Subpart 2. Registered Nurses
Chapter 45. Advanced Practice Registered Nurses
§4513. Authorized Practice

A. - C.2 ÿ

3. Definitions as used in this Part:

* * *

Collaborating Physician—a physician in active practice with whom the APRN has developed and signed a collaborative practice agreement for limited prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the Louisiana State Board of Medical Examiners and is in good standing with no pending disciplinary proceedings, and practices in accordance with rules of the Louisiana State Board of Medical Examiners. A collaborating physician shall have current hospital privileges prior to an APRN seeking hospital privileges at the same institution.

* * *

Joint Administration Committee or Committee—the joint committee comprised of five members designated by the board and five members designated by the Louisiana State Board of Medical Examiners as follows:

i. one APRN practicing in a rural area, appointed by the board from a list submitted by the Louisiana Association of Nurse Practitioners;

ii. one APRN practicing in an urban area appointed by the board from a list submitted by Louisiana State Nurses Association;

iii. three registered nurses on the board appointed by the board;

iv. two physicians on the Louisiana State Board of Medical Examiners appointed by the Louisiana State Board of Medical Examiners;

v. one physician that collaborates with an APRN practicing in a rural area appointed by the Louisiana State

Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vi. one physician that collaborates with an APRN practicing in an urban area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vii. one physician that collaborates with an APRN appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana Medical Association.

* * *

*Under Physician Direction*C the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9). Physician direction of the APRN is essential and implies that there is informed concurrence of the limited prescriptive authority actions of the APRN, in accordance with written clinical practice guidelines in existence between the collaborating physician and the APRN. Although physician direction shall not be construed in every case to require the physical presence of the collaborating physician, he shall be within a reasonable distance to provide timely response to medical emergencies and he and the APRN must have the capability to be in contact with each other by telephone or other telecommunications devices. Reasonable distance implies that the collaborating physician is within the local area of the APRN's practice site or sites and is not attending an educational program or on vacation in another state or country.

* * *

4.a. - d. ÿ

i. 500 hours of clinical practice as a licensed APRN within the last 6 months in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for limited prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement;

ii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs for advanced practice, approved by the board, within the 4-year time period immediately prior to the date of initial application for prescriptive and distributing authority with at least 12 hours having been obtained within two years prior to application. The APRN shall submit the continuing education advanced pharmacotherapeutics curriculum to the board for review and approval. The APRN shall obtain at least 2/3 of the required pharmacotherapeutic hours by attending continuing education programs and may obtain 1/3 of the required pharmacotherapeutic hours by non-lecture programs, such as computer assisted instruction and/or self-study accredited by a national professional accrediting organization approved by the board. Continuing Medical Units may be used as continuing education provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education course to be approved by the board, the course shall include:

4.d.i.(a). - v.(c). ÿ

(i). is available by telephone or direct telecommunications for consultation, assistance with medical emergencies, or patient referral; in the absence of the collaborating physician the following shall apply:

[a]. the back-up physician or physicians shall be in good standing and approved by the medical board and review and sign the collaborative practice agreement;

[b]. in the event that the collaborating physician fails to name a back-up physician, the collaborative practice agreement shall clearly state that the APRN will not prescribe in the absence of the collaborating physician;

4.d.v.(c).(ii). - (e). ÿ

vi. the committee shall develop guidelines extending or modifying the requirements of "under physician direction", as defined in LAC 46: XLVII.4513.C.3, as well as the requirements of LAC 46:XLVII.4513.C.4.d.v. (c), for an APRN who is employed by or who contracts with the Louisiana Department of Health and Hospitals' Office of Public Health to specifically provide family planning, Human Immunodeficiency Virus ("HIV") infection or sexually transmitted disease treatment or services and Rural Health Clinics.

4.d.vii. – 5.b. ÿ

c. An APRN who is granted limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 CFR 1308.11-15., R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute. The committee may authorize an APRN with limited prescriptive authority to prescribe or distribute controlled substances on an individual practice basis. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written prescriptions and be furnished on all oral prescriptions and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LIII.3531, Schedule Drug Prescription Requirements.

i. An APRN who is granted limited prescriptive authority may request approval of the Joint Administration Committee to prescribe and distribute controlled substances to the extent expressly authorized by the APRN=s collaborating physician provided that:

(a). the APRN has been approved by the Joint Administration Committee to prescribe and distribute noncontrolled substances;

(b). the APRN has been approved by the board to prescribe and distribute noncontrolled substances;

(c). the APRN has practiced with limited prescriptive and distributing authority with the same collaborating physician in the APRN's licensed category and area of specialization for 500 hours immediately preceding the initial request and 160 hours of collaborative practice for each additional request;

(d). the APRN=s application, provides to the satisfaction of the Joint Administration Committee, an identified need for controlled substances within the patient population served by the collaborative practice;

(e). controlled substances utilization is expressly contained in the collaborative practice agreement, which

specifies the circumstances, limitations and extent to which such substances may be prescribed or distributed; and

(f). the collaborative practice agreement contains acknowledgment of responsibility by the collaborating physician to ensure that the controlled substance authority of an APRN is utilized in a manner that is consistent with any rule or regulation imposed upon his practice.

ii. Controlled substances which may be prescribed or distributed by an APRN shall be limited to Schedule III, IV and V and shall be limited to, consistent with, and exclusively within the parameters of the practice specialty of the collaborating physician and the APRN=s licensed category and area of specialization. The committee may approve an APRN to prescribe certain drugs to treat Attention Deficit Disorder (ADD).

iii. An APRN granted authority to prescribe or distribute controlled substances shall not utilize such substances in connection with the treatment of:

(a). chronic or intractable pain, as defined in LAC 46:XLV.6515 - 6923;

(b). obesity, as defined in LAC 46:XLV.6901 - 6913; or

(c). oneself, a spouse, child or any other family member.

iv. Any APRN authorized to prescribe controlled substances shall provide to the Board a copy of his or her Louisiana Controlled Dangerous Substance permit and Drug Enforcement Administration registration number prior to prescribing or distributing controlled substances. A place for an APRN to write their DEA number, as well as the name, address and telephone number of the collaborating physician, shall be pre-printed on the prescription pad and a sample of the prescription shall be submitted to the board for approval prior to prescribing or distributing controlled substances.

d. - iv. …

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their category and area of specialization. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the time of the APRN's license renewal. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the board, the program shall:

i. be provided by a board approved national certifying organization or provider approved by the board;

5.e.ii. - f. ÿ

g. Prior to changes with the collaborating physician, or physicians or coverage physician, when applicable, the APRN shall notify the board in writing requesting approval of such changes. The board may approve changes in the practice site or sites when both the collaborating physician(s) and APRN has been previously approved by the Committee and all other requirements are met as set forth in these rules. The APRN shall notify the board in writing within thirty days of all changes regarding practice sites.

5.h. - 6. ÿ

a. Receive and distribute free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, that shall:

6.a.i. - 10. ÿ

11. Reinstatement. AN APRN who has been approved by the Joint Administration Committee for limited prescriptive and distributive authority and who has ceased practicing limited prescriptive authority for more than 12 months may apply for reinstatement of such authority.

a. In the event that the time period is greater than 12 months but less than 4 years the APRN shall:

i. meet the requirements as set forth in LAC 46:XLVII.4513.4.a, b, and c.

ii. provide evidence of 6 contact hours of continuing education in pharmacotherapeutics for each 12-month period of non-prescribing in their category and area of specialization. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the Board, the program shall:

(a). be provided by a board approved national certifying organization or provider approved by the board;

(b). include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

b. In the event that the time period is greater than four years the APRN shall meet the requirements as set forth in LAC 46:XLVII.4513.4.a., b., c., and d.ii.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.(12), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), amended by the Board of Nursing, LR 27:727 (May 2001), amended by the Board of Nursing and the Board of Medical Examiners LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002).

Barbara L. Morvant
Executive Director
and
John Bobear
Interim Executive Director

0206#031

RULE

Department of Health and Hospitals
Board of Veterinary Medicine

Continuing Education Requirements
(LAC 46:LXXXV.403)

The Louisiana Board of Veterinary Medicine has amended LAC 46:LXXXV.403 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et. seq. The amendments to the rule are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians
Chapter 4. Continuing Veterinary Education
§403. Continuing Veterinary Education Requirements

A.1. - 2. ...

3. A maximum of four hours of practice management courses or alternative medicine/therapy topic sessions may be taken.

B. Proof of attendance, which shall include the name of the course/program, name of sponsor, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual re-registration form.

C. All hours shall be obtained in the twelve months preceding the renewal period of the license. Hours taken prior to the twelve-month continuing education period will not be accepted. Hours taken after the beginning of the renewal period will require payment of the late fee, and may require the payment of a fine of up to $50, as set forth in §413.D. Hours submitted as the late continuing education, if accepted by the Board in accordance with §413.D, cannot be applied to other renewal periods.

D. Employment at an accredited school or college of veterinary medicine will not be accepted in lieu of performance of the required hours of continuing education.

E. Presenters of approved continuing education programs may not submit hours for their presentation of, or preparation for, the program as continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated as §405 by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:224 (March, 1990); amended LR 19:1427 (November 1993), LR 23:1147 (September 1997), LR 28:1208 (June 2002).

Kimberly B. Barbier
Administrative Director

0206#071

RULE

Department of Health and Hospitals
Board of Veterinary Medicine

Preceptorship Program
(LAC 46:LXXXV.1103 and 1115)

The Louisiana Board of Veterinary Medicine has amended LAC 46:LXXXV.1103 and 1115 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1511 et. seq.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians
Chapter 11. Preceptorship Program
§1103. Definitions

* * *

Intern Program—Repealed

* * *

Preceptorship Program—a preceptorship program approved by the Louisiana Board of Veterinary Medicine.

1. - 2. ...
3. Repealed
4. Repealed
5. Repealed

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:968 (August 1997), LR 24:1293 (July, 1998), LR 27:543 (April 2001), LR 28:1208 (June 2002).

§1115. Preceptorship Practice Requirements

A. - C.2. ...

3. All practices must be equipped or have the availability to provide a full radiographic service without hazardous exposure and must comply with all state and federal radiological standards.

4. Clinical pathology diagnostic services must be utilized.

5. The caseload must be of such nature as to provide good exposure for the preceptee while allowing time for preceptor-preceptee interaction.

6. The preceptor must be willing to provide supervised, hands-on experience.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 27:544 (April 2001), LR 28:1208 (June 2002).

Kimberly B. Barbier
Administrative Director

0206#070

RULE

Department of Health and Hospitals
Office of Public Health

Public Health—Sanitary Code (LAC 51)

This recodification and republication of the Louisiana State Sanitary Code is now being accomplished in accordance with the requirements of the Louisiana Administrative Code pursuant to the provisions of Act No. 379 of the 1993 Regular Session of the Louisiana Legislature.

Historically, several basic provisions of today's sanitary code were statutorily authorized in Act No. 336 of the 1855 General Assembly of the State of Louisiana. The 1855 legislation was enacted in response to the serious public health problems caused by terrible Yellow Fever Epidemics that had taken so many lives, particularly in the City of New Orleans and its surrounding environs. Act No. 336 of 1855 created and established a Board of Health that is directly traceable to the present day Office of Public Health of the Department of Health and Hospitals, and it is the oldest public health agency in our country.

The former Board of Health's early sanitary ordinances and regulations were focused on development of an effective quarantine system to control and eradicate the Yellow Fever problems. Some of these provisions remain in place, and may be found in Part II (formerly Chapter II) of this recodification material. The need for other sanitary regulations grew rapidly. Now there are 28 Parts (former Chapters) as the Louisiana State Sanitary Code is formally being incorporated within the *Louisiana Administrative Code*.

The need for additional public health sanitary regulations continues to grow as attention is being directed to preparing for possible bioterrorism attacks. In this regard, it is noted that current federal CDC publications include Yellow Fever as one of the viral diseases on a list of possible bioterrorism concerns.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part I. General Provisions
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part I	**Chapter I**
Chapter 1	
§101	1:001
§103	1:006
§105	1:007-1
§107	1:007-2
§109	1:007-4
§111	1:007-5
§113	1:007-21
§115	1:007-21
§117.A	1:008-1
§117.B	1:008-2
§117.C	1:008-3
§119.A	1:009-1
§119.B	1:009-2
§119.C	1:009-3
§121	1:011
§123	1:011

Part I. General Provisions

Chapter 1. General

§101. Definitions
[formerly paragraph 1:001]

A. Words not defined in any Part or Chapter of the Code shall have their common usage and meaning as stated in the *Merriam-Webster's Collegiate Dictionary-Tenth Edition*, as revised, and other similarly accepted reference texts. When the same word or term is defined in more than one Part or Chapter of the Code, the definition contained within the particular Part or Chapter in which the word is contained shall be given preference as it pertains to that Part or Chapter. When a word or term is not defined in a Part or Chapter of the Code but is cross-referenced to another Part or Chapter, it shall have the definition contained in the Part or Chapter to which it is cross-referenced.

B. Unless otherwise specifically provided in the Code, the following words and terms are defined as follows:

Code—the word "Code" means Sanitary Code.

CFR—Code of Federal Regulations.

Department—the Department of Health and Hospitals and Secretary means the Secretary thereof.

EPA—United States Environmental Protection Agency.

FDA—United States Food and Drug Administration.

Emergency Situation—refers to any situation or condition which warrants immediate enforcement measures more expedient than normal administrative violation control and abatement procedures due to its perceived imminent or potential danger to the public health.

Hazard—a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Imminent Health Hazard—an emergency situation that is a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or serious illness.

Law—applicable local, state, and federal statutes, regulations, and ordinances.

Person—means any natural person, individual, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

Secretary—see department.

Shall—refers to mandatory requirements.

Should or May—refers to recommended or advisory procedures or equipment.

State Health Officer—means the legally appointed and/or acting State Health Officer of the Department of Health and Hospitals having jurisdiction over the entire State of Louisiana, and includes his/her duly authorized representative in accordance with LSA R.S. 40:4 and 40:5.

Substantial Renovation—

a. alterations or repairs made within a 12-month period, costing in excess of 50 percent of the then physical value of the existing building; or

b. alterations or repairs made within a 12-month period, costing in excess of $15,000; or

c. alterations or repairs made involving a change in "occupancy classification" or use of the property.

d. the physical value of the building in Subparagraph "a" of this Paragraph may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located.

e. the cost of alterations or repairs in Subparagraph "a" or "b" of this Paragraph may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor; or

ii. by copies of receipts for the actual costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1693, (October 2001), amended LR 28:1209 (June 2002).

§103. Severability
[formerly paragraph 1:006]

A. If any provision of this Code, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Code, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1693, (October 2001), amended LR 28:1210 (June 2002).

§105. Administrative Enforcement Procedures
[formerly paragraph 1:007-1]

A. The proper documentation of violations is an essential part of the enforcement process. When an establishment is inspected and violations of the Code are found, they shall be noted either on a Notice of Violation(s) form or letter. The sanitarian, engineer or other representative of the State Health Officer shall describe with particularity the nature of the violation(s), including a reference to the provision(s) of the Code which have been violated. A specific date shall be set for correction and the violator shall be warned of the penalties that could ensue in the event of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1693, (October 2001), amended LR 28:1210 (June 2002).

§107. Notice of Violation
[formerly paragraph 1:007-2]

A. The Notice of Violation form or letter listing the violation(s) and urging correction thereof may:

1. be left with the operator, owner, manager, lessee or their agent, or person in charge of the establishment, facility, or property at the time of such inspection or monitoring; or

2. be delivered to the person in charge of the establishment, facility, or property as soon as a determination is made that there is/are violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694, (October 2001), amended LR 28:1210 (June 2002).

§109. Violation Notice
[formerly paragraph 1:007-4]

A. In those cases in which the State Health Officer or his/her representative determines that a violation has occurred and a decision is made to issue a notice of violation, the notice of violation shall be either sent to the owner, manager, lessee or their agent, of the establishment, facility or property involved by regular mail with a U.S. postal service certificate of mailing, or hand delivered to the owner, manager, lessee or their agent of the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694, (October 2001), amended LR 28:1210 (June 2002).

§111. Reinspection
[formerly paragraph 1:007-5]

A. If reinspection discloses that the violation(s) have not been remedied the State Health Officer or his/her representative, may issue a Compliance Order or take whatever action is authorized by law to remedy the violation(s). Any Compliance Order issued pursuant to this section shall inform the aggrieved party of his right to an administrative appeal to the Division of Administrative Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694, (October 2001), amended LR 28:1210 (June 2002).

§113. Suspension/Revocation
[formerly paragraph 1:007-21]

A. Pursuant to the provisions of LSA R.S. 40:4, R.S. 40:5 and LSA R.S. 40:6, the State Health Officer acting through the Office of Public Health:

1. may suspend or revoke an existing license or permit;

2. may seek injunctive relief as provided for in LSA R.S. 40:4;

3. may impose a fine for violations of Compliance Orders issued by the State Health Officer with the approval of the Secretary of the Department of Health and Hospitals. (R.S. 40:6);

4. may (in cases involving pollution of streams, rivers, lakes, bayous, or ditches which are located in public rights of way outside Lake Pontchartrain, Toledo Bend Reservoir or the Sabine River, their drainage basins or associated waterways):

a. suspend or revoke the existing license or permit; and/or

b. issue a civil compliance order and impose a fine of $100 per day up to a maximum of $10,000 in cases where establishments operate without a license or permit or continue to operate after revocation or suspension of their license or permit;

5. may (in cases involving pollution of Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, their drainage basins, or associated waterways and pursuant to the provisions of LSA R.S. 40:1152 and 40:1153);

a. issue a civil compliance order and/or suspend or revoke the existing license or permit; and /or

b. impose a fine of $100 per day up to a maximum of $10,000 in cases where establishments operate without a license or permit, or continue to operate after revocation or suspension of their license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694, (October 2001), amended LR 28:1210 (June 2002).

§115. Emergency Situations
[formerly paragraph 1:007-21]

A. The State Health Officer may issue Emergency Orders pursuant to the authority granted in LSA R.S. 40:4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694, (October 2001), amended LR 28:1210 (June 2002).

§117. Employee Health

A. [formerly paragraph 1:008-1] No person known to be a case or carrier of a communicable disease, as defined in Chapter II, Section 2:001, in an infectious stage which can be transmitted through water, milk or other food materials,

shall be employed as a food handler or permitted to work in any capacity in a manufacturing, processing or packing plant; in a food, drug or cosmetic plant; in any bakery or manufacturing confectionery; in a food salvaging or repackaging area; in syrup rooms, mixing areas, filling rooms, in an artificial ice or cold storage plant, or in the delivery or distribution of ice; in a dairy farm, transfer station, receiving station or milk plant; in a marine or fresh water animal food product establishment; in a game and or small animal slaughterhouse or meat packing plant; in a water treatment plant; in a hotel, lodging house, or boarding house, in a school, day care center, residential facility (as defined in Chapter XXI) in any capacity which might bring him into contact with other employees or pupils; in a retail food store/market; or in a food establishment; except where there is no reasonable possibility of disease transmission by such person.

B. [formerly paragraph 1:008-2] Any individual suspected of being a case or carrier of a communicable disease, as defined in Chapter II, Section 2:001, or who is a contact of or has been exposed to a communicable disease which can be transmitted through water, milk or other food or beverage materials shall submit to an examination by a licensed physician and/or to the collection of appropriate specimens as may be necessary or desirable in ascertaining the infectious status of the individual. Any such person who refuses to submit to such an examination or specimen collection shall not be permitted to work in the types of establishments listed in §117.A until he submits to such examination.

C. [formerly paragraph 1:008-3] Routine examinations and collections of specimens shall not be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1694, (October 2001), amended LR 28:1210 (June 2002).

§119. Plans and Permits

A. [formerly paragraph 1:009-1] Certain activities require submission of plans to the State Health Officer, who must approve the plans and issue a permit prior to the initiation of the activity. This includes but is not limited to the operation, construction or renovation of facilities. For details, see the appropriate Chapter (Part) of this Code.

B. [formerly paragraph 1:009-2] In those instances in which such activities, for which submission of plans prior to initiation of the activity is required, are found to exist, and no such submittal of plans has been made, the State Health officer shall, upon submittal of the required plans and determination of compliance of such activity with this Code, offer no objection to the existence of such activity. This shall not be construed to limit in any way the State Health Officer's authority to revoke or rescind such position of no objection, just as with any other approval or permit, as per §119.C of this Code. The burden of proof of compliance shall be on the applicant.

C. [formerly paragraph 1:009-3] The State Health Officer can revoke, and reissue permits, or issue new permits as provided in this Code. The addresses to which requests shall be submitted are set forth in the appropriate Chapters (Parts) of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1695, (October 2001), amended LR 28:1211 (June 2002).

§121. Effective Date of Code [formerly paragraph 1:011]

A. The provisions of this Code shall have effect from the date of publication hereof as a Rule in the *Louisiana Register*, except as hereinafter otherwise specifically provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1695, (October 2001), amended LR 28:1211 (June 2002).

§123. Exemptions from Code [formerly paragraph 1:011]

A. When the construction of buildings and facilities was approved by the State Health Officer pursuant to Sanitary Code requirements then in effect, upgrading of such buildings and facilities shall not be required except where:

1. substantial renovation of such buildings or facilities is undertaken; or
2. where the ownership thereof or the business located therein changes subsequent to the effective date of the Sanitary Code; or
3. where a serious health threat exists, unless otherwise specifically provided hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1695, (October 2001), amended LR 28:1211 (June 2002).

Part II. The Control of Diseases Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part II	**Chapter II**
Chapter 1	
§101	2:001
§103	2:002
§105	2:003
§107	2:004 & 2:005
§109	2:006
§111	2:007
§113	2:008
§115	2:009, - 2:010, & 2:013
§117	2:011 & 2:014 - 2:019
§119	2:012
§121	2:014-1 & Appendix A
§123	2:014-2 & 2:014-3
Chapter 3	
§301	2:020
Chapter 5	
§501	2:021
§503	2:022 - 2:024 & 2:032
§505	2:026-2:028
Chapter 7	
§701	2:025 - 2:025-2
Chapter 9	
§901	2:029
§903	2:030 & 2:030-1
§905	2:031 - 2:031-14
§907	2:032

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§101. Definitions
[formally paragraph 2:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Carrier—a person, who without apparent symptoms of a communicable disease, harbors the specific infectious agent and may serve as a source of infection. The carrier state may occur with infections unapparent throughout their course, and also as a feature of incubation period, convalescence, and post-convalescence of a clinically recognizable disease.

Case—a particular instance of disease.

Communicable Disease—an illness due to a specific infectious agent or its toxic products, which arises through transmission of that agent or its products from a reservoir to susceptible host, either directly as from an infected person or animals, or indirectly through the agency of an intermediate plant or animal host, a vector or the inanimate environment.

Contact—a contact is any person who has been in such association with an infected person or animal or with a contaminated environment as to have had opportunity to acquire the infection.

Isolation—the separation for the period of communicability of infected persons from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent from infected persons to persons who are susceptible or who may spread the agent to others.

Quarantine—the limitation of freedom of movement of such well persons or domestic animals as have been exposed to a communicable disease for a period of time equal to the longest usual incubation period of the disease, in such manner as to prevent effective contact with those not so exposed.

NOTE: In connection with the control of communicable diseases, the term "quarantine" is frequently used interchangeably with the term "isolation" as defined above in this paragraph. At times, the two terms may be used together, as in an "isolation/quarantine order" pursuant to R.S. 40:4(A)(13), and further pursuant to §§117-119(F) in the body of this Part in this Code pertaining to the Control of Diseases.

Reportable Disease—a reportable disease is any disease or condition for which an official report is required by the state health officer.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(1)(2) and (10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002).

§103. Public Notice of Reportable Diseases
[formerly paragraph 2:002]

A. Those diseases to be reportable will be publicly declared by the state health officer and when any disease is so declared to be a reportable disease, the regulation herein provided shall apply thereto. The state health officer may, at his discretion, from time to time, by public notice, add to or delete from the list of reportable diseases. When a disease is added to the list, the regulations herein pertaining to the reporting of disease shall apply to said disease.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002).

§105. Reportable Diseases and Conditions
[formerly paragraph 2:003]

A. The following diseases or conditions are hereby declared reportable with reporting requirements by Class.

1. Class A Diseases or Conditions which Shall Require Reporting within 24 Hours

a. This class includes diseases of major public health concern because of the severity of disease and potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual cluster of disease and all outbreaks will also be reported. The following diseases or conditions shall be classified as Class A for reporting requirements:

i. anthrax;
ii. botulism;
iii. brucellosis;
iv. cholera;
v. diphtheria;
vi. haemophilus influenzae (invasive infection);
vii. measles (rubeola);
viii. neisseria meningitidis (invasive infection);
ix. plague;
x. rabies (animal & man);
xi. rubella (congenital syndrome);
xii. rubella (german measles);
xiii. smallpox;
xiv. tularemia;
xv. viral hemorrhagic fever.

2. Class B Diseases or Conditions which Shall Require Reporting within One Business Day

a. This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known.

i. Anthropod-borne encephalitis
ii. Aseptic meningitis
iii. Chancroid[1]
iv. E. Coli 0157:H7
v. Hantavirus Pulmonary Syndrome
vi. Hemolytic-Uremic Syndrome
vii. Hepatitis A (acute illness)
viii. Hepatitis B (carriage in pregnancy)
ix. Herpes (neonatal)
x. Legionellosis
xi. Malaria
xii. Mumps
xiii. Pertussis
xiv. Salmonellosis
xv. Shigellosis
xvi. Syphilis[1]
xvii. Tetanus

xviii. Tuberculosis [2]

xix. Typhoid Fever

3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days

a. This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known.

i. Acquired Immune Deficiency Syndrome (AIDS)

ii. Blastomycosis

iii. Campylobacteriosis

iv. Chlamydial infection[1]

v. Crytococcosis

vi. Cryptosporidiosis

vii. Cyclosporiasis

viii. Dengue

ix. EHEC serogroup non 0157

x. EHEC + shiga toxin not serogrouped

xi. Enterococcus-Vancomycin Resistant; (VRE)

xii. Giardia

xiii. Gonorrhea[1]

xiv. Hansen Disease (leprosy)

xv. Hepatitis B (acute)

xvi. Hepatitis C (acute)

xvii. Human Immunodeficiency Virus (HIV)

xviii. Listeria

xix. Lyme Disease

xx. Lymphogranuloma venereum[1]

xxi. Psittacosis

xxii. Rocky Mountain Spotted Fever (RMSF)

xxiii. Staphylococcus aureus, Methicillin/Oxacillin or vancomycin resistant (MRSA)

xxiv. Streptococcus pneumoniae [invasive infection; penicillin, resistant (DRSP)]

xxv. Streptococcus pneumoniae (invasive infection in children <5 years of age)

xxvi. Varicella (chickenpox)

xxvii. Vibrio infections (other than cholera)

4. Other Reportable Conditions

a. Cancer

b. Complications of abortion

c. Congenital hypothyroidism*

d. Galactosemia*

e. Hemophilia*

f. Lead Poisoning*

g. Phenylketonuria*

h. Reye's Syndrome

i. Severe traumatic head injury**

j. Severe under nutrition (severe anemia, failure to thrive)

k. Sickle cell disease (newborns)*

l. Spinal cord injury**

m. Sudden infant death syndrome (SIDS)

B. Case reports not requiring special reporting instructions (see below) can be reported by Confidential Disease Report forms (2430), facsimile, phone reports, or electronic transmission.

1. [1]Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

2. [2]Report on CDC72.5 (f.5.2431) card.

3. *Report to the Louisiana Genetic Diseases and Louisiana Childhood Lead Poisoning Prevention Programs FAX (504) 568-7722.

4. **Report on DDP-3 form; preliminary phone report from ER encouraged (504) 568-2509.

C. Information contained in reports required under this Section shall remain confidential in accordance with the law.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002).

§107. Physicians Reporting Duties [formerly paragraph 2:004]

A. It is hereby made the duty of every physician practicing medicine in the State of Louisiana to report to the state health officer, through the health unit of the parish or municipality wherein such physician practices, any case or suspected case of reportable disease or condition which he or she is attending, or has examined, or for which such physician has prescribed. The report shall be made promptly at the time the physician first visits, examines or prescribes for the patient, and such report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease or condition and the date of onset.

B. [Formerly paragraph 2:005] Any physician, whether Louisiana resident or non-resident, engaged in the practice of medicine at any federal installation or on any vessel, train or other common carrier, which enters any port, station or place in the State of Louisiana, is required to report as specified in §107 (A).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002).

§109. Reports by All Health Care Providers [formerly paragraph 2:006]

A. It shall be the duty of every osteopath, coroner, medical examiner, dentist, homeopath, infection control practitioner, medical records director, nurse, nurse midwife, nurse practitioner, pharmacist, physician assistant, podiatrist, social worker, veterinarian, and any other health care professional to report a confirmed case of reportable disease as specified in §105 in which he or she has examined or evaluated, or for which he or she is attending or has knowledge.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002).

§111. Reports Required of Parents, Schools and Day Care Centers [formerly paragraph 2:007]

A. It shall be the duty of every parent, guardian, householder, attendant or other in charge, principal of a public or private school, operator of a day care center or residential facility (public or private) to report a case of reportable disease in his household or school to the state health officer through the health unit of the parish in which the house or school is located, when he or she knows or

reasonably believes that the disease is one which legally must be reported, except when he or she knows or reasonably believes that a physician, presumed to have already reported the case, is in attendance.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1213 (June 2002).

§113. Laboratory Reporting Requirements [formerly paragraph 2:008]

A. The director of every laboratory whether public, private, hospital or other, where specimens are examined for the purpose of confirming or aiding in the diagnosis of a communicable disease, shall report to the state health officer all reactive serologic tests for syphilis, microscopic findings of *Treponema Pallidum* and the results of tests which either confirm or suggest the occurrence of reportable diseases as specified in §105. Such reports shall be submitted within 72 hours after the completion of the reportable test and shall contain the name of the physician or person submitting the specimen; the name, age, sex, race and address of the person from whom the specimen was obtained, and the name and degree of reactivity of the test performed.

B. Persons submitting specimens for reportable laboratory tests are required to supply the laboratories with sufficient information to comply with the provisions of this Section. Laboratory reports shall not be construed as diagnosis. In the case of private patients, follow-up of laboratory reports shall be through the physician(s) submitting the specimen(s).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002).

§115. Investigations [formerly paragraph 2:009]

A. The state health officer may immediately upon receiving notification of any communicable disease, investigate as the circumstances may require for the purpose of verification of the diagnosis, to ascertain the source of the causative agent, to disclose unreported cases and to reveal susceptible contacts if such information is required to prevent a serious health threat to the community. The decision of the state health officer as to the diagnosis shall be final, for administrative purposes.

B. [Formerly paragraph 2:010] The state health officer is hereby empowered and it is made his or her duty whenever a case of communicable disease occurs, to obtain laboratory specimens of body tissues, fluids or discharges and of materials directly or indirectly associated with the case as may be necessary or desirable in confirmation of the diagnosis or for ascertaining the source of the infection when acceptable laboratory and medical reports are not available. Whenever laboratory tests are required for the release of cases or carriers or suspected cases or carriers, the state health officer shall be satisfied that a sufficient number of specimens are examined, that the specimens are authentic and are examined in an acceptable laboratory.

C. [Formerly paragraph 2:013] No person shall interfere with or prevent the entrance to or examination of any house, building, trailer, camp, train, airplane, bus, steamship, or other water craft, or any abode, by the state health officer where a case of communicable disease is either suspected or reported to exist.

D. [Formerly paragraph 2:009-1] The state health officer shall make a good faith effort to notify individuals who are spouses and/or sexual contacts to persons with Human Immunodeficiency Virus (HIV) infection of their exposure, offer them counseling about their risk of infection, and offer them testing for HIV infection. In performing this activity, the state health officer or his/her designee shall initially contact the primary medical provider of the person who has HIV infection, if such medical provider can be identified, and ask if the infected person or the medical provider intends to conduct this notification. If neither the infected person nor the medical provider intends to notify spouses or sexual partners of the exposure, the state health officer or his/her designee shall attempt to interview the infected person directly to identify these partners for counseling and testing. Notification of partners shall be conducted in such a manner as to maintain the confidentiality of the infected person.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002).

§117. Disease Control Measures Including Isolation/Quarantine [formerly paragraph 2:011]

A. Individuals suspected of being cases or carriers of a communicable disease, or who have been exposed to a communicable disease, and who in the opinion of the state health officer may cause serious threat to public health, shall either submit to examination by a physician and to the collection of appropriate specimens as may be necessary or desirable in ascertaining the infectious status of the individual, or be placed in isolation or under quarantine as long as his or her status remains undetermined. Specimens collected in compliance with this Section shall be examined either by a state laboratory free of charge or by a laboratory approved by the state health officer at the individual's own expense.

B. [Formerly paragraph 2:014] It shall be the duty of the state health officer or his or her duly authorized representative to promptly institute necessary control measures whenever a case of communicable disease occurs.

C. [Formerly paragraph 2:015] The state health officer or his or her duly authorized representative is hereby empowered and it is made his or her duty, whenever a case of communicable disease occurs in any household or place, and it is in his or her opinion, necessary or advisable that persons residing therein shall be kept from contact with the public, to declare the house, building, apartment, room, or place where the case occurs, a place of quarantine, and to require that only persons so authorized by the state health officer shall leave or enter said quarantined place during the period of quarantine.

D. [Formerly paragraph 2:016] Whenever a disease of international or interstate epidemic significance occurs in any community within or outside the State of Louisiana, the state health officer shall, if in his or her opinion, it is necessary, proclaim and institute a quarantine of the locality in which the said disease prevails and shall formulate and publish rules and regulations to carry out such quarantine effectively; which rules and regulations shall have the same force and authority as this Code and shall remain in force until rescinded by proclamation of the state health officer.

E. [Formerly paragraph 2:017] It is a violation of this Code for any person to enter or leave any quarantined area in the State of Louisiana, or to enter from any quarantined area without the State of Louisiana except by permission of the state health officer.

F. [Formerly paragraph 2:018] No person shall interfere with, conceal, mutilate or tear down any notices or placard placed on any house, building, or premises by the state health officer. Such placards shall be removed only on authority of the state health officer.

G. [Formerly paragraph 2:019] Whenever in the judgment of the state health officer, it is necessary to protect the public health against a serious health hazard, the state health officer may take complete charge of any case of communicable disease occurring therein and may carry on such measures to prevent its spread as he or she may believe necessary and as are provided for by this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002).

§119. Duty of Custodians of Medical Records [formerly paragraph 2:012]

A. Custodians of medical records on patients known or suspected of being cases or carriers of a communicable disease, shall make such records available for review by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1215 (June 2002).

§121. Special Tuberculosis Control Measures [formerly paragraph 2:014-1 and Appendix A]

A. Louisiana is changing its method of treating tuberculosis due to recent recommendations of the federal Centers for Disease Control and Prevention as set forth in its Morbidity and Mortality Weekly Report, Volume 42, Issue RR-7, dated May 21, 1993. These new and revised recommendations have become necessary because the majority of tuberculosis patients on daily self-administered medications do not comply with a full course of therapy which leads to drug resistance and secondary spread of the disease.

B. This section contains a step-wise approach for encouraging compliance with treatment and for managing the non-compliant patient. The steps in the process begin with a Voluntary Patient Compliance Agreement, meant to spell out the time and place of Directly-Observed Therapy negotiated between the healthcare provider and the patient and to inform the patient of the possible consequences of non-compliance with the course of therapy.

C. If the patient does not comply with the terms of this Agreement, a Quarantine Order for Directly-Observed Therapy follows. This order from the state health officer or his designee reinforces the need for compliance with therapy.

D. If the patient continues to be uncooperative, the state health officer or his designee may issue a formal Quarantine Order for Hospitalization. This assigns the patient to a specific hospital facility for care of tuberculosis as an inpatient, with detailed warning of the consequences of non-compliance with therapy. It is to be noted that the patient must agree to be transported to the selected hospital facility, and to further comply with the quarantine order to remain in the hospital until his/her condition improves, and the patient may be discharged and placed under a new Quarantine Order for continued Directly Observed Therapy treatment, as needed, outside of the hospital facility's restrictive environment.

E. In certain cases, where the OPH Disease Intervention Specialist and Supervisor anticipate that a given uncooperative patient will refuse to be voluntarily transported to a hospital facility under a formal Quarantine Order for Hospitalization, the state health officer may authorize and instruct the OPH Disease Intervention Specialist Supervisor or other appropriate OPH official, to fill out a request for a Court Order for Hospitalization, and present it to the district attorney in the parish wherein the patient is known to be situated. (In rare instances, the district attorney may see that criminal charges for violation(s) of the Quarantine Order for Directly Observed Therapy are filed at this point, instead of the OPH requested civil court order).

F. It is hoped that in most instances of initial non-compliance with the required treatment, an uncooperative patient will agree to be transported to a specific hospital facility for inpatient care under a formal quarantine order issued by the state health officer or his designee, without court intervention.

G. In the event a patient under a formal quarantine order for hospital care becomes uncooperative within the hospital facility's restrictive environment, or a patient continues to be non-compliant with therapy after isolation/quarantine by a civil court order, the hospital facility or state health officer may seek to have criminal charges filed pursuant to R.S. 40:6(B), and upon conviction, the patient may be sentenced to the hospital unit of a state prison and placed in the custody of the Department of Corrections.

H. This section contains suggested forms with instructions for the steps prior to the filing of criminal charges.

I. Louisiana is following the recommendations of the federal Centers for Disease Control and Prevention by placing all tuberculosis patients initially under a voluntary program of "Directly Observed Therapy" pursuant to a "Patient Compliance Agreement" signed by the patient. A sample "Patient Compliance Agreement" form follows:

J. Tuberculosis Control Sample Form 1

VOLUNTARY PATIENT COMPLIANCE AGREEMENT

Plan of therapy for _____
Full Name

Date of birth_____ Social Security #_____

Whose residence is_____

Parish_____Date this regimen begins_____

For the Patient: NOTE: All statements are to be read to patient (or patient may read).

1. You are being treated for suspected tuberculosis; therefore, it is essential that you take your medication.

2. To avoid long-term isolation or quarantine, you will be expected to follow your drug therapy schedule. No dose of medication is to be missed.

3. State law requires that the Office of Public Health assist you in controlling your disease. The only way to cure your disease is by regular use of drug therapy.

4. The following therapy schedule requires that you report to _____ on _____, at _____o'clock to receive your medications under supervision. The staff will work with you in arranging special schedules for your therapy as necessary. You will be expected to call and report any difficulties in keeping your appointments.

5. Failure to comply with these guidelines may result in quarantine, involuntary confinement to a hospital or possible criminal charges for violations of quarantine.

(If patient states any barriers to compliance, list them here.)

I agree that I understand the above therapy schedule and will make every effort to comply with the full course of my therapy.

Patient's Signature_____

Date _____ _____
Public Health Nurse or Disease Inter. Spec.

Copy received by patient _____
Patient Initials

SCHEDULE CHANGES

New schedule _____

Medical Reason/Other _____

Patient Signature_____ Date _____

_____
Signature Public Health Nurse or Disease Intervention Specialist

Copy to patient_____
Patient Initials

K. In the event a particular tuberculosis patient fails to cooperate, as evidenced (for example) by failing to voluntarily appear timely at the place that was agreed upon in the Patient Compliance Agreement to take the required drugs, or otherwise interrupts and/or stops taking the anti-tuberculosis medication as prescribed, it may become necessary to issue a formal public health isolation or quarantine order to "Directly Observed Therapy" (DOT) means drugs taken in the presence of a designated health care provider at a specified place. In such cases, the patient is fully informed that a violation of the terms of the isolation or quarantine order to DOT may result in orders issued by the state health officer or his designee or agent, or by an order from a Louisiana court of competent jurisdiction, to a more restrictive environment for the management of uncooperative tuberculosis patients. A sample of a public health isolation or quarantine order to DOT follows:

L. TB Control Form 2 is a sample letter to hand deliver a Quarantine Order for Directly Observed Therapy

Date _____

_____

_____

_____ , LA 70 __

RE: Quarantine Order for Directly Observed Therapy

Dear _____:

This is to inform you that you are under quarantine to prevent the spread of your tuberculosis infection. The circumstances necessitating the specific terms of your quarantine are as follows:

1. You have been diagnosed as having active pulmonary tuberculosis, which could be spread to others when you cough.

2. You were diagnosed with pulmonary tuberculosis in _____, and had a positive sputum smear and culture for M. tuberculosis, which showed sensitivity to _____.

3. You have failed voluntary Directly Observed Therapy, as evidenced by _____.

In order to protect the public from further unwarranted exposure to your infection, you are required to fully comply with these terms of your quarantine:

1. You will be placed on mandatory Directly Observed Therapy by the regional chest clinician in _____. This regimen will require medications administered at the _____ Parish Health Unit. This therapy will continue until the state health officer determines that you are no longer likely to transmit your infection to others and have completed an adequate therapy regimen.

2. You will comply and cooperate fully with the treatment regimen prescribed for you.

3. Failure to comply with mandatory Directly Observed Therapy on an outpatient basis may require subsequent legal action. Failure for the purposes of this quarantine is defined as missing one or more doses of therapy during one month. This order will remain in force until the order is revoked or revised by the authority of the state health officer.

In view of the risk to the public health which would result from failure to keep your tuberculosis infection under control, any violation of the specified terms of your quarantine may force us to bring immediate action against you in court.

Please signify your intention to comply with the terms of this order by signing the Statement of Intention which is attached. Return the Statement to me through the officer who delivers it to you.

I sincerely hope that you will have a rapid and uneventful recovery and that your tuberculosis can be classed as inactive before very long.

_____, M.D.
State Health Officer

M. Tuberculosis Control Form 3 is an attachment to Form 2 to be hand delivered to the patient

STATEMENT OF INTENTION TO COMPLY

I, _____, have read the terms of my quarantine for control of tuberculosis, or have had them read to me. I have had a chance to ask questions about the terms of my quarantine and am satisfied that I understand them. For my own protection and the protection of the public, I agree to comply fully with the specified terms of my quarantine.

_____
(Signature) Date

WITNESSES: _____ _____
(Signature) (Signature)

_____ _____
(Print Name) (Print Name)

cc:
State Health Officer

EXECUTIVE OFFICER, ADMINISTRATION
DHH OFFICE OF PUBLIC HEALTH

TUBERCULOSIS CONTROL SECTION
DHH OFFICE OF PUBLIC HEALTH

BUREAU OF LEGAL SERVICES
DEPART MENT OF HEALTH AND HOSPITALS

REGION ___DIS SUPERVISOR 1
DHH OFFICE OF PUBLIC HEALTH
_____ PARISH HEALTH UNIT

DISTRICT ATTORNEY _____ PARISH
SHERIFF,_____ PARISH

N. A tuberculosis patient with a diagnosis of active tuberculosis who fails to comply with a public health isolation or quarantine order to Directly Observed Therapy may be ordered to a more restrictive environment for the management of uncooperative tuberculosis patients, or by requesting a Louisiana court of competent jurisdiction for the issuance of an order placing the patient in a more restrictive environment. A sample of the state health officer's isolation or quarantine order to a more restrictive environment follows, along with a sample request for a court order:

O. TB Control Form 4 is a Sample Quarantine Order (by the state health officer) for Hospitalization

SAMPLE QUARANTINE ORDER FOR HOSPITALIZATION

Date _____

_____
_____
_____ ,LA 70 __

RE: Quarantine Order for Directly Observed Therapy

Dear _____:

This is to inform you that you are under quarantine to prevent the spread of your tuberculosis infection. The circumstances necessitating the specific terms of your quarantine are as follows:

1. You have been diagnosed as having active pulmonary tuberculosis, which could be spread to others when you cough.
2. You were diagnosed with pulmonary tuberculosis on _____, and had a positive sputum smear and culture for M. tuberculosis, which showed resistance to _____.
3. You failed to comply with your prescribed therapy and failed mandatory Directly Observed Therapy under quarantine, as evidenced by .

In order to protect the public from further unwarranted exposure to your infection, you are required to fully comply with these terms of your quarantine for hospitalization:

1. You have been placed on treatment for tuberculosis and will remain hospitalized with subsequent transfer to Villa Feliciana Chronic Disease Hospital and Rehabilitation Center.
2. You will comply and cooperate fully with the treatment regimen prescribed for you.
3. Failure to comply with this order for you to remain hospitalized may result in CRIMINAL CHARGES filed against you and a warrant for your arrest. The CRIMINAL CHARGE would be a violation of your Tuberculosis Quarantine Order, R.S. 40:6 (B). Upon trial, if convicted of this charge, you may be sentenced to the hospital unit of a state prison operated by the Department of Corrections. Please be guided accordingly.

This formal quarantine order will remain in force until the order is revoked or revised by the state health officer.

In view of the risk to the public health which would result from failure to keep your tuberculosis infection under control, any violation of the specified terms of your quarantine will force us to bring immediate action against you in court.

Please signify your intention to comply with terms of this order by signing the Statement of Intention which is attached. Return the Statement to me through the officer who delivers it to you.

I sincerely hope that you will have a rapid and uneventful recovery and that your tuberculosis can be classed as inactive before very long.

_____, M.D.
State Health Officer

P. TB Control Form 5 is a Statement of Intention to Comply with the state health officer's Quarantine Order for Hospitalization.

STATEMENT OF INTENTION TO COMPLY

I, _____, have read the terms of my quarantine for control of tuberculosis, or have had them read to me. I have had a chance to ask questions about the terms of my quarantine and am satisfied that I understand them. For my own protection and the protection of the public, I agree to comply fully with the specified terms of my quarantine. I also expressly understand that if I violate the terms of this quarantine order, I may be charged with a CRIME and can be SENTENCED TO PRISON.
(Signature) (Date)

_____
(Signature) Date

WITNESSES: _____ _____
(Signature) (Signature)

_____ _____
(Print Name) (Print Name)

cc:
state health officer

EXECUTIVE OFFICER, ADMINISTRATION
DHH OFFICE OF PUBLIC HEALTH

TUBERCULOSIS CONTROL SECTION
DHH OFFICE OF PUBLIC HEALTH

BUREAU OF LEGAL SERVICES
DEPARTMENT OF HEALTH AND HOSPITALS

REGION II DIS SUPERVISOR
DHH OFFICE OF PUBLIC HEALTH
DISTRICT ATTORNEY _____ PARISH

SHERIFF, _____ PARISH

L S U UNIT, EARL K. LONG HOSPITAL

_____PARISH HEALTH UNIT

Q. The following Aformat@ may be used by the district attorney when the state health officer or his designee or agent requests help in handling an uncooperative person known to have active, infectious tuberculosis. The district attorney may substitute any Aformat@ of his/her preference, however. The general intent here is to provide the OPH Disease Intervention Specialist Supervisors (who will be the state health officer=s designee in most cases) with an instrument to complete and submit to the district attorney when a particular TB patient shows no intent to cooperate. The Aformat@ of the instrument itself may have to be altered so as to present the facts of a particular case accurately.)

R. Tuberculosis Control Form 6

SAMPLE REQUEST FOR A COURT ORDER FOR HOSPITALIZATION

IN RE: 1 _____
NO. 2 _____
_____3 JUDICIAL DISTRICT COURT PARISH OF _____4
FILED:_____5 _____6
DEPUTY

REQUEST FOR AN EMERGENCY PUBLIC HEALTH ORDER TO ISOLATE/QUARANTINE A TUBERCULOSIS PATIENT TO PROTECT THE PUBLIC HEALTH AND THE PATIENT

ON THE MOTION OF _____, 7
a Disease Intervention Specialist Supervisor employed by the Office of Public Health of the Department of Health and Hospitals of the State of Louisiana and duly designated to act in these premises by the state health officer, appearing herein through the undersigned Assistant District Attorney, and moves pursuant to the provisions of LSA-R.S. 40:3, 40:4A(13), 40:4B(4), 40:5(1), 40:6(C) and 40:17, and further pursuant to Sections 117- 119(F) of Chapter 1 of Part II of the State Sanitary Code, and respectfully suggests to the Court that:

I.

_____, 1 to the best of my knowledge and belief is an imminent danger and/or threat to the health and/or lives of individuals in this parish and state and is now in need of immediate medical examination and treatment in a restricted environment in order to protect the individuals of this parish and state as well as the subject individual person from physical harm and/or from spreading active and infectious tuberculosis.

II.

_____ 1 is known to be located at _____ _____, 8 and has been encouraged to voluntarily submit to necessary medical examination and to seek and receive necessary treatment, but is unwilling and uncooperative in these regards.

III.

Mover has contacted _____ _____, 9 concerning the danger and/or imminent threat posed by the subject individual, _____ 1, and is informed that _____ 9 is prepared to receive the patient and provide housing in a restrictive environment allowing immediate examination and care for tuberculosis and the said facility is further prepared to provide any necessary anti-tuberculosis medication.

IV.

Mover asserts that the imminent danger and/or threat to the public health is based on mover=s knowledge that _____ 1 is infected with active, infectious tuberculosis as evidenced by _____
_____
_____
_____
_____
_____. 10

WHEREFORE, mover prays that an emergency public health order be issued to locate, detain and transport _____ 1 to _____9 without delay.

Respectfully submitted,
_____16
Assistant District Attorney
_____3 Judicial District

S. TB Control Form 6 continued

AFFIDAVIT

STATE OF LOUISIANA
PARISH OF _____ 4

BEFORE ME, the undersigned authority, personally came and appeared _____, 7 who, being first duly sworn, deposed: That ___11 is the Disease Intervention Specialist Supervisor employed by the Office of Public Health of the Department of Health and Hospitals in the regional area including _____, 4 and ____11 is the mover in the above and foregoing motion, and that all of the allegations of fact made therein are true and correct to the best of mover=s knowledge, information and belief.

_____12

SWORN TO AND SUBSCRIBED BEFORE ME
THIS _____ 13 DAY OF _____, 14 20___. 15
_____ 16
NOTARY PUBLIC

T. TB Control Form 6 continued:

ORDER

IT IS ORDERED, ADJUDGED AND DECREED that _____1 be detained and placed in the protective custody of a law enforcement officer and transported to the 9 for such medical examinations, testing and treatment for active and infectious tuberculosis and be detained at that facility until the existing imminent danger and/or threat to the public health has subsided.

IT IS FURTHER ORDERED that any law enforcement officer may execute this order by detaining and transporting _____ 1 to the designated treatment facility named above without delay.

JUDGEMENT read, rendered and signed this _____ day of , 20____ , at o=clock , at , Louisiana.

_____
JUDGE
_____ JUDICIAL DISTRICT COURT
PARISH OF _____

U. TB Control Form 6 Instructions:

SUBSTITUTE FOR NUMBERS IN ABOVE FORM

1. Name of the person in need of treatment.
2. Court personnel will complete this item.
3. District Attorney=s office will complete this item.
4. District Attorney=s office will complete this item.
5. Court personnel will complete this item.
6. Court personnel will complete this item.
7. Insert the name of the Disease Intervention Specialist Supervisor who is submitting the matter to the District Attorney=s office.
8. Insert the person in need of treatment=s complete address (which may be in care of a relative=s address, or even a Ahalfway house@ or possibly the person may be a patient in a hospital refusing treatment and demanding discharge. Just try to insert sufficient information to enable the deputy sheriff or other law enforcement officer to find and take the party into protective custody, etc.)
9. Insert the name of the physician or administrator and the name and address of the designated TB treatment facility.
10. Here it will be necessary for a concise statement of the problem presented by the TB patient whose condition is diagnosed as active and infectious TB.
11. Insert "he or she".
12. The Disease Intervention Specialist Supervisor must sign his or her name exactly as it appears in the form above, and this should be done in the presence of a Notary, who may also be the Assistant District Attorney who will handle the case in court.

13-16 will be completed by the District Attorney's office.

V. A tuberculosis patient who has been ordered to be isolated or quarantined to a more restrictive environment than Directly Observed Therapy and who fails to comply with the express terms and provisions of the isolation/quarantine order to a more restrictive environment issued by the state health officer or his designee, or by the orders of a Louisiana court of competent jurisdiction, shall be considered as having violated the provisions of the State Sanitary Code and be subject to criminal prosecution pursuant to R.S. 40:6(B), and if so charged and convicted, further subject to being sentenced to the hospital unit of a state prison operated by the Department of Corrections, and to remain so confined so long as the prisoner=s tuberculosis condition is active, in order to assure the public is protected from unwarranted exposure to the disease.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(c)(vii)(aa) - (cc), R.S. 40:5(1) and R.S. 40:1161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1215 (June 2002).

§123. Ventilation Requirements for Housing TB Patients in Hospitals and Nursing Homes [formerly paragraph 2:014-2]

A. Persons with tuberculosis in a communicable state or suspected of having tuberculosis in a communicable state who are cared for in hospitals and nursing homes shall be cared for in rooms with negative air pressure and either:

1. at least six changes of room air per hour accomplished by exhaust ventilation; or

2. equivalent circulation and treatment by ultraviolet light treatment, Aair scrubber@, or equivalent. If the patient is not in a room with proper ventilation and is unable or unwilling to cover his/her cough, then exposed persons shall wear proper masks, which filter all particles larger than one micron, in order to prevent the spread of infectious respiratory droplets.

B. [Formerly paragraph 2:014-3] Rooms used for aerosolized pentamidine treatments or for aerosol treatments designed to induce sputum shall have negative air pressure and at least six changes of room air per hour accomplished by exhaust ventilation.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(c)(ii),(iii) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1219 (June 2002).

Chapter 3. Testing of Newborn Infants

§301. Measures to Prevent Ophthalmia Neonatorum at Time of Birth of an Infant [formerly paragraph 2:020]

A. It shall be the duty of the attending physician, midwife, nurse or other person in attendance on a parturient person to use prophylactic measures at the time of delivery to prevent ophthalmia neonatorum, such as the instillation into both eyes of the newborn a 1 percent solution of nitrate of silver, a one-half percent erythromycin ophthalmic ointment or drops, a one percent tetracycline ophthalmic ointment or drops, all in single dose or single use containers, or an equally efficient agent, as determined by the state health officer. This duty is waived if the newborn has no evidence of ophthalmia neonatorum and the mother of the newborn states in writing that she objects to the application of such prophylactic agent on religious ground.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2), R.S. 40:5 and R.S. 40:1102 - 1106.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1219 (June 2002).

Chapter 5. Health Examinations of Employees, Volunteers and Patients at Day Care Centers and Residential Facilities

§501. Employee Health [formerly paragraph 2:021]

A. The requirements of Part I, Chapter 1, §117 shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1219 (June 2002).

§503. Mandatory Tuberculosis Testing [formerly paragraph 2:022]

A. [Formerly paragraph 2:022] All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals shall be free of tuberculosis in a communicable state as evidenced by either:

1. a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method;

2. a normal chest X-ray, if the skin test is positive; or

3. a statement from a licensed physician certifying that the individual is non-infectious if the X-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. [Formerly paragraph 2:023] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a chest X-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. [Formerly paragraph 2:024] Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, in order to remain employed or to continue to work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in §503.B.

D. [Formerly paragraph 2:032] All persons with Acquired Immunodeficiency Syndrome (AIDS) or known to be infected with the Human Immunodeficiency Virus (HIV), in the process of receiving medical treatment related to such condition, shall be screened for tuberculosis in a communicable state, with screening to include a chest x-ray. Sputum smear and culture shall be done if the chest x-ray is abnormal or if the patient exhibits symptoms of tuberculosis. Screening for tuberculosis shall be repeated as medically indicated.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002).

§505. Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities [formerly paragraph 2:026]

A. Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination by a licensed physician within 30 days prior to or 48 hours after admission, except that any resident who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility. This examination shall include laboratory tests as indicated by the history and physical examination. A purified protein derivative intradermal skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be given to all residents under 35 years of age and a purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, plus a chest x-ray to all residents over 35 years of age, no more than 30 days prior to admission to any nursing home or other residential facility. If the skin test is not done prior to admission, it may be placed within 72 hours after admission and interpreted at the appropriate time. A repeat skin test is not required if the patient has a chest x-ray with no abnormalities indicative of tuberculosis and has had a negative skin test documented within one year of admission or if the patient has a previously documented positive skin test. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, chest x-ray, and laboratory tests shall be a part of the permanent record of each resident. No resident with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other patients or employees, or unless the facility has been specifically cleared by the Office of Public Health and the Department of Health and Hospitals to house patients with active tuberculosis.

B. [Formerly paragraph 2:026-1] Any resident who is a case or an asymptomatic carrier of a communicable disease which may pose a serious risk to other patients or employees shall not be admitted except under the supervision of the state health officer or his agent.

C. [Formerly paragraph 2:027] When a suspicious case or carrier of a communicable disease poses a serious public health risk, appropriate measures shall be taken to prevent the disease from spreading to other residents.

D. [Formerly paragraph 2:028] Any child under 18 years of age in any residential facility in the state shall have an annual examination by a licensed physician to determine the child's physical condition, mental condition and the presence of any indication of hereditary or other constitutional disease. Any deformity or abnormal condition found upon examination shall be entered by the physician on the medical record of the child.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002).

Chapter 7. Public Health Immunization Requirements

§701. Immunization Schedule [formerly paragraph 2:025]

A. Appropriate immunizations for age for regulatory purposes shall be determined using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service. Compliance will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

1. vaccines which contain tetanus and diphtheria toxoids, including DTP, DtaP, DT, or Td or combinations which include these components;

2. polio vaccine, including OPV, eIPV, IPV, or combinations which include these components;

3. vaccines which contain measles antigen, including MMR and combinations which include these components.

B. A two-month period will be allowed from the time the immunization is due until it is considered overdue. Medical, religious, and philosophic exemptions will be allowed for compliance with regulations concerning day care attendees and school enterers. Only medical and religious exemptions will be allowed for compliance with regulations concerning public assistance recipients. A copy of the current Office of Public Health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 4747 Earhart Boulevard, Suite 107, New Orleans, Louisiana 70125 or by telephone (504) 483-1905 or toll free 1-800-251-2229.

C. [Formerly paragraph 2:025-1] Any child 18 years or under, admitted to any day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Office of Public Health schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any day care center shall report to the state health officer through the health unit of the parish or municipality where such day care center is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in a day care center or residential facility, the operator of said day care center or residential facility shall comply with outbreak control procedures as directed by the state health officer.

D. [Formerly paragraph 2:025-2] On or before October 1 of each year, the operator of each day care center, nursery school, or residential facility enrolling or housing any child 18 years or under, shall submit a preliminary immunization status report of all children enrolled or housed as of that date. Forms for submittal shall be provided by the state health officer, and shall include identifying information for each child, and for each dose of vaccine received by the child since birth. Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the form. After review of the form(s) by the state health officer or his or her designee, the day care center, nursery school, or residential facility operator will notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children, who are not compliant, with the immunization requirement of §§701.A and 701.C of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5. Also see R.S. 17:170, R.S. 22:215.14, R.S. 40:31.15 and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002).

Chapter 9. Prevention and Control of Yellow Fever

§901. Definitions [formerly paragraph 2:029]

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follow:

Official Center—any nonfederal medical facility consisting of either a state, parish or municipal public health or a private clinic under full-time supervision of a physician licensed by the Louisiana Board of Medical Examiners.

Vaccination—the injection of immunizations required for international travel administered by approved centers medical personnel to an individual.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(12), and further in full cooperation with the U. S. Public Health Service requirements for international travel.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002).

§903. Background and Legal Authority [formerly paragraph 2:030]

A. The International Health Regulations (IHR), Chapter II, Article 66, World Health Organization (WHO), to which the United States is signatory, require the health administration of each nation to designate centers where international travelers may be vaccinated against yellow fever. In this nation, the United States Public Health Service (USPHS) has this responsibility under Executive Order of the President. The vaccine must be approved by WHO, and the traveler's International Certificate of Vaccination or Revaccination against Yellow Fever must be properly validated.

B. [Formerly paragraph 2:030-1] Since September 1, 1977, the USPHS has delegated to the State and Territorial Health Departments the responsibility of designating and supervising non-federal Yellow Fever Vaccination Centers within their respective jurisdictions. Criteria for categories of facilities to be designated are determined by the State and Territorial Health Departments. State and Territorial Health Departments issue and control the Uniform Stamps which may be used to validate International Certificates of Vaccination or Revaccination against Yellow Fever.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4 (A)(2) and R.S. 40:5. and further in full cooperation with the U. S. Public Health Service requirements for international travel.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002).

§905. Yellow Fever Regulations [formerly paragraph 2:031]

A. The following is a list of regulations of the Louisiana Department of Health and Hospitals, developed by the

Office of Public Health, in conjunction with the USPHS Centers for Disease Control, Quarantine Division for non-federal facilities given the responsibility for administering and validating International Certificates of Vaccination or Revaccination against Yellow Fever.

1. [Formerly paragraph 2:031-1] Any facility designated as a Yellow Fever Vaccination Center and issued a Uniform Stamp to validate International Certification of Vaccination against yellow fever shall be either a state, parish or municipal public health or a private medical clinic under full time supervision of a physician licensed by the Louisiana Board of Medical Examiners. The supervising physician must be fully knowledgeable of the procedures necessary for issuing a valid document. Written instructions with illustrations are included in Health Information for International Travel issued annually as a supplement to the Morbidity and Mortality Weekly Report of the Centers for Disease Control. Possession of a current book is mandatory for all approved centers.

2. [Formerly paragraph 2:031-2] The Uniform Stamp

a. is the property of the Office of Public Health and must be returned upon request via registered mail within 30 days of notification of cancellation;

b. is to be used to validate only those Certificates issued by the approved non-federal medical facility;

c. should be kept in a safe place when not in use and must not be loaned or reproduced.

3. [Formerly paragraph 2:031-3] Loss or theft of a Uniform Stamp must be reported immediately to the Office of Public Health which in turn shall report to the Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333.

4. [Formerly paragraph 2:031-4] Approval of and continued possession of the Uniform Stamp will be based on justified need and maintenance of policies compatible with the Office of Public Health guidelines. Reevaluations will be conducted semi-annually.

5. [Formerly paragraph 2:031-5] Improperly prepared Certificates bearing the Uniform Stamp as reported by the CDC Division of Quarantine at ports of entry will be further investigated by personnel of the Office of Public Health.

6. [Formerly paragraph 2:031-6] The Office of Public Health shall maintain a listing of Uniform Stamps with corresponding identification codes. A duplicate listing shall be filed with the CDC Division of Quarantine.

7. [Formerly paragraph 2:031-7] The approved center shall adhere to the instructions of the Office of Public Health and the manufacturer of the vaccine regarding the transportation, handling, storage, and administration of the vaccine. The vaccine will be shipped directly from the manufacturer only to designated Centers. The vaccine may not be redistributed or transported from the clinic site but must be administered at the designated Center. Satellite or branch clinic sites are not considered as part of the designated Center. The Center must maintain adequate refrigeration to assure that the yellow fever vaccine will be kept in a frozen state until ready for administration. Once the vaccine has been thawed, it must be administered within 60 minutes. Any remaining thawed vaccine must be destroyed.

8. [Formerly paragraph 2:031-8] When a supervising physician named on the application is no longer associated with an approved center, the Office of Public Health shall be notified. Application procedures as stated below must be completed by the new replacement supervising physician.

9. [Formerly paragraph 2:031-9] Approved Centers are required to keep records of persons whose International Certificates of Vaccination or Revaccination against Yellow Fever are validated and to submit periodic (six months) reports covering operations to the Office of Public Health. All designated Centers are required to report adverse reactions to yellow fever vaccine of sufficient severity to require medical attention.

a. Adverse Reactions or other Complications occurring within 30 days of the receipt of the vaccine shall be reported:

i. neurologic reactions—meningitis, encephalitis, polyneuropathy, guillain-barre syndrome, paralysis;

ii. allergic reactions—urticaria, asthma, angioneurotic edema, erythema multiforme, anaphylaxis, other;

iii. other post vaccination complications—acute febrile illness with headache, malaise, Barthralgia, or jaundice.

10. [Formerly paragraph 2:031-10] International Certificates of Vaccination must conform to International Health Regulations, Chapter III, Article 79, World Health Organization.

11. [Formerly paragraph 2:031-11] The approved center shall develop, implement and maintain a procedure for handling emergencies due to severe vaccine reactions such as anaphylaxis, including the maintenance of necessary supplies and medicine to provide life support until patient can be transferred safely to an acute care facility.

12. [Formerly paragraph 2:031-12] The state health officer may order additional procedures to ensure compliance with the provision of these regulations and reserves the authority to enforce any regulation not so specified in this rule that is considered to be medically significant in the operation of such clinics.

13. [Formerly paragraph 2:031-13] The supervising physician is responsible for his or her practices regarding administration of immunizations.

14. [Formerly paragraph 2:031-14] Proper infectious waste handling and disposal shall be done in accordance with the Louisiana Sanitary Code, Part XXVII.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5. and further in full cooperation with the U. S. Public Health Service requirements for international travel.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002).

§907. Application Procedures [formerly paragraph 2:032]

A. To request designation as an approved Yellow Fever Center call or write to the Office of Public Health, Epidemiology Section, P.O. Box 60630, New Orleans, Louisiana 70160 (504-568-5005) and request an application form. After receipt of a completed application form, OPH personnel will conduct an on-site inspection of the clinic facilities utilizing an instrument developed by the Office of Public Health for this purpose. A report will then be forwarded along with the completed application to the state health officer for approval/disapproval. If approved, the designated center, the Division of Quarantine, Centers for

Disease Control, and the vaccine manufacturer shall be notified in writing. The Uniform Stamp is then issued using the supervising physician's state medical license number for identification. Any facility whose request for approval is denied may appeal the denial after conditions which resulted in a denial of approval have been verifiably modified to bring the center into conformity with established regulations. The facility has 30 days after receipt of the denial in which to appeal in writing to the state health officer, Office of Public Health, P.O. Box 60630, New Orleans, Louisiana 70160.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5. and further in full cooperation with the U.S. Public Health Service requirements for international travel.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1222 (June 2002).

Part III. The Control of Rabies
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part III	**Chapter III**
Chapter 1	
§101	3:001
§103	3:002
§105	3:003
§107	3:004
§109	3:006
§111	3:007

Part III. The Control of Rabies
Chapter 1. Anti-Rabies Vaccination Requirements for Dogs and Cats

§101. Definitions [formerly paragraph 3:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted are defined for the purposes thereof as follows:

Local Health Authority—any parish or municipal health officer, department or other agency charged with the responsibility of preserving the public health.

Owner—any person who keeps in his care or who harbors or has custody of a dog or other animal.

Vaccination—the injection, by a licensed veterinarian, of an animal using anti-rabies vaccine approved by the state health officer.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions throughout Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the provisions of R.S. 40:5(2), (3) and (10) together with the specific provisions of R.S. 40:4A(2)(a) and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002).

§103. Mandatory Vaccinations of Dogs and Cats [formerly paragraph 3:002]

A. No person shall own, keep or have in his custody a dog or cat over three months of age that has not been vaccinated against rabies by a licensed veterinarian. Every owner of a dog or cat shall cause said animal to be vaccinated at three months of age and said animal shall be re-vaccinated each year thereafter; or prove that the dog or cat was vaccinated at one year of age or older with a vaccine which, according to the 1984 Compendium of Animal Rabies Vaccines, prepared by The National Association of State Public Health Veterinarians, Inc., confers a three year duration of rabies immunity. In the latter case the owner shall then be required to re-vaccinate the dog or cat at least every three years thereafter.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002).

§105. Human Exposure to Domestic Animal Bites [formerly paragraph 3:003]

A. When any dog or cat bites a human being, said animal shall be confined (as described in §113) for a minimum of 10 days following the bite, or said animal shall be killed and the head submitted immediately to a laboratory of the Louisiana Department of Health and Human Resources for examination for rabies. Any dog or cat that develops any symptoms during the 10-day observation period shall be reported immediately to the local health authority and provided such symptoms are compatible with rabies as determined by a licensed veterinarian or the local health authority representative, the animal shall be killed and the head submitted to a laboratory of the Louisiana Department of Health and Human Resources for examination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002).

§107. Unvaccinated Domestic Animals Bitten by Rabid Animals [formerly paragraph 3:004]

A. When bitten by a rabid animal, unvaccinated dogs and cats shall be destroyed immediately unless the owner is unwilling to have this done, in which case, the unvaccinated animal shall be confined (as described in §113) for six months and the animal shall be vaccinated one month before being released. Dogs and cats that are currently vaccinated shall be re-vaccinated immediately and confined (as described in §113) for 90 days.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002).

§109. Animals Suspected of Being Infected with Rabies [formerly Paragraph 3:006]

A. Any animal other than a dog or cat that bites a human being, or any animal that is suspected of being infected with rabies (whether or not it has bitten anyone), may be caused by the state health officer, for the protection of the public health, to be killed and the head of such animal examined for rabies free of charge by a laboratory of the Louisiana Department of Health and Human Resources.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002).

§111. Confinement of Animals
[formerly paragraph 3:007]

A. Where confinement is required under the provisions of this Code, the owner, veterinarian, animal shelter or other custodian of the animal shall confine said animal in a cage, on a leash, or in another manner such that the animal cannot contact any person or other animal.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1224 (June 2002).

Part IV. Lead Poisoning Control
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part IV	**Chapter IV**
Chapter 1	
§101	4:001
§103	4:002
§105	4:003
§107	4:004 & 4:005
§109	4:006 - 4:006-7
§111	4:007

Part IV. Lead Poisoning Control
Chapter 1. Lead Contamination

§101. Definitions
[formerly paragraph 4:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Abate—to remove, isolate, cover with permanently affixed lead-free covering incapable of being readily chewed through, pierced, torn or removed, or to otherwise make inaccessible to children or other persons, sources of lead contamination. Painting over lead-based paint with non-lead paint shall not constitute abatement; however, liquid encapsulant formulated and warranted by the manufacturer for such purpose may be used. Contaminated soil may be covered with uncontaminated topsoil or vegetation, if approved by the state health officer.

Chewable Surface—shall include, but not be limited to, such surfaces as window sills, window frames, door frames, handrails, toys, furniture, and other appurtenances offering a biting surface to a child or other person.

Child—as used in this Part shall mean a child under six years of age.

Dwelling—a building or structure occupied or designed or intended to be occupied as a place of human habitation and use, and construed to include any accessory building or structure belonging thereto or usually enjoined therewith.

Dwelling Unit—any room or group of rooms or other interior area of a dwelling designed or used for human habitation.

Exposed Surface—all surfaces of a premises which are readily accessible to any person. Such surfaces include structural components, walls, and siding from floor or ground level to a vertical distance of at least 5 feet. Any area subject to contamination from flaking, peeling or chalking lead based materials is also considered an exposed surface.

Lead Contamination—shall include: paint or similar coating material, putty, plaster or other composition material, on a exposed surface or chewable surface, which contains $ 0.5 percent lead by weight as determined by laboratory analysis or $1.0 milligram per square centimeter of surface area as measured by X-ray fluorescence or equivalent method; drinking water, dust, or soil which contains a level of lead which, in the judgment of the State health officer, is sufficient to be a source of lead poisoning to children or other persons; any object or material which, in the judgment of the state health officer, can be a source of lead ingestion or inhalation.

Lead Poisoning—a blood lead level hazardous to health as established by the state health officer.

Occupant—any person living, sleeping, cooking, eating in or having actual possession of a dwelling or dwelling unit.

Operator—any person who has charge, care or control of a building or part thereof in which dwelling units are let.

Other Person—as used in this Part shall mean a person, other than a child under six years of age, deemed by the state health officer to be at risk of lead poisoning because of mental state, physiological condition, or behavioral traits.

Owner—a holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

Premises—a lot, plot or parcel of land or part thereof including all facilities and improvements thereon.

Surface—the outermost layer of the superficial area of a premises.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258 (B), with more particular provisions found in Chapters 1 and 4 of Title 40. This Part is promulgated in accordance with provisions of R.S. 40:4 and 5. In particular, see the specific provisions in R.S. 40:1299.20, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1224 (June 2002).

§103. Health Hazard Condition
[formerly paragraph 4:002]

A. Lead contamination shall be considered a health hazard to children or other persons, if said lead contamination exists in or about a dwelling, dwelling unit, household, or other premises which, in the judgment of the state health officer, children or other persons visit with such frequency or duration as to create significant risk of lead poisoning.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4 and 5. In particular, see R.S. 40:1299.20, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1224 (June 2002).

§105. Day Care Facilities
[formerly paragraph 4:003]

A. All day care facilities or institutions in which children or other persons commonly reside or are cared for shall be maintained free of lead contamination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4 and 5. In particular, see R.S. 40:1299.20, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1224 (June 2002).

§107. Inspection of Premises
[formerly paragraph 4:004]

A. When the state health officer is informed of a case of lead poisoning, he shall cause to have inspected the dwelling in which the person with lead poisoning resides, or has recently resided, if the occupants of such dwelling consent, after reasonable notice, to such inspection. The state health officer may, as he deems necessary, cause to have inspected other residences or premises which the person with lead poisoning frequents.

B. [Formerly paragraph 4:005] The purpose of such inspection shall be to identify possible sources of lead poisoning. The inspection may include: *in situ* testing with an X-ray fluorescence analyzer or other method approved by the state health officer; collection of paint, dust, soil, and water samples for laboratory analysis; visual inspection for objects which may contain lead; and interviews with the person with lead poisoning or others with knowledge of the person's behavior and habits.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4 and 5. In particular, see R.S. 40:1299.20, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1225 (June 2002).

§109. Required Control Measures
[formerly paragraph 4:006]

A. When lead contamination is found in a dwelling, the following actions shall be taken.

1. [Formerly paragraph 4:006-1] The inspection findings shall be reported in writing immediately to the parent or guardian, owner and/or operator of the building, all affected tenants, the person having medical management of the lead poisoning case, and the state health officer Additionally, any findings as to behavior or habits of the person with lead poisoning which might be causative of lead poisoning shall be reported to the person having medical management.

2. [Formerly paragraph 4:006-2] The parent or guardian of the person with lead poisoning and the owner and/or operator of the building shall be notified that such that such person and other children should immediately be protected from the lead hazard, either by removal from the dwelling, isolation of the contamination, or other method approved by the state health officer, until the hazard is abated.

3. [Formerly paragraph 4:006-3] A notice shall be prominently posted on the main entrance of the dwelling that the premises contains levels of lead hazardous to children and other persons and that such persons should not occupy the building until the hazard has been abated.

a. Such notice may not be removed until the state health officer determines that the hazard has been abated.

b. Unauthorized intentional removal of the notice shall subject the offender to a fine of $500.00 as provided in R.S..40:1299.24(C).

4. [Formerly paragraph 4:006-4] The state health officer shall strongly encourage the examination of all children and other persons residing, or who have recently resided in the dwelling.

5. [Formerly paragraph 4:006-5] If, within 30 days of notification of the existence of lead contamination, the parent or guardian and/or the owner or operator of the building have not taken adequate measures to protect the person with lead poisoning and children and other persons from the lead hazard, they shall be invited to attend a conference at local health unit or other site designated by the state health officer. Invitees shall be given at least 10 days advance notice of the conference; shorter notice may be given if mutually agreeable. Present at the conference shall be: the inspector or other Office of Public Health representative familiar with the inspection results, the person having medical management of the poisoning case or other person familiar with the case, and if possible, a social worker.

6. [Formerly paragraph 4:006-6] The purpose of the conference shall be to inform the invitees of the hazard to the person with lead poisoning, and to children and other persons, the necessity for protecting such persons from the lead hazard, and to develop a plan of action to accomplish such. Such plan should include removal of the persons at risk, abatement of the hazard, or other steps approved by the state health officer. A written or electronic record of the conference shall be kept. At the conclusion of the conference, the invitees shall be requested to sign a statement that they understand the hazard to the child, and that they agree to accomplish the plan of action by a mutually agreed upon date. Such statement shall be made part of the conference record.

7. [Formerly paragraph 4:006-7] If, at any time, the state health officer determines that a child with lead poisoning and other children in the family are at risk and are likely to remain so without intervention beyond that outlined above, he shall notify the appropriate child protection agency and/or other agency of the particulars of the case.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4 and 5. In particular, see R.S. 40:1299.20, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1225 (June 2002).

§111. Verified Abatement
[formerly paragraph 4:007]

A. Lead contamination identified as a result of the aforementioned inspection shall not be considered abated until verified by a reinspection authorized by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4 and 5. In particular, see R.S. 40:1299.20, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1225 (June 2002).

Part V. Disease Vector Control
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part V	**Chapter V**
Chapter 1	
§101	5:001
§103	5:002 - 5:006
Chapter 3	
§301	5:026
§303	5:027 - 5:030
§305	5:031 - 5:040
§307	5:041 - 5:043

§309	5:044
§311	5:045 - 5:048
§313	5:049
Chapter 5	
§501	5:050
§503	5:051 - 5:055

Part V. Disease Vector Control

Chapter 1. Mosquito Control

§101. Definitions [formerly paragraph 5:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Community—any incorporated area, or in the case of unincorporated areas, either of the following:

a. a settlement consisting of 25 or more residences within a circle having a 0.5 mile diameter; or

b. a settlement consisting of 25 or more residences per mile of highway frontage.

Control Measures—any measures approved by the state health officer which are used in the prevention or control of mosquito-borne diseases. These measures include source reduction, application of pesticides, naturalistic (biological) control, exclusion of mosquitoes, and integrated pest management.

Exclusion—exclusion of mosquitoes includes measures of protection against mosquitoes such as screening of openings in dwellings to prevent entry of adult mosquitoes and screening of stored water to prevent egg-laying by mosquitoes and the use of protective clothing and mosquito repellents.

Impounded—any body of water formed by the construction or excavation of a basin or the obstruction of surface water run-off in such a manner as to cause the collection of a body of water which could not have formed under natural conditions. Such impounded waters of less than two acres of water surface, are not included in this definition, except that in the event an outbreak of disease known or suspected to be transmissible by mosquitoes occurs in the vicinity of such a pond, the state health officer may require that it be subject to the same regulations as larger bodies of impounded water.

Integrated Pest Management—integrated pest management as applied to mosquito prevention and control includes a combination of procedures such as exclusion, naturalistic control, source reduction, and the application of pesticides.

Naturalistic—naturalistic control involves the use of predators, pathogens (diseases), and other natural antagonists of mosquitoes.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40. This Part is promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1226 (June 2002).

§103. General Mosquito Control Regulations [formerly paragraph 5:002]

A. Water in man-made containers or man-made basins within one mile (1.61 km) of communities shall not be permitted to produce mosquitoes. Tanks and other containers used for storage of water shall have all openings larger than 1/18 of an inch (.14 cm) screened with wire mesh not less than 18 strands to the inch each way (seven strands to the centimeter). Standing water in fountains, basins, and urns in parks, cemeteries, and residential and commercial sites, and water in ponds, pools, borrow pits, ditches, or other depressions or excavations must be maintained free from debris, flotage, and emergent vegetation and stocked with mosquito larvae-eating fish or treated at suitable intervals with federal and state approved larvicide if mosquito production becomes imminent.

B. [Formerly paragraph 5:003] In the event of an outbreak or imminent outbreak of mosquito-borne disease, the state health officer, may, in addition to the regulations promulgated elsewhere in this Part, require mosquito prevention or abatement measures applied to less usual sources of mosquito production as considered necessary.

C. [Formerly paragraph 5:004] All persons suspected of having a mosquito-borne infection shall be protected from the bites of mosquitoes unless, and until, the infection is found not to be due to mosquito-borne infection; and if found to be mosquito-borne, protection shall be continued until the infective stage has passed, as determined by the state health officer.

D. [Formerly paragraph 5:005] It shall be unlawful for any person to create, or cause to be created, conditions favorable for producing mosquitoes by impounding of water unless provision has been made for control measures.

E. [Formerly paragraph 5:006] In the event of an outbreak or imminent outbreak of mosquito-borne disease, the state health officer may require that any person proposing to impound water, raise the level of existing impounded water, or re-impound water in areas where previous impoundage has been discontinued for one or more seasons, prior to the institution of any construction activities, shall make written application to the state health officer and receive therefrom a written permit for impoundage construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1226 (June 2002).

§105. Approval of Community Abatement Plans [formerly paragraph 5:025]

A. No person shall conduct operations designed to abate community mosquito problems until plans for such operations have been approved by the state health officer, and a written approval has been secured therefrom. The state health officer will, upon request, provide an applicant with guidelines for the preparation of an operational plan for mosquito control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1226 (June 2002).

Chapter 3. Rodent Control

§301. Definitions
[formerly paragraph 5:026]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Business Building—any structure which is used in any way for the monetary profit of the occupant or in which persons are employed, or any building the principal use of which is storage.

Dense Concrete—whenever concrete is mentioned in these regulations, it shall be taken to mean dense concrete composed of not less than one part by volume of Portland cement to six parts of aggregate consisting of sand mixed in proper proportions with gravel, crushed rock, or crushed slag.

Impervious Material—this term shall include glass, non-corrosive steel or iron, non-corrosive metal screen, dense concrete, or other material which may be approved by the Department of Health and Human Resources.

Rat-Proofing—the act of rendering a building impenetrable to rodents.

Rodent—the term rodent is considered to include all gnawing animals of the order Rodentia such as rats, mice, ground squirrels, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1227 (June 2002).

§303. General Rodent Control Regulations
[formerly paragraphs 5:027]

A. No person shall own, keep, maintain, occupy, or otherwise use any room, warehouse, grain elevator, or other building for the storage, handling, processing, or dispensing of food or food products, or for the quartering of any animal or fowl, without carrying out measures which will prevent the entrance of rodents into, or the harboring of rodents under, or within the walls of such room, warehouse, grain elevator, or other building.

B. [Formerly paragraph 5:028] Every building, place, and premises shall be kept and maintained by the owner or occupant in a clean and sanitary condition, and free from rodents.

C. [Formerly paragraph 5:029] No rubbish, garbage, or other waste shall be dumped, left, or be permitted to accumulate or to remain in any building, place, or premises in such a manner that the same will, or may, afford food harborage, or a breeding place for rodents. All lumber, boxes, barrels, loose iron, and similar material stored in such places shall be placed on supports elevated not less than 18" (46 cm) above the ground or floor, with a clean intervening space beneath.

D. [Formerly paragraph 5:030] Garbage storage shall conform to requirements of Part XXVII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1227 (June 2002).

§305. Regulations for Rodent-Proofing of Existing Buildings
[formerly paragraphs 5:031]

A. No person shall reconstruct any building or structure, or repair or remodel any building or structure to the extent of 50 percent of the value of the structure, unless the same shall be made rodent-proof by the proper use of impervious material. Provided, that only such repairs or remodeling as affects or may affect the rodent-proof condition of the building or structure shall be considered subject to the provisions of this regulation.

B. [Formerly paragraph 5:032] When rodent-borne diseases have been declared by the state health officer to be prevalent in a community, no alteration or repairs to existing structure to the extent of 50 percent of the value of the structure shall be undertaken without a permit from the state health officer.

C. [Formerly paragraph 5:033] All foundation wall ventilator openings shall be covered for their entire height and width with perforated sheet metal plates of a thickness of not less than 14 gauge, or with expanded sheet metal of a thickness not less than 18 gauge, or with wire cloth of 19 gauge or heavier, or with cast iron grilles or gratings. The openings therein shall not exceed one-half inch (1.3 cm) in least dimension.

D. [Formerly paragraph 5:034] All foundation and exterior wall openings, except those used as doors or windows or for purposes of ventilation and light, such as openings due to deteriorated walls or broken masonry or concrete, shall be protected against the ingress of rodents by closing such openings with cement mortar, concrete, or masonry.

E. [Formerly paragraph 5:035] All exposed edges of the lower 10 inches of wooden doors, door sills, and jambs serving as rear or side entrances into business buildings, and other doors accessible to rodents, shall be protected against the gnawing of rodents by covering said doors, door sills, and jambs with solid sheet metal of not less than 24 gauge thickness. All doors on which metal flashing has been applied shall be properly hinged to ensure free swinging. When closed, doors shall fit snugly so that the maximum clearance between any door and the door jamb and sill shall not be greater than 3/8 inch (0.96 cm).

F. [Formerly paragraph 5:036] All windows and other openings for the purpose of lighting or ventilating located in the side or rear of exterior walls and within 2 feet of the existing ground level immediately below such openings shall be covered for their entire height and width, including frame, with wire cloth of 19 gauge or heavier, having a mesh not larger than one-half inch (1.3 cm). All windows and exterior walls not covered in the above paragraph, which are accessible to rodents by way of exposed pipes, wires, conduits and other appurtenances, shall be covered with wire cloth of 19 gauge or heavier, having a mesh not larger than one-half inch (1.3 cm); or, in lieu of wire cloth covering, said pipes, wires, conduits or other appurtenances shall be blocked from rodent usage by installing solid sheet metal guards of 24 gauge, or heavier. Said guards shall be fitted snugly around pipes, wires, conduits or other appurtenances. In addition, they shall be fastened securely to the exterior

wall and shall extend a minimum distance of 12 inches (30.7 cm) beyond and on either side of said pipe, wire, conduit, or appurtenance. This regulation shall not apply in the case of windows which cannot be opened and whose function is solely for the purpose of admitting light.

1. [Formerly paragraph 5:037-1] Light wells with windows in exterior walls, which are located below the outside ground level, shall be protected from the ingress of rodents by the following methods:

a. [Formerly paragraph 5:037-2] Cast iron or steel grilles or gratings, with openings not to exceed one-half inch (1.3 cm) in least dimension shall be installed over light wells.

b. [Formerly paragraph 5:037-3] Expanded metal of 18 gauge, or heavier, having openings not greater than one-half inch (1.3 cm) in least dimension, 16 gauge, or heavier, wire cloth of one-half inch (1.3 cm) mesh shall be used to completely cover existing metal light well grilles where such existing grilles are broken or are otherwise defective or which have openings larger than one-half inch (1.3 cm) in least dimension and shall be securely attached to the existing grille.

G. [Formerly paragraph 5:038-1] Any business building constructed on piers and having wooden floor sills less than 12 inches (30.7 cm) above the surface of the ground shall have the intervening space between floor sill and ground protected against the ingress of rodents by installing a solid masonry, concrete or solid sheet metal curtain wall of 24 gauge, or heavier, around the entire perimeter of the building, and extending said curtain wall to a depth of not less than 24 inches (61.4 cm) below the surface of the ground level, and fastening securely to the exterior wall of the building.

H. [Formerly paragraph 5:038-2] In lieu of the installation of curtain walls, any ground floor of wood construction may be replaced with concrete of not less than 3 inches (7.7 cm) thickness, with the exterior walls protected to a height of 24 inches above the concrete floor with masonry, concrete, or solid sheet metal of 24 gauge, or heavier. Exterior wall protection shall be securely tied into the concrete floor at all points.

I. [Formerly paragraph 5:039] Any building constructed on piers, and having wooden floor sills greater than 12 inches (30.7 cm) above the ground level, shall have the intervening space between floor sill and ground protected against the ingress of rodents by installing curtain walls in accordance with the paragraph above, or protecting said building against the ingress of rodents by installing solid sheet metal collars of 24 gauge or heavier snugly around each pipe, cable, wire, conduit, or other utility service passing through wooden ground flooring. The overall diameter of any such metal collar shall be not less than 8 inches (20.5 cm) larger than the diameter of the pipe, cable, wire, conduit, or other utility service, and said collar shall be securely fastened to the wooden floor. All other openings in wooden ground floors through which rodents may gain access into double walls or the interior of a building, such as openings which may exist in floors at double walls above floor sills, shall be closed with 24 gauge or heavier solid sheet metal, or 16 gauge or heavier wire cloth of one-half inch (1.3 cm) mesh, or with dense concrete.

J. [Formerly paragraph 5:040] Any necessary opening in an exterior wall, not heretofore enumerated, shall be effectively protected against the passage of rodents in a manner satisfactory to the Department of Health and Human Resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1227 (June 2002).

§307. Regulations for Rodent-Proofing New Buildings [formerly paragraphs 5:041]

A. The footing and foundation walls of any new business building shall be of dense concrete or masonry, and shall extend around the entire perimeter of the business building and to a depth of not less than 24 inches (61.4 cm) below the surface of the finished ground.

B. [Formerly paragraph 5:042] Basement and cellar floors of new business buildings shall be constructed of dense concrete having a thickness of not less than 3 inches (7.7 cm) and shall be continuous over the entire floor area. The concrete shall be tightly sealed to the exterior footing and foundation walls.

C. [Formerly paragraph 5:043] Ventilators, windows, doors, and miscellaneous openings shall be treated in the same manner as for existing business buildings, and especially in accordance with Subsections 305.C through J.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1228 (June 2002).

§309. Rodent Control Regulations for Curb or Farmer's Markets [formerly paragraph 5:044]

A. Curb or farmers' markets, in which fruits or vegetables are exposed and offered for sale on racks, stands, platforms, or in vehicles outside of business buildings which may be a part of curb or farmers' markets shall conform to relevant provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1228 (June 2002).

§311. Regulations to Control Rodents from Floating Vessels [formerly paragraphs 5:045]

A. Any floating vessel docking or landing in any port or place in the State of Louisiana where bubonic plague exists, and any vessel coming from a plague infested locality shall, while lying at a dock or landing in the State of Louisiana, be fended off at least 4 feet (1.23 m) at all times while at such dock or landing.

B. [Formerly paragraph 5:046] No gangplank, ladder, skid or other device or structure whereby rodents may find egress from the vessel to a dock or landing shall be allowed to extend from any vessel to such dock or landing except at times when such gang plank, etc., is actually in use, the same to be removed when not actually in use, and in all instances to be removed at night, unless the vessel is actually in the process of discharging or loading cargo or passengers during the night.

C. [Formerly paragraph 5:047] All docks and wharves shall be equipped with fender logs, not less than 24 inches (61.4 cm) in diameter at the smallest part, or other approved means of maintaining a clear distance of at least 24 inches (61.4 cm) between the side of the vessel and the wharf.

D. [Formerly paragraph 5:048] Each spar and each chain, hawser, rope or line of any kind extending from any vessel, steamboat, or other water craft to said dock or wharf, shall be equipped with and have properly and securely attached thereto a rodent shield or guard of a design and in a manner approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1228 (June 2002).

§313. Approval of Plans to Abate Community Rodent Problems [formerly paragraph 5:049]

A. No person shall conduct operations designed to abate community rodent problems until plans for such operations have been approved by the state health officer, and a written approval has been secured therefrom. The state health officer will, upon request, provide an applicant with guidelines for the preparation of an operational plan for rodent control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1229 (June 2002).

Chapter 5. Control of Domestic Flies and Other Arthropods of Public Health Importance

§501. Definitions [formerly paragraph 5:050]

A. Unless specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code and all other Chapters which are adopted or may be adopted are defined for the purpose thereof as follows.

Arthropod—a member of the phylum Arthropoda including, but not limited to, insects, ticks, mites, spiders, and scorpions.

Breeding Medium—any warm, moist, organic material which will support the development of domestic flies.

Domestic Flies—insects of the order Diptera including the families Muscidae (Houseflies and related species), Sarcophagidae (flesh flies), and Calliphoridae (blowflies and bottle flies).

Public Health Importance—an arthropod is considered to be of public health importance if it transmits disease organisms or occurs in numbers sufficient to cause significant annoyance to humans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1229 (June 2002).

§503. Refuse Regulations [formerly paragraph 5:051]

A. All refuse shall be managed in accordance with the provisions in Part XXVII of this Code so as not to promote the breeding of flies and other arthropods of public health importance.

B. [Formerly paragraph 5:053] The storage, retention, processing, or otherwise accumulation of material not ordinarily considered waste, (such as, but not limited to, fermentation vats, animal by products, and silage) but which can serve as a fly breeding medium shall not be permitted unless effective means to prevent such breeding are provided. The absence of domestic fly breeding in such material shall be deemed indicative of effective prevention.

C. [Formerly paragraph 5:054] No owner or lessee of any public or private property nor any agent of such owner or lessee shall create, or allow to be created, upon the property or premises, conditions favorable for the development of arthropods of public health importance.

D. [Formerly paragraph 5:055] When, in the opinion of the state health officer, there exist man-made conditions favorable for the development of domestic flies or other arthropods of public health importance upon any property or premises, he shall notify the owner, lessee or agent in writing of his findings, specifying a reasonable time in which these conditions are to be corrected. If said conditions are not corrected within the specified time, the owner, lessee or agent shall be considered in violation of this code and subject to the prescribed penalties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and R.S. 40:5. In particular, see R.S. 40:4 (A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1229 (June 2002).

Part VI. Manufacturing, Processing, Packing and Holding of Food, Drugs and Cosmetics Cross Reference

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Part VI. Manufacturing, Processing, Packing and Holding of Food, Drugs and Cosmetics

Chapter 1. General Regulations, Definitions, Permits, Registration, Machinery, Equipment and Utensils, Premises and Buildings, Temperature Control

§101. Definitions [formerly paragraph 6:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows.

Adulterated Foods, Filth, and Contamination—are defined in R.S. 40:607.

Advertisement—includes all representations of fact or opinion disseminated to the public in any manner or by any means other than by the labeling.

Bakery—any establishment operating to manufacture any bread or bread products, pies, cakes, cookies, crackers, doughnuts, or other similar products.

*Cosmetic***C**includes all substances and preparations intended for cleansing, altering the appearance of, or promoting the attractiveness of a person. The term includes soaps only when medicinal or curative qualities are claimed by the use thereof.

*Device***C**includes all substances and preparations intended for use in diagnosis, treatment or prevention of disease in man or beast, or intended to affect the structure of any function of the body.

*Drug***C**includes all substances and preparations recognized in the official compendium, as herein defined. It includes all substances and preparations intended for use in the diagnosis , treatment or prevention of disease in man or beast, and all substances and preparations, other than food and cosmetics, intended to affect the structure or any function of the body.

*Factory***C**any establishment operating to manufacture, process, can, bottle, pack, or hold any food, drug or cosmetic unless covered by other specific provisions of this State Sanitary Code.

*Food***C**includes all substances and preparations used for, or entering into the composition of food, drink, confectionery, chewing gum, condiment, for consumption by humans or other animals and includes water and alcoholic beverages.

*Label***C**the principal display or displays of written, printed or graphic matter upon any food, drug device, or cosmetic, or the immediate container, thereof, or upon the outside container or wrapper, if any, of the retail package of any food, drug, device or cosmetic.

*Labeling***C**includes all labels and other written, printed and graphic matter in any form whatsoever, accompanying any food, drug, device or cosmetic.

*Manufacturing Confectionary***C**any establishment operating to manufacture any candy, either plain, chocolate or chocolate coated, mixed with nuts, fruits, or other fillers, covered with chocolate or other coatings and shaped, molded or formed in various shapes.

*Medical Opinion***C**the opinion, within their respective fields, of the practitioners of any branch of the medical profession, the practice of which is licensed by law in this State.

*Offal***C**waste parts, especially of a butchered animal, including but not limited to bones, cartilage, fatty tissue and gristle.

*Patent or Proprietary Medicine***C**trademarks, registered or unregistered, consisting of word or words, device, symbol, brand or logo which serves to designate the source or origin of the drug or drug product.

*Plant***C**the building or buildings or plants thereof, used for or in connection with the manufacturing, processing, packaging, labeling, or holding of food products.

*Sanitize***C**adequate treatment of surfaces by a process that will destroy vegetative cells of pathogenic bacteria and will substantially reduce other microorganisms. Such treatment shall not adversely affect products and shall be safe and non-toxic.

*Scientific Opinion***C**the opinion, within their respective fields, of competent pharmacologists, physiologists or toxicologists. [R.S. 40:602 (12)]

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1230 (June 2002).

§103. Permits
[formerly paragraph 6:002]

A. No person shall manufacture, process, pack, or hold food within the State of Louisiana without a valid permit to operate, issued by the state health officer.

B. [Formerly paragraph 6:003] A permit shall be issued upon receipt of an application which shall be made on a form provided for that purpose by the state health officer; provided that no permit shall be issued until an inspection has been made of the factory and it has been found to be operating in compliance with the provisions of these regulations. The permit fee for a person operating as soft drink manufacturers shall be assessed a permit fee established by R.S. 40:713.

C. [Formerly paragraph 6:004] Any permit to operate, issued by the state health officer, may be suspended or revoked if the establishment is found to be operating contrary to these regulations. The operation of such an establishment without a valid permit, or the continued operation after a permit has been revoked or suspended, shall constitute a violation of this Code. Each day of noncompliance constitutes a separate violation.

D. [Formerly paragraph 6:005] Permits to operate shall expire 12 months from the date of issue but may be renewed without inspection (if previous inspection within six months has shown them to be in compliance), on or before the expiration date; provided that any establishment shall be subject to inspection by the state health officer at any reasonable time during working hours.

E. [Formerly paragraph 6:006] Permits shall be issued only to the person or persons responsible for the operations of the factory and shall not be transferable.

F. [Formerly paragraph 6:007] No permit shall be issued to any individual to process in any way any filthy or contaminated food product to remove evidence of filth or contamination from the food in an attempt to recondition such material for human consumption; except where the process has been approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1231 (June 2002).

§105. Registration of Foods, Drugs, Cosmetics and Prophylactic Devices
[formerly paragraph 6:008-1]

A. Registration provisions: In accordance with the provisions of R.S. 40:627, all processed foods, proprietary or patent medicines, prophylactic devices and cosmetics, in package form, must be registered annually with the Louisiana Food and Drug Control Unit of the OHSEQ/DHHR. Application for registration may be accomplished by using the appropriate form supplied by the Food and Drug Control Unit.

B. [Formerly paragraph 6:008-2] Application for Registration, Firm Name: Application for registration shall be made in the name of the firm appearing on the labels.

C. [Formerly paragraph 6:008-3] Safety and Efficacy: Products containing new ingredients cannot be registered unless the application for registration includes sufficient evidence to prove that they have been properly tested and found to be safe and effective for use.

D. [Formerly paragraph 6:008-4] Seizure: Foods, drugs, prophylactic devices and cosmetics not meeting the provisions of R.S. 40:601 shall be seized.

E. [Formerly paragraph 6:008-5] Penalty: All firms shall apply for annual registration of their products. These certificates of registration expire 12 months from the date of issuance. Any applications received in the Food and Drug Control Unit Office more than 45 days after expiration of the previous certificate shall be assessed a late registration fee as stipulated in R.S. 40:627(1).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1231 (June 2002).

§107. Prohibited Equipment; Exception [formerly paragraph 6:009-1]

A. The presence in a factory of any article of equipment, designed for processing filthy or contaminated foods in any way, whereby evidence of filth or contamination can be removed in whole or in part, is prohibited, except where such equipment is to be used in preparing such filthy or contaminated food for use in animal or stock feeds; or for other uses whereby the filthy or contaminated food cannot be diverted to use for human consumption; or where the process has been approved by the state health officer.

B. [Formerly paragraph 6:009-2] When any such article of equipment is found in any food handling establishment or factory, except as provided above, it shall be prima facie evidence of intent to violate the State Food, Drug and Cosmetic Law (R.S. 40:601 et seq.), and there shall be affixed thereto, by the state health officer, a tag stating that such article is in violation of these regulations and the owner or operator of said equipment shall have it immediately removed from the establishment.

C. [Formerly paragraph 6:009-3] No equipment so tagged shall again be used in connection with any food for human consumption, nor shall said tag be removed by any one other than the state health officer and then only after the article of equipment has been rendered unfit for further use, as evidenced by its dismantling.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1232 (June 2002).

§109. Lighting/Ventilation, Plans Submission, Construction and Materials; Insect and Rodent Control; Sanitary Facilities [formerly paragraph 6:010]

A. All factory buildings shall be well lighted with not less than 40-foot candles on all working surfaces, and ventilated at least in accordance with §§401.1-404.1.5 of the Louisiana State Plumbing Code (LSPC) as published October 2000.

B. [Formerly part of paragraph 6:011] Plans for new establishments shall be submitted to the state health officer for review and approval before construction.

C. [Formerly part of paragraph 6:011] The manufacturing, processing, canning, bottling, packing or storage of any food intended for sale or distribution to the general public is prohibited in private residences or in buildings having direct openings to private residences.

D. [Formerly paragraph 6:012] All floors, walls, ceilings, tables, and other fixtures shall be maintained in such a condition that they may be readily made clean and sanitary. This condition may be met by tables constructed entirely of either stainless steel or aluminum, and walls and ceilings constructed of marine plywood covered with a high solids epoxy paint. Fixtures and equipment meeting National Sanitation Foundation standards are also acceptable under this provision. If not in such condition they shall be promptly repaired and replaced. The floors of all rooms used for manufacturing shall be watertight and where there is necessity for drainage, shall have sufficient pitch to insure drainage. Floors may be constructed of cement or tile laid cement, or of any other materials impermeable to water. Portable or loose floor gratings shall be provided around blanchers, washers and other places where overflow is unavoidable.

E. [Formerly paragraph 6:013] Walls, ceilings and other overhead coverings shall be tight and smooth; parts thereof not finished in tile, glazed, or other similar material shall be kept well painted with a light colored paint so that they may be easily cleaned whenever they become soiled or dirty.

F. [Formerly paragraph 6:014] Windows, window ledges or any other places where dirt and dust may accumulate shall be kept clean.

G. [Formerly paragraph 6:015] All fixtures, utensils or other apparatus used in the manufacture, handling or storing of foods shall be of material approved by the state health officer as to be easily cleanable and shall be kept clean.

H. [Formerly paragraph 6:016] Factories shall be free of flies, rats, mice and other vermin. All insecticides or pesticides used in any room where foods are processed, prepared, packed or stored shall be of a type accepted by the state health officer. Insecticides shall be used and applied according to label directions on each container as required by the United States Environmental Protection Agency (or its successor) and the Louisiana Department of Agriculture.

I. [Formerly paragraph 6:017] Every factory shall be provided with toilet and hand washing facilities as required by Section 407, entitled "Minimum Plumbing Fixtures", of the LSPC. Hand washing facilities shall be located convenient to all restrooms and food processing areas.

J. [Formerly paragraph 6:018] Every factory using brine or syrup shall be equipped with a room known as a syrup or brine room in which all syrups or brines shall be mixed or compounded. Such syrup or brine room shall be separated from the other rooms of the factory and shall be well lighted, ventilated, and protected against insects and vermin.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1232 (June 2002).

§111. PremisesC Drainage, Litter and Waste or Refuse, Weeds and Grass [formerly paragraph 6:019]

A. All grounds on which factories, warehouses and other buildings or structures used in connection with any food manufacturing plant are located, shall be properly graded to provide a natural drainage, thus preventing accumulation of stagnant water and other material.

B. [Formerly paragraph 6:020] No litter, wastes or refuse shall be allowed to accumulate in or around the building or yards. Garbage and trash shall be removed from the premises as often as necessary, but not less than twice weekly so that it will not accumulate and provide a breeding and harborage area for rodents and insects.

C. [Formerly paragraph 6:021] Weeds and grass surrounding and on plant grounds shall not exceed 6 inches in height. Ornamental shrubbery shall be trimmed and maintained so as not to foster harborage and breeding of rodents, insects or other vermin. Dusts of premises shall not exceed the following limits:

Fibrosis Producing and Nuisance Dusts

Dusts	Particles per Cubic Foot of Atmosphere
Silica (Si02)(Product of particles per cubic foot times per cent free silica, expressed as a decimal, not to exceed 5,000,000).	5,000,000 to 100,000,000
Compounds containing silicon (Si) such as talc, emery, and Carborundum.	50,000,000
Nuisance Dusts	100,000,000

No asbestos dust is acceptable.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1233 (June 2002).

§113. Water SupplyC Ample Supply, Not Cross-Connected, Drinking Fountains [formerly paragraph 6:022]

A. An ample supply of potable water under pressure shall be provided on the premises for drinking, cleansing, washing or other purposes. Such water supply shall not be cross connected to any other supply. Water supply lines connected to plant equipment such as picking tables, bottle or can washers, cookers, retorts, or other utensils shall have the water lines properly installed or protected to prevent contamination of the water supply through back-siphonage or backflow.

B. [Formerly paragraph 6:023] Drinking fountains shall be provided as required by Section 407, entitled "Minimum Plumbing Fixtures", of the LSPC. Drinking fountains shall meet the specifications as described in Table 409.2 of the LSPC or obtain prior approval of the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1233 (June 2002).

§115. Machinery, Equipment and Utensils [formerly paragraph 6:024]

A. All machinery, equipment, and utensils shall be so arranged as to be easily accessible for cleaning and shall be kept clean.

B. [Formerly paragraph 6:025] An ample supply of steam, water, sanitizing agent, hoses, or other equipment necessary for proper cleaning of equipment shall be available. Hose ends or nozzles shall not be allowed to lie or rest on the floor but shall be hung or racked when not in use so as to be protected at all times from contamination. Faucets threaded for hoses shall be provided with vacuum breakers to prevent back-siphonage.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1233 (June 2002).

§117. Containers [formerly paragraph 6:026]

A. Containers to be filled with beverage shall be stored in tight containers on shelving so as to prevent contamination by dust, rodents, birds, insects or other vermin.

B. [Formerly paragraph 6:027] Lofts or other storage areas in which containers are stored shall be kept free from accumulations of waste paper or other litter.

C. [Formerly paragraph 6:028] Only non-toxic containers and closures shall be used. (Glass, high-density polyethylene, and polypropylene containers are examples which meet this requirement.) All containers and closures shall be sampled and inspected to ascertain that they are free from contamination. At least once each three months, a bacteriological swab and/or rinse count should be made from at least four containers and closures selected just prior to filling and sealing. No more than one of the four samples may exceed more than one bacteria per milliliter of capacity or one colony per square centimeter of surface area. All samples shall be free of coliform organisms. Tests shall be performed either by qualified plant personnel or a competent commercial laboratory.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1233 (June 2002).

§119. Bottle Washers [formerly paragraph 6:029]

A. Mechanical bottle washers shall be provided for sterilization of multi-use containers. Bottle washers shall sterilize containers as required by the State Second Hand Containers Law (R.S. 40:681 et seq.), and the regulations promulgated thereunder.

B. [Formerly paragraph 6:030] Can washers and feeder lines shall be so arranged as to prevent the waste water from dripping on employees or dripping back into the cleaned cans or those filled with food products. Can washers with overhead devices shall be located in areas that are not designated employee work areas.

C. [Formerly paragraph 6:031] If secondhand bottles or other containers are used, they shall be cleaned and sterilized in compliance with R.S. 40:681.

D. [Formerly paragraph 6:032] Employee Health: The requirements of Part I, §117 and Part II, §§501-503(C) shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1233 (June 2002).

§121. By-Products and Waste Material [formerly paragraph 6:033]

A. By-products to be used for ensilage should be put in silos, but if stacked in the open at the factory, a foundation of concrete or other impervious material shall be provided to prevent soil pollution.

B. [Formerly paragraph 6:034] Drainage must be provided to take care of ensilage juices. Drains shall be of size and construction as specified in Table 714.1, "Building Drains and Sewers", of the LSPC.

C. [Formerly paragraph 6:035] Cribbing shall be provided for all open stacks of refuse to ensure retention of the material on the foundation.

D. [Formerly paragraph 6:036] All waste material such as waste peas, trimmings from vegetables and other waste products shall be separated from the waste or wash water and conveyed to silo or stacked or removed from the premises daily.

E. [Formerly paragraph 6:037] Covered gutters or drains that can be easily cleaned and kept in efficient operating condition shall be provided within the building for collecting and conducting waste or wash water to a dump or drainage pit, which shall be provided with a suitable screen or separator for removing all coarse waste material from the water.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1234 (June 2002).

§123. Temperature Control [formerly paragraph 6:038]

A. Foods requiring temperature control shall be held below 45E F or above 145E F, or in the case of frozen food, shall be held at or below ZeroE F.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1234 (June 2002).

Chapter 3. Current Good Manufacturing Practices in Manufacturing, Processing, Packing or Holding Human Food

§301. General Provisions; Code of Federal Regulations [formerly paragraph 6:039]

A. The Criteria in 21 CFR 110.10, 110.19, 110.20, 110.35, 110.37, 110.40, 110.80, and 110.93 (Code of Federal Regulations) shall apply in determining whether the facilities, methods, practices, and controls used in the manufacturing, processing, packing or holding of food are in conformance with or are operated or administered in conformity with good manufacturing practices to assure that food for human consumption is safe and has been prepared, packed and held under sanitary conditions.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1234 (June 2002).

§303. Definitions [formerly paragraph 6:040]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

*Adequate*C shall be explained in each case in which it is used.

*Plant*C see Part 1, §101 of this Part.

*Sanitize*C see Part 1, §101 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1234 (June 2002).

§305. Requirements Affecting Employees; Personnel [formerly paragraph 6:041]

A. The plant management shall take all reasonable measures and precautions to assure the following:

B. [Formerly paragraph 6:042] Disease Control: Employees shall meet the requirements of Part I, §117 of this Code.

C. [Formerly paragraph 6:043] Cleanliness: All persons, while working in direct contact with food preparation, food ingredients, or surfaces coming into contact therewith shall comply with the following Paragraphs in this Section.

1. [Formerly paragraph 6:044] Wear clean outer garments, maintain personal cleanliness, and conform to hygienic practices (as defined in the following regulations) while on duty, to the extent necessary to prevent contamination of food products.

2. [Formerly paragraph 6:045] Thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

3. [Formerly paragraph 6:046] Remove all insecure jewelry and, during periods where food is manipulated by hand, remove from hands any jewelry that cannot be adequately sanitized.

4. [Formerly paragraph 6:047] If gloves are used in food handling, maintain them in an intact, clean and sanitary condition. Smooth impermeable gloves can be used in such operations as sandwich preparation or other indirect food contact. Leather or cloth type gloves shall not be used in direct food contact.

5. [Formerly paragraph 6:048] Wear hair nets, headbands, caps, or other effective hair restraints.

6. [Formerly paragraph 6:049] No store clothing or other personal belongings, eat food or drink beverages, or use tobacco in any form in areas where food or food ingredients are exposed or in areas used for washing equipment or utensils.

7. [Formerly paragraph 6:050] Take any other necessary precautions to prevent contamination of foods

with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medications.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1234 (June 2002).

§307. Education and Training [formerly paragraph 6:051]

A. Personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food handling techniques and food protection principles and should be cognizant to the danger of poor personal hygiene and insanitary practices.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1235 (June 2002).

§309. Supervision of Personnel [formerly paragraph 6:052]

A. Responsibility for assuring compliance by all personnel with all requirements of this Part shall be clearly assigned to competent supervisory personnel.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1235 (June 2002).

§311. Plants and Grounds [formerly paragraph 6:053]

A. The grounds about a food plant under the control of the operator shall be free from conditions which may result in the contamination of food including, but not limited to, the following Paragraphs in this Section.

1. [Formerly paragraph 6:054] Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests. For example, unused equipment shall not be stored in the yard; grass shall not be allowed to grow over six inches in height; garbage, refuse, litter, waste, etc. cannot be stored in uncovered containers or in bags.

2. [Formerly paragraph 6:055] Excessively dusty roads, yards, or parking lots that may constitute a source of contamination in areas where food is exposed.

3. [Formerly paragraph 6:056] Inadequately drained areas that may contribute contamination to food products through seepage or foot-borne filth and by providing a breeding breeding place for insects or microorganisms.

a. If the plant grounds are bordered by grounds not under the operator's control of the kind described in §311.A.1 through 3 of this Chapter, care must be exercised in the plant by inspection, extermination, or other means to effect exclusion of pests, dirt, and other filth that may be a source of food contamination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1235 (June 2002).

§313. Plant Construction and Design [formerly paragraph 6:057]

A. Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food-processing purposes. The plant and facilities shall comply with the following paragraphs.

1. [Formerly paragraph 6:058] Provide sufficient space for such placement of equipment and storage of materials as is necessary for sanitary operations and production of safe food. Floors, walls, and ceilings in the plant shall be of such construction as to be readily cleanable and shall be kept clean and in good repair. Fixtures, ducts, and pipes that drip or produce condensate may contaminate foods, raw materials or food-contact surfaces, and shall not be suspended over working areas. Aisles or working spaces between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food contact surfaces with clothing or personal contact.

2. [Formerly paragraph 6:059] Provide separation by partition, location, or other effective means for those operations which may cause contamination of food products with undesirable microorganisms, chemicals, filth or other extraneous material.

3. [Formerly paragraph 6:060] Provide at least 40-foot candles of lighting to hand washing areas, dressing and locker rooms, and toilet rooms and to all areas where food or food ingredients are examined, processed, or stored and where equipment and utensils are cleaned. Light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation shall be of the safety type or otherwise protected to prevent food contamination in case of breakage.

4. [Formerly paragraph 6:061] Provide adequate ventilation or control equipment to minimize odors and noxious fumes or vapors (including steam) in areas where they may contaminate food. Such ventilation or control equipment shall not create conditions that may contribute to food contamination by airborne contaminants.

5. [Formerly paragraph 6:062] Provide, where necessary, effective screening or other protection against birds, animals, and vermin (including, but not limited to, insects and rodents).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1235 (June 2002).

§315. Sanitary Facilities and Controls [formerly paragraph 6:063]

A. Each plant shall be equipped with adequate sanitary facilities and accommodations including, but not limited to, the following Paragraphs in this Section:

1. [Formerly paragraph 6:064] Water Supply. The water supply shall be sufficient for the operations intended and shall be derived from a potable source. Any water that contacts foods or food contact surfaces shall be safe and of sanitary quality. Running water at a suitable temperature and under pressure as needed shall be provided in all areas where

the processing of food, the cleaning of equipment, utensils, or containers, or employee sanitary facilities require.

2. [Formerly paragraph 6:065] Sewage Disposal. Sewage disposal shall be made into a sewerage system or by other means approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1235 (June 2002).

§317. Plumbing
[formerly paragraph 6:066]

A. Plumbing shall be of size and design and installed and maintained according to Part XIV of this Code.

B. [Formerly paragraph 6:067] Plumbing shall also meet the following requirements:

1. [Formerly paragraph 6:067-1] carry sufficient quantities of water to required locations throughout the plant;

2. [Formerly paragraph 6:067-2] properly convey sewage and liquid disposable water from the plant;

3. [Formerly paragraph 6:067-3] not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment, or utensils or create an insanitary condition;

4. [Formerly paragraph 6:067-4] provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release discharge water or other liquid waste on the floor.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1236 (June 2002).

§319. Toilet Facilities
[formerly paragraph 6:068]

A. Each plant shall provide its employees with toilet and associated hand washing facilities within the plant according to requirements of Part XIV, Table 14:098, of this Code and each toilet shall be furnished with toilet tissue. The facilities shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing and shall not open directly into areas where food is exposed to airborne contamination except where alternate means have been taken to prevent such contamination (such as double doors, positive air flow systems, etc.). Signs shall be posted directing employees to wash their hands with cleaning soap or detergents after using the toilet.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1236 (June 2002).

§321. Hand Washing Facilities
[formerly paragraph 6:069]

A. Facilities for hand washing and, where appropriate, sanitizing solution shall be provided at each location in the plant where good sanitary practices require employees to wash or sanitize and dry their hands, and at least in areas where foods are handled. Numbers of lavatories shall be provided as required in Section 407 of the LSPC. Such facilities shall be furnished with running water at a suitable temperature for hand washing, effective hand cleaning and sanitizing preparations, sanitary towel service or suitable drying devices, and, where appropriate, easily cleanable waste receptacles.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1236 (June 2002).

§323. Rubbish and Offal Disposal
[formerly paragraph 6:070]

A. Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food contact surfaces, ground surfaces, and water supplies.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1236 (June 2002).

§325. Sanitary Operations C General Maintenance
[formerly paragraph 6:071]

A. All buildings, fixtures, and other physical facilities of the plant shall be kept in good repair and shall be maintained in a sanitary condition.

B. [Formerly a part of paragraph 6:071] Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food-contact surfaces .(For example, floors shall be sprinkled to hold down dust prior to sweeping operations.)

C. [Formerly a part of Paragraph 6:071] Detergents, sanitizers, and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Only such toxic materials as are required to maintain sanitary conditions, for use in laboratory testing procedures, for plant and equipment maintenance and operation, or in manufacturing or processing operations shall be used or stored in the plant. These materials shall be identified and used only in such manner and under conditions as will be safe for their intended uses.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1236 (June 2002).

§327. Animal, Vermin and Pest Control
[formerly paragraph 6:072]

A. No animals or birds, other than those essential as raw material, shall be allowed in any area of a food plant. Measures shall be taken to exclude pests from the processing areas and to protect against the contamination of foods in or on the premises by animals, birds, and vermin (including, but not limited to, rodents and insects). The use of insecticides or rodenticides is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues. Insecticides and rodenticides shall be used and applied according to label directions on each container as required by the United States Environmental Protection Agency or its successor.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1236 (June 2002).

§329. Sanitation of Equipment and Utensils [formerly paragraph 6:073]

A. All utensils and food contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Non-food contact surfaces of equipment used in the operation of food plants shall be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles, and other debris. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) shall be stored in appropriate containers and handled, dispensed, used and disposed of in a manner that prevents contamination of food or food contact surfaces. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and product contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated.

B. [Formerly a part of paragraph 6:073] Where such equipment and utensils are used in continuous production operation, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using effective methods for cleaning and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1237 (June 2002).

§331. Storage and Handling of Equipment and Utensils [formerly paragraph 6:074]

A. Storage and handling of cleaned portable equipment and utensils with product contact surfaces should be stored in such a location and manner that product contact surfaces are protected from splash, dust, and other contamination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1237 (June 2002).

§333. Equipment and Procedures C General [formerly paragraph 6:075]

A. All plant equipment and utensils shall be:

1. suitable for their intended use;
2. so designed and of such material and workmanship as to be easily cleanable; and
3. properly maintained.

B. The design, construction, and use of such equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment shall be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1237 (June 2002).

§335. Use of Polychlorinated Biphenyls (PCB) in Food Plants [formerly paragraph 6:076]

A. Polychlorinated biphenyls (PCB's) represent a class of toxic industrial chemicals manufactured and sold under a variety of trade names, including: Aroclor (United States); Phenoclor (France); Colohen (Germany); and Kanaclor (Japan). PCB's are highly stable, heat resistant, and nonflammable chemicals. Industrial uses of PCB's include, or did include in the past, their use as electrical transformer and capacitor fluids, heat transfer fluids, hydraulic fluids, and plasticizers, and in formulations of lubricants, coatings, and inks. Their unique physical and chemical properties, and widespread, uncontrolled industrial applications, have caused PCB's to be a persistent and ubiquitous contaminant in the environment which may cause the contamination of certain foods. In addition, incidents have occurred in which PCB's have directly contaminated animal feeds as a result of industrial accidents (leakage or spillage of PCB's fluids from plant equipment). These accidents in turn cause the contamination of food intended for human consumption (meat, milk, and eggs).

B. Since PCB's are toxic chemicals, the PCB contamination of food as a result of these accidents represents a hazard to human health. It is therefore necessary to place certain restrictions on the industrial uses of PCB's in the production, handling, and storage of food.

1. [Formerly a part of paragraph 6:076] New equipment, utensils, and machinery for handling or processing food in or around a food plant shall not contain PCB's so as to preclude accidental PCB contamination of food.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1237 (June 2002).

§337. Management and Abatement of PCB Within Food Plants [formerly paragraph 6:077]

A. The management of food plants shall meet the following requirements:

1. [Formerly paragraph 6:077-1] have the heat exchange fluid used in existing equipment or machinery for handling of processing food sampled and tested to determine whether it contains PCB's, or verify the absence of PCB's in such formulations by other appropriate means. Any such fluid formulated with PCB's shall be replaced with a heat exchange fluid that does not contain PCB's;

2. [Formerly paragraph 6:077-2] eliminate from the food plant any PCB contact surfaces of equipment or utensils and any PCB containing lubricants for equipment or machinery that is used for handling or processing foods;

3. [Formerly paragraph 6:077-3] eliminate from the food plant any other PCB containing materials wherever such materials could cause food to become contaminated with PCB's either as a result of use of or as a result of accident, breakage, or other mishap.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4 (A) (1) (a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1237 (June 2002).

§339. Toxicity of PCB Replacement Fluids [formerly paragraph 6:078]

A. The toxicity and other characteristics of fluids selected as PCB replacements shall be adequately determined so that the least potentially hazardous replacement is used. In making this determination with respect to a given fluid, consideration should be given to: (a) its toxicity; (b) the maximum quantity that could be spilled onto a given quantity of food before it would be noticed, taking into account its color and odor; (c) possible signaling devices in the equipment to indicate a loss of fluid, etc; and (d) its environmental stability and tendency to survive and be concentrated through the food chain. The judgment as to whether a replacement fluid is sufficiently nonhazardous is to be made on an individual installation and operation basis.

1. [Formerly paragraph 6:079] For the purposes of this Section, the provisions do not apply to electrical transformers and condensers containing PCB's in sealed containers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1238 (June 2002).

Chapter 5. Bakeries and Manufacturing Confectioneries

§501. Definitions [formerly paragraph 6:080]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Bakery—see Chapter 1, §101 of this Part of this Code.

Manufacturing Confectionery—see Chapter 1, §101 of this Part of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1238 (June 2002).

§503. Required Permits [formerly paragraph 6:081]

A. Bakeries and manufacturing confectioneries shall have a permit from the state health officer, in accordance with the provisions of Chapter 1, §103 of this Part of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1238 (June 2002).

§505. Building Construction Requirements [formerly paragraph 6:082]

A. Any building used or maintained as a bakery or manufacturing confectionery shall comply with the following requirements in this Section.

1. [Formerly paragraph 6:083] Adequate plans and specifications for new establishments shall be submitted to the state health officer for approval before construction. Plans for establishments to sell only at retail shall be submitted to the local health unit.

2. [Formerly paragraph 6:083-1] Floors shall be constructed with concrete, tile, glazed brick or other impervious materials sloped to drain quickly and effectively so that they may be easily cleaned. All drains shall be trapped.

3. [Formerly paragraph 6:083-2] Walls and ceilings shall be smooth, tight, impervious and light colored and shall be kept clean.

4. [Formerly paragraph 6:083-3] All outside openings shall be protected against flies and other vermin.

5. [Formerly paragraph 6:083-4] Any bakery or manufacturing confectionery maintaining or operating a retail salesroom in connection therewith, shall provide a separate room for such retail operations and only personnel engaged in the manufacture, baking, cooking, molding or otherwise preparing bakery or confectionery products shall be permitted in the processing area except on permission from the management; provided, any duly authorized representative of the state health officer shall have access during reasonable working hours to make inspections and to collect samples for examination to determine whether the products sampled are adulterated, misbranded or otherwise manufactured, packed, prepared or held in violation of the Sanitary Code, or of the State Food, Drug and Cosmetic Law (R.S. 40:601 et seq.).

6. [Formerly paragraph 6:083.5] All rooms shall be well lighted, either naturally and/or artificially, and shall be well ventilated. A minimum of 40 foot-candies shall be provided for all work surfaces. When necessary to prevent accumulations of smoke, fumes heat or odors, forced draft ventilation shall be provided.

7. [Formerly paragraph 6:083-6] A supply of potable water shall be available. Running hot and cold water delivered through a mixer faucet shall be required in amounts sufficient to give an abundance of water for all cleaning operations in and about the establishment. No cross-connection between the potable water supply and any unapproved water supply or any sewage disposal system shall be permitted.

8. [Formerly paragraph 6:083-7] The building shall be constructed so as to exclude rats, mice, roaches or other vermin. Domestic pets shall be excluded in any part of the establishment.

9. [Formerly paragraph 6:083-8] A locker room, separate from the food preparation rooms, shall be provided for employees.

10. [Formerly paragraph 6:083-9] Storage space separate from preparation and manufacturing areas shall be provided for all raw ingredients, packing boxes or other goods to be used in the manufacture, storage, packing or preparation of any food product. Storage space shall be rodent and vermin proof and so constructed and maintained as to permit easy fumigation, fogging, crack and crevice treatment and other established methods of pest control.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1238 (June 2002).

§507. Equipment
[formerly paragraph 6:084]

A. All equipment used or connected in any way with the manufacture, baking, cooking or other processing, handling, packing or storing of any bakery or confectionery product shall comply with the following:

1. [Formerly paragraph 6:084-1] be maintained in a clean and sanitary manner, be free from cracks and wherever possible, be of non-corroding, metal or other smooth, impervious material giving an easily cleanable surface. Stationary or not readily movable equipment shall be so installed as to provide for easy cleaning;

2. [Formerly paragraph 6:084.2] refrigeration shall be provided so that all perishable food products used in the manufacturer processing of any kind connected with the production, distribution or sale of bakery or confectionery products shall be maintained at a temperature not to exceed 45E F;

3. [Formerly paragraph 6:084-3] adequate show or display cases shall be provided so that no bakery or confectionery product shall be openly exposed;

4. [Formerly paragraph 6:084-4] sinks, adequate in size to clean the largest piece of movable equipment, and sufficient in number for washing, rinsing and sanitizing of utensils used in and around the establishment shall be provided. Sinks shall be of three compartment construction;

5. [Formerly paragraph 6:084-5] equipment too large to permit washing in the sinks shall be cleaned in a manner approved by the state health officer;

6. [Formerly paragraph 6:084-6] all barrels, boxes, tubs, pails, kneading troughs, machines, racks, pans or other receptacles used for holding materials from which bakery or confectionery products are manufactured shall be kept clean and sanitary and shall be so constructed as to be easily cleanable;

7. [Formerly paragraph 6:084-7] all food contact surfaces shall be cleaned and sanitized after each day's production.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1239 (June 2002).

§509. General Provisions; Time/Temperature Controls for Preparation of Fresh Custard and Cream Fillings
[formerly paragraph 6:085]

A. Supplies used in the manufacture of bakery and confectionery products shall be stored outside of the preparation areas or rooms. flour, sugar and other similar products shall be protected from dampness and vermin. All ingredients shall be stored on racks or shelves at least 6 inches off the floor, and so arranged as to permit cleaning around and under the containers. No spoiled, rancid or unwholesome ingredients of any type shall be used in the manufacture of any bakery or confectionery product, nor shall such material be permitted to remain in such a manufacturing plant.

B. [Formerly paragraph 6:086] No box, paper, trash, furniture or other article not used in the preparation of any bakery or confectionery product shall be allowed in food preparation rooms, nor shall an accumulation of boxes, rubbish, trash or waste be permitted about the establishment, nor shall any slops of waste matter be thrown or emptied on the ground about the premises. Garbage shall be kept in water tight receptacles with tightly fitting lids. Garbage and trash shall be removed from the premises as often as necessary so that it will not accumulate and provide a breeding and harborage area for rodents and insects.

C. [Formerly paragraph 6:087] Every bakery or manufacturing confectionery shall provide toilet facilities for employees. As required by Section 407 of the LSPC, all toilet rooms shall have at least 20 foot-candles of lighting and ventilation, and be kept clean and in good repair.

D. [Formerly paragraph 6:088] Lavatory (hand washing) facilities shall be provided in all restrooms and conveniently located in the processing areas in accordance with Section 407 of the LSPC. Facilities shall be equipped with hot and cold water under pressure, delivered through a mixer faucet. Soap and sanitary towels or air dryer shall be provided at each lavatory.

E. [Formerly paragraph 6:089] All employees of any bakery or manufacturing confectionery shall comply with §§305 -309 of Chapter 3 of this Part.

F. [Formerly paragraph 6:090] No bed or cot shall be permitted in any bakery or manufacturing confectionery, nor shall any living quarters open directly into the preparation rooms of such establishments.

G. [Formerly paragraph 6:091] No bakery or confectionery product shall be delivered to any retailer by placing such products in a box or other receptacle located outside of the retail establishment, unless this receptacle has been approved by the state health officer.

H. [Formerly paragraph 6:092] Only pasteurized milk or milk products shall be used in the preparation of custard and cream-filled bakery products.

I. [Formerly paragraph 6:093] All custard or cream-filled mixtures shall be cooked, the temperature and time of heating of the mix, to be as a minimum, the equivalent of a temperature of 145E F for a period of not less than 30 minutes.

J. Formerly paragraph 6:094] Upon completion of the cooking of the mix, it shall be immediately transferred into previously sanitized containers, properly covered and chilled as rapidly as possible to 45E F or below and maintained at such a temperature until used.

K. [Formerly paragraph 6:095] The apparatus and food contact surfaces used in adding any custard or cream filling to a bakery product shall be of impervious material and shall be thoroughly cleaned and sanitized after each use, in a manner approved by the state health officer. No cloth filled bags shall be used.

L [Formerly paragraph 6:096] Employees engaged in the preparation of custard or cream-filled bakery products shall not touch the custard or cream filling with their hands after it has been cooked.

M. [Formerly paragraph 6:097] No pastry containing a custard or cream filling shall be displayed in any window or show case except those that are refrigerated or chilled to a temperature of 45E F, or below.

N. [Formerly paragraph 6:098] Pastries containing custard or cream filling shall not be sold or delivered from vehicles, except where such vehicles are equipped with a refrigerated compartment where the temperature is maintained at 45E F or below; provided, however, that such

pastries may be delivered from manufacturers to retail dealers or consumers by special trip without refrigeration when it is possible to complete such delivery within two hours elapsed time.

O. [Formerly paragraph 6:099] All bakery products in package form shall be labeled in compliance with the State Food, Drug and Cosmetic Law, as provided for in R.S. 40:608.

P. [Formerly paragraph 6:100] Transportation of any bread, pastry or confectionery product for subsequent display or sale is prohibited unless said bread, pastry or confectionery product is wrapped or packaged in such a manner as to protect the product from contamination by dust, dirt, flies and other extraneous material.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1239 (June 2002).

§511. Premises
[formerly paragraph 6:101]

A. Building premises, shipping and receiving areas, etc. shall be kept clean, orderly and free of debris, trash and high weeds.

B. [Formerly paragraph 6:102] The ground area outside the shipping and receiving doors and other passageways shall be paved and sloped to allow for proper drainage.

C. [Formerly paragraph 6:103] The ground area for storage of covered trash cans and/or compactor type trash containers shall be paved and sloped for adequate drainage. A conveniently located hose bib shall be provided for washdown of this area.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1240 (June 2002).

Chapter 7. Food Storage Warehouse and Food Salvaging Operations

§701. Definitions
[formerly paragraph 6:110]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

*Food Storage Warehouse***C**as used in these regulations shall mean any establishment that stores, delivers, receives or ships a food product for further distribution.

*Salvager***C**as used in these regulations shall mean any person or firm that stores, receives, ships or delivers food products for the purpose of salvaging them by means of sorting, repacking or any other means after said products have been misbranded and/or adulterated or damaged as described in the Louisiana Food, Drug and Cosmetic Law (R.S. 40:601 et seq.).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1240 (June 2002).

§703. Permits
[formerly paragraph 6:111]

A. Food storage warehouses and food salvaging operations shall obtain permits from the state health officer, in accordance with the provisions of §103 of Chapter 1 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1240 (June 2002).

§705. Building Construction
[formerly paragraph 6:112]

A. The storage and/or salvaging of any food intended for sale or distribution to the general public is prohibited in private residences or in buildings having direct opening to private residences. All establishment buildings shall be well lighted and ventilated.

B. [Formerly paragraph 6:113] Floors, walls and ceilings shall be constructed in accordance with §313 of Chapter 3 of this Part so as to be easily cleanable.

C. [Formerly paragraph 6:114] All insecticides or pesticides used in any room where foods packaged, repackaged, stored or salvaged shall be approved by the state health officer. All insecticides and pesticides shall be used and applied according to label directions specified as required by the United States Environmental Protection Agency or its successor.

D. [Formerly paragraph 6:115] Every warehouse and salvaging operation shall be provided with toilet and hand washing facilities for employees as required by Section 407, titled "Minimum Plumbing Fixtures", of the LSPC. Hand washing facilities shall be located convenient to all toilet facilities. These facilities shall be kept clean. Toilet room doors shall be self-closing.

E. [Formerly paragraph 6:116] Buildings shall be constructed and maintained to prevent access to rodents, insects (e.g., roaches), birds and other vermin.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1240 (June 2002).

§707. Premises
[formerly paragraph 6:117]

A. All grounds on which warehouses and other buildings or structures used in connection with any food storage and/or salvaging are located shall be graded to provide natural drainage, thus preventing accumulation of stagnant water and other material.

B. [Formerly paragraph 6:118] No litter, waste or refuse shall be allowed to accumulate in or around the buildings or yards. Waste shall be removed daily or disposed of promptly and in a manner approved by the state health officer. Ground areas designated for waste storage shall be paved, sloped for drainage and be provided with washdown facilities.

C. [Formerly paragraph 6:119] Weeds and grass shall be kept cut to eliminate rodent and vermin harborage. Mud and dust shall be controlled on the premises.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1240 (June 2002).

§709. Water Supply
[formerly paragraph 6:120]

A. The potable water supply shall meet requirements of Chapter 6, entitled "Water Supply and Distribution", of the

LSPC. Such water supply shall not be cross connected to any other supply.

B. [Formerly paragraph 6:121] Drinking fountains shall be provided as required by Section 407, entitled "Minimum Plumbing Fixtures", of the LSPC. Drinking fountains shall meet specifications as described in Part 17, §§103.B, 103.E, and 105.A of this Code and meet with the approval of the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1240 (June 2002).

§711. Employee Health
[formerly paragraph 6:122]

A. The requirements of Part I, §117, Part II, §§501-503.C and Part VI, §§305-309 shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1241 (June 2002).

§713. Operational Requirements
[formerly paragraph 6:123]

A. [Formerly paragraph 6:124] It shall be the responsibility of management to develop and maintain in employees an interest of "good housekeeping" and encourage personal cleanliness.

B. [Formerly paragraph 6:125] All incoming foods shall be examined for defilement, infestation or damage. A morgue area shall be provided for the placement of damaged commodities. Defiled or infested commodities shall be disposed of immediately.

C. [Formerly paragraph 6:126] Foods shall be stored at least 18" from walls or other obstructions to permit inspection and cleaning. Foods shall also be stored at least 6" above the floor level. Pallets and shelving shall be kept clean.

D. [Formerly paragraph 6:127] Stock shall be rotated on a "first in, first out" basis.

E. [Formerly paragraph 6:128] Hazardous chemicals shall not be used or stored near foods.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1241 (June 2002).

§715. Salvaged Food Package Labeling Requirements
[formerly paragraph 6:129]

A. The label of any food that has been salvaged as defined in §701 of this Part of this Code, shall comply with the requirements of R.S. 40:608 and the following provisions.

1. [Formerly paragraph 6:129-1] The term "salvaged" shall appear on the principal display panel in the case of any food packaged in a firm container (box, carton or can) and either on the principal display panel or upon a firmly attached tag in the case of any food packaged in a soft container (bag or sack). The "principal display panel" is that panel of a product label bearing the product name and quantity of contents statement. The labeling requirements shall only apply to the individual immediate container in which the food is packaged for retail or institutional sale and shall only apply to the food containers actually requiring salvage activities. The term "salvaged" shall be conspicuous and of easily legible bold face print or type in distinct contrast to other matter on the label.

2. [Formerly paragraph 6:129-2] In the event the salvager is other than an agent for the original manufacturer, packer, or distributor, the name and business address of the salvager shall appear in the manner and location prescribed in §715.A.1 of this Part and shall include the city, state and zip code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1241 (June 2002).

§717. Salvaged Food Bulk Placard Requirements
[formerly paragraph 6:130]

A. If in bulk display form for wholesale or retail sale (rather than package form), any food that has been salvaged, shall be conspicuously and prominently displayed immediately adjacent to such bulk display. Such placard shall be in easily legible bold face print or type of such color contrast that it may be easily read and shall contain the statements required by §715 of this Part of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1241 (June 2002).

§719. Salvaged Food Labeling Responsibility
[formerly paragraph 6:131]

A. The responsibility for the salvage labeling required by §§715-717 of this Part shall be that of:

1. [Formerly paragraph 6:131-1] the person selling or offering to sell such food at wholesale or retail (if in bulk display form);

2. [Formerly paragraph 6:131-2] the person selling or offering to sell at retail or for institutional use (if salvaged within the State of Louisiana); or

3. [Formerly paragraph 6:131-3] the first person selling or offering to sell such food at wholesale or retail within the State of Louisiana (if salvaged outside of the State of Louisiana).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1241 (June 2002).

Chapter 9. Processing and Bottling of Bottled Drinking Water

§901. Definitions
[formerly paragraph 6:132]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

*Approved Source***C**when used in reference to a plant's product water or operations water means that the source of the water and the water therefrom, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, shall have been inspected and the water sampled, analyzed and found to be of a safe and sanitary quality by the state health officer in accordance with the applicable laws and regulations of the government agency or agencies having jurisdiction. The presence, in the plant, of

current certificates or notifications of approval from the government agency or agencies having jurisdiction shall constitute approval of the source and the water supply.

*Bottled Water***C**water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may optionally contain safe and suitable antimicrobial agents. Fluoride may be optionally added within the limitations established in 21 CFR §165.110(b)(4)(ii). Bottled water may be used as an ingredient in beverages (e.g., diluted juices, flavored bottled waters). It does not include those food ingredients that are declared in ingredient labeling as "water," "carbonated water," "disinfected water," "filtered water," "seltzer water," "soda water," "sparkling water," and "tonic water." The processing and bottling of bottled water shall comply with regulations specified in this section of this Chapter.

*Lot***C**a collection of primary containers or unit packages of any same size, type, and style produced under conditions as nearly uniform as possible and designated by a common container code or marking.

*Multi-Service-Containers***C**containers intended for use more than one time.

*Nontoxic Materials***C**materials for product water contact surfaces utilized in the transporting, processing, storing, and packaging of bottled drinking water, which are free of substances which may render the water injurious to health or which may adversely affect the flavor, color, odor, or bacteriological quality of the water.

*Operations Water***C**water which is delivered under pressure to a plant for container washing, hand washing, plant and equipment cleanup and for other sanitary purposes.

*Primary Container***C**the immediate container in which the product water is packaged.

*Product Water***C**processed water used by a plant for bottled drinking water.

*Shipping Case***C**a container in which one or more primary containers of the product are held.

*Single-Service-Container***C**a container intended for one time usage only.

*Unit Package***C**a standard commercial package of bottled drinking water, which may consist of one or more containers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1241 (June 2002).

§903. Bottled Drinking Water Permits [formerly paragraph 6:132-1]

A. Processors and bottlers of bottled drinking water shall obtain permits from the state health officer, in accordance with the provisions of Chapter 1 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1242 (June 2002).

§905. Bottled Water for Emergencies [formerly paragraph 6:132-2]

A. Bottled water processed and packaged strictly for the purpose of providing a source of potable drinking water in anticipation of, or during, an emergency such as the aftermath of disasters from severe storms, hurricanes, floods, etc., shall comply with the provisions of this section of this Chapter unless otherwise specified.

B. [Formerly paragraph 6:132-3] Bottled water for emergencies from outside of state. Bottlers, processors, distributors, or dealers of bottled water processed and packaged outside of this state strictly for the purpose of providing a source of potable drinking water in anticipation of, or during, an emergency such as the aftermath of disasters from severe storms, hurricanes, floods, etc., shall show evidence to the state health officer, or his/her duly authorized representative, of compliance with the requirements for processing, packing, and distribution of bottled water in that state, county, or local authority having jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1242 (June 2002).

§907. Water Bottling Plant Construction and Design [formerly paragraph 6:133-1]

A. The bottling room shall be separated from other plant operations or storage areas by tight walls, ceilings, and self-closing doors to protect against contamination. Conveyor openings shall not exceed the size required to permit passage of containers.

B. [Formerly paragraph 6:133-2] If processing operations are conducted in other than a sealed system under pressure, protection shall be provided to preclude contamination of the water and the system.

C. [Formerly paragraph 6:133-3] Ventilation shall be provided in accordance with §313(A)(4) of this Part and shall minimize condensation in processing rooms, bottling rooms, and container washing and sanitizing areas.

D. [Formerly paragraph 6:133-4] The washing and sanitizing of containers for bottled drinking water shall be performed in an enclosed room. The washing and sanitizing operation shall be positioned within the room so as to minimize any possible post-sanitizing contamination of the containers before they enter the bottling room.

E. [Formerly paragraph 6:133-5] Rooms in which product water is handled, processed, or held or in which containers, utensils, or equipment are washed or held shall not open directly into any room for domestic household purposes.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1242 (June 2002).

§909. Product and Operation Water Supplies; Sanitary Facilities [formerly paragraph 6:134]

A. Each plant shall provide sanitary facilities including, but not limited to, the following:

1. [Formerly paragraph 6:134-1] Product water and operations water:

a. [Formerly paragraph 6:134-1 (1)] Product Water. The product water supply shall be from an approved source and comply with Chapter 9 of this Part entitled "Processing and Bottling of Bottled Drinking Water".

b. [Formerly paragraph 6:134-1 (2)] Operations Water. If different from the product water supply, the

operations water supply shall be obtained from an approved source properly located, protected, and operated and shall be easily accessible, adequate, and of a safe, sanitary quality which shall be in conformance at all times with the applicable laws and regulations of the government agency or agencies having jurisdiction.

c. [Formerly paragraph 6:134-1 (3)] Product Water and Operations Water from Approved Sources

i. Water samples shall be taken from approved sources by the plant at a minimum frequency of twice each year with an interval between samples of not less than five months nor more than seven months to assure that the supply is in conformance with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction. The sampling and analysis shall be by plant personnel trained in sampling and analysis of water samples. Records of both government agency approval of the water source and the sampling and analysis performed by the plant shall be maintained on file at the plant.

ii. Test and sample methods shall be approved by government agency or agencies having jurisdiction over the approval of the water source, and shall be consistent with the minimum requirements set forth in Part XII of this Code.

iii. Analysis of the samples may be performed for the plant by commercial laboratories.

2. [Formerly paragraph 6:134-2] Air under Pressure. Whenever air under pressure is directed at product water or a product water contact surface, it shall be free of oil, dust, rust, excessive moisture, and extraneous materials; shall not affect the bacteriological quality of the water; and shall not adversely affect the flavor, color, or odor of the water.

3. [Formerly paragraph 6:134-3] Locker and Lunchrooms. When employee locker and lunchrooms are provided, they shall be separate from plant operations and storage areas and shall be equipped with self-closing doors. The rooms shall be maintained in a clean and sanitary condition and refuse containers shall be provided. Packaging or wrapping material or other processing supplies shall not be stored in locker or lunchrooms.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1242 (June 2002).

§911. Cleaning and Sanitizing [formerly paragraph 6:135-1]

A. The product water contact surfaces of all multi-service containers, utensils, pipes, and equipment used in the transportation, processing, handling, and storage of product water shall be cleaned and sanitized. All product water contact surfaces shall be inspected by plant personnel as often as necessary to maintain the sanitary condition of such surfaces and to assure they are kept free of scale, evidence of oxidation, and other residue. The presence of any unsanitary condition, scale, residue, or oxidation shall be immediately remedied by cleaning and sanitizing of that product water contact surface prior to use.

1. [Formerly paragraph 6:135-2] After sanitizing all multi-service containers, utensils, and disassembled piping and equipment shall be transported and stored in such a manner as to assure drainage and shall be protected from contamination.

2. [Formerly paragraph 6:135-3] Single-service containers and caps or seals shall be purchased and stored in sanitary closures and kept clean therein in a clean, dry place until used. Prior to use they shall be examined, and as necessary, washed, rinsed, and sanitized and shall be handled in a sanitary manner.

3. [Formerly paragraph 6:135-4] Filling, capping, closing, sealing and packaging of containers shall be done in a sanitary manner so as to preclude contamination of the bottled drinking water. For example, hand filling and capping of containers shall be prohibited. Mechanical equipment shall be provided for this purpose.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1243 (June 2002).

§913. Suitability of Equipment and Procedures [formerly paragraph 6:136-1(1)]

A. All plant equipment and utensils shall be suitable for their intended use. This includes all collection and storage tanks, piping, fittings, connections, bottle washers, fillers, cappers, and other equipment which may be used to store, handle, process, package, or transport product water.

B. [Formerly paragraph 6:136-1 (2)] All product water contact surfaces shall be constructed of nontoxic and nonabsorbent material which can be cleaned and sanitized and is in compliance with Chapter 11 of this Part - Soft Drink Manufacturers.

C. [Formerly paragraph 6:136-2] Design: Storage tanks shall be of the type that can be closed to exclude all foreign matter and shall be vented.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1243 (June 2002).

§915. Product Water Treatment Process [formerly paragraph 6:137-1 (A)]

A. All treatment of product water by distillation, ion-exchanging filtration, ultraviolet treatment, reverse osmosis, carbonation, mineral addition, or any other process shall be effective in accomplishing its intended purpose and in accordance with R.S. 40:607(3) of the State Food, Drug and Cosmetic Law. All such processes shall be performed in and by equipment and with substances which will not adulterate the bottled product. A record of the type and date of physical inspections of such equipment, conditions found, and performance and effectiveness of such equipment, shall be maintained by the plant. Product water samples shall be taken after processing and prior to bottling by the plant and analyzed as often as is necessary to assure uniformity and effectiveness of the processes performed by the plant. The methods of analysis shall be those approved by the government agency or agencies having jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1243 (June 2002).

§917. Treatment Process of Product Water for Emergencies [formerly paragraph 6:137-1 (B)]

A. Product water intended for bottling for use during emergencies shall contain a minimum of 0.2 ppm free chlorine residual prior to bottling or, shall be treated as specified in §915 of this Chapter. (Promulgated 11/20/96)

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1244 (June 2002).

§919. Multi -Service Containers [formerly paragraph 6:137-2 (1)]

A. Multi-service primary containers shall be cleaned, sanitized, and inspected just prior to being filled, capped, and sealed. Containers found to be unsanitary or defective by the inspection shall be reprocessed or discarded. All multi-service primary containers shall be washed, rinsed, and sanitized by mechanical washers or by any other method giving sanitary results. Mechanical washers shall be inspected as often as is necessary to assure dependable performance. Records of physical maintenance, inspections and conditions found, and performance of the mechanical washer shall be maintained by the plant.

B. [Formerly paragraph 6:137-2 (2)] Multi-service shipping cases shall be maintained in such condition as to assure they will not contaminate the primary container or the product water. Dry or wet cleaning procedures shall be performed as often as necessary to maintain the cases in a sanitary condition.

C. [Formerly paragraph 6:137-2 (3)] Bottled water that is processed and packaged exclusively for emergency use shall include the following labeling information in addition to any other required labeling information.

1. [Formerly paragraph 6:137-2 (3) (a)] Bottled water for emergencies may be named "Bottled Water" or "Drinking Water" followed immediately by "for Emergency Use Only, Not for Re-Sale."

2. [Formerly paragraph 6:137-2 (3) (b)] Each unit container shall include a "Use by date@ with the date not to exceed 60 days from the date of bottling.

3. [Formerly paragraph 6:137-2(3)(c)] The information required in §919.C.1 -2 shall be of the same print size and style.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1244 (June 2002).

§921. Cleaning and Sanitizing Solutions [formerly paragraph 6:137-3]

A. Cleaning and sanitizing solutions utilized by the plant shall be sampled and tested by the plant as often as is necessary to assure dependable performance in the cleaning and sanitizing operations. Records of these tests shall be maintained by the plant.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1244 (June 2002).

§923. Sanitizing Operations [formerly paragraph 6:137-4]

A. All product water contact surfaces shall be sanitized by chemical means, circulation of live steam or hot water. The plant should maintain a record of the intensity of the sanitizing agent and the time duration that the agent was in contact with the surface being sanitized. The following times and intensity shall be considered a minimum:

1. [Formerly paragraph 6:137-4 (1)] live steam in enclosed system: at least 170E F for at least 15 minutes or at least 200E F for at least five minutes;

2. [Formerly paragraph 6:137-4 (2)] hot water in enclosed system: At least 170E F for at least 15 minutes or at least 200E F for at least five minutes;

3. [Formerly paragraph 6:137-4 (3)] chemical sanitizers shall be equivalent in bactericidal action to a two-minute exposure of 50 parts per million of available chlorine at or above 57E F when used as an immersion or circulating solution. Chemical sanitizers applied as a spray or fog shall have as a minimum 100 parts per million of available chlorine at or above 57E F or its equivalent in bactericidal action;

4. [Formerly paragraph 6:137-4 (4)] 0.1 part per million ozone water solution in an enclosed system for at least five minutes;

5. [Formerly paragraph 6:137-4 (5)] when containers are sanitized using a substance other than one provided for in 21 CFR 178.1010 of the Code of Federal Regulations, such substance shall be removed from the surface of the container by a rinsing procedure. The final rinse, prior to filling the container with product water, shall be performed with a disinfected water rinse free of pathogenic bacteria or by an additional sanitizing procedure equivalent in bactericidal action to that required in §923(A)(3).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1244 (June 2002).

§925. Production Code; Unit Package [formerly paragraph 6:137-5]

A. Each unit package from a batch or segment of a continuous production run of bottled drinking water shall be identified by a production code. The production code shall identify a particular batch or segment of a continuous production run and the day produced. The plant shall record and maintain information as to the kind of product, volume produced, date produced, lot code use, and the distribution of the finished product to wholesale and retail outlets.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1244 (June 2002).

§927. Filling, Capping, or Sealing; Container Testing Requirements [formerly paragraph 6:137-6]

A. During the process of filling, capping or sealing either single-service or mufti-service containers, the performance of the filler, capper or sealer shall be monitored and the filled containers, visually or electronically inspected to

assure they are sound, properly capped or sealed, and coded and labeled. Containers which are not satisfactory shall be reprocessed or rejected. Only nontoxic containers and closures shall be used. All containers and closures shall be sampled and inspected to ascertain that they are free from contamination. At least once each three months, a bacteriological swab and/or rinse count should be made from at least four containers and closures selected just prior to filling and sealing. No more than one of the four samples may exceed more than one bacteria per milliliter of capacity or one colony per square centimeter of surface area. All samples shall be free of coliform organisms. The procedure and apparatus for these bacteriological tests shall be in conformance with those recognized by the government agency or agencies having jurisdiction. Tests shall be performed either by plant personnel trained in sampling and analysis of water samples or by a commercial laboratory.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1244 (June 2002).

§929. Product Testing Requirements
[formerly paragraph 6:137-7]

A. To assure that the plant's production of bottled drinking water is in compliance with the State Food Drug and Cosmetic Law (R.S. 40:601 et seq.) and this Code, the plant shall:

1. [Formerly paragraph 6:137-7 (1)] for bacteriological purposes take and analyze at least once a week a sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The samples shall consist of primary containers of product or unit packages of product;

2. [Formerly paragraph 6:137-7 (2)] for chemical, physical, and radiological purposes, take and analyze at least semi-annually a representative sampling from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product;

3. [Formerly paragraph 6:137-7 (3)] analyze such samples by methods approved by the government agency or agencies having jurisdiction. The plant shall maintain records of date of sampling, type of product sampled, production code, and results of the analysis.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1245 (June 2002).

§931. Record Retention
[formerly paragraph 6:137-8]

A. All records required by 21 CFR 129.1, 21 CFR 129.20, 21 CFR 129.35, 21 CFR 129.37, 21 CFR 129.40, and 21 CFR 129.80 of the Code of Federal Regulations shall be maintained at the plant for not less than two years. Plants shall also retain, on file at the plant, current certificates or notifications of approval issued by the state health officer and other government agencies, (if any) approving the plant's source and supply of product water and operations water. All required documents shall be available for official review at reasonable times.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1245 (June 2002).

Chapter 11. Soft Drink Manufacturing

§1101. Definitions
[formerly paragraph 6:138]

A. The definitions and interpretations contained in the State Food, Drug and Cosmetic Law (R.S. 40:601 et seq.) are applicable to the following words and terms. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Adequate—that which is needed to accomplish the intended purpose in keeping with good public health practice.

Plant—the building or buildings or part thereof, used for or in connection with the manufacturing, processing, labeling or holding of human food.

Sanitize—see §101 of Chapter 1 of this Part.

Soft Drink—the class of non-alcoholic beverages usually, but not necessarily, made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60E F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage as is contributed by the flavoring ingredient used. Soft drinks may contain any safe and suitable optional ingredients, including natural and artificial flavors as provided for in the food additives statutes—21 USC 409 and/or the Code of Federal Regulations 21 CFR 170.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1245 (June 2002).

§1103. Location and Use of Building
[formerly paragraph 6:139]

A. The building, or portion thereof, employed for the manufacture of soft drinks shall be used for no other purpose, and shall be so located as to be protected from objectionable surroundings, such as hazardous waste dumps, dusty conditions, rodent harborage areas, sanitary landfills, poorly drained areas, etc.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1245 (June 2002).

§1105. Plans Review
[formerly paragraph 6:140]

A. Plans for new establishments shall be submitted to the state health officer for approval before construction.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1245 (June 2002).

§1107. Walls and Ceilings
[formerly paragraph 6:141]

A. Walls and ceilings in the syrup and bottling rooms shall be of hard, sound materials with smooth, easily cleaned surfaces of a light color.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1109. Lighting and Ventilation
[formerly paragraph 6:142]

A. All rooms shall be lighted to a minimum standard of 40-foot candles.

B. Good and sufficient ventilation to insure a healthful and as nearly as practicable, a comfortable atmosphere shall be provided and maintained, by natural or mechanical means at all times during working hours. When the amount of atmospheric contaminants exceeds the limits fixed hereunder, exhaust ventilation shall be provided to reduce the amount of atmospheric contaminants to within the limits fixed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1111. Insect, Pest and Vermin Control
[formerly paragraph 6:143]

A. All openings to the outer air shall be screened or otherwise protected where necessary against entrance of insects and vermin. The syrup room shall be especially protected against insects and vermin.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1113. Syrup Room Requirements
[formerly paragraph 6:144]

A. The syrup room shall be completely enclosed, well ventilated and lighted. Sinks shall be provided and shall have hot and cold running water delivered through a mixe r faucet. Syrup rooms shall be protected against vermin, flies, dirt and dust and constructed as to be easily cleaned and sanitized.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4 (A) (1) (a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1115. Potable Water Supply; Not Cross Connected to Product Water Used for Bottling
[formerly paragraph 6:145]

A. Running water of potable quality shall be easily accessible to all parts of the plant. Provision shall be made for prompt removal and proper disposal of waste water and sewage. If a separate water supply is used for any purpose in the plant, there shall be no connection between that supply and the potable supply used for manufacturing.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1117. Toilet and Lavatory Facilities
[formerly paragraph 6:146]

A. Toilet and lavatory facilities shall be provided as required in, Section 407 of the LSPC, and shall be maintained in a clean and sanitary condition. Toilet and washroom fixtures shall be so constructed and so operated as to prevent return flow or back-siphonage as defined in Chapter 2, Table 202, of the LSPC, from such fixtures into the water supply. Toilet rooms shall have no direct connection with rooms used for manufacturing or bottling and shall have self-closing doors.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hosp itals, Office of Public Health, LR 28:1246 (June 2002).

§1119. Multi-Use Container Washing and Handling
[formerly paragraph 6:147]

A. Every plant manufacturing bottled beverages shall be equipped with suitable mechanical bottle washing apparatus and with approved machines for carbonation, filling and crowning so that these operations can be performed as to prevent any part of the operator or his clothing from coming in contact with those surfaces of the bottles which come in contact with the beverage. Bottle washing machines shall be so constructed and operated as to prevent back-siphonage, or return-flow, into the water supply lines.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1121. Conveyors and Cases
[formerly paragraph 6:148]

A. Conveyors and cases shall be maintained in a clean and sanitary condition.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1123. Syrup Making and Mixing Equipment
[formerly paragraph 6:149]

A. All vats, jars, mixing and storage tanks, pipe lines, filters and other apparatus employed in the preparation of syrups, shall be of sanitary construction and lined with materials resistant to the action of syrup ingredients.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1125. Water Treatment Equipment
[formerly paragraph 6:150]

A. Electrical or chemical coagulation devices and filters employed for clarification of water shall be of types approved by the state health officer, shall not be operated beyond their rated capacity and shall be maintained in a clean and sanitary condition at all times.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1246 (June 2002).

§1127. Miscellaneous Testing Equipment [formerly paragraph 6:151]

A. Every plant manufacturing bottled carbonated beverages shall be provided with thermometers, acid and sugar hydrometers, gas volume testers, and apparatus for ascertaining the alkalinity and causticity of the soaker solution employed in bottle washing.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1129. Good Manufacturing Practices; Processes and Controls [formerly paragraph 6:152]

A. All operations in the receiving, inspection, transporting, packing, segregating, preparing, processing and storing of food shall be conducted in accordance with good sanitation principles. Overall sanitation of the plant shall be under the supervision of an individual assigned responsibility for this function. All precautions shall be taken to assure that production procedures do not contribute contamination such as filth, harmful chemicals, undesirable microorganisms or any other objectionable material to the processed product. Examples of production procedures which contribute to contamination are poorly maintained bottle washers, lack of sanitizing equipment and poor employee sanitary practices. Quality control records shall be maintained on all tests and analyses done on processed products.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1131. Plant Layout [formerly paragraph 6:153]

A. Where practicable, the operations of bottle washing and filling, compounding and mixing of syrups, and shipping, shall be performed in separate rooms. Where this is not feasible, the various operations shall be located in the available space in such a manner so that operations do not interfere with one another, and do not lead to product contamination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1133. Bottle Washing; Mechanical Cleaning and Sterilizing; Hand Washing of Bottles Prohibited [formerly paragraph 6:154]

A. Hand bottle washing, except as a preliminary to subsequent mechanical washing, is prohibited. All bottles shall be thoroughly cleaned and sterilized, according to the provisions of state law governing containers (R.S. 40:681 et seq.), immediately before filling, by means of an automatic mechanical washing machine.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1135. Preparation of Syrups [formerly paragraph 6:155]

A. Syrups shall be prepared in a clean manner, and every precaution shall be taken against contamination or absorption of deleterious substances (such as, but not limited to, mold, yeast, bacteria, insects, cleaning agent residues, toxic substances such as caustic soda, pesticide residues, etc.), during preparation and subsequent storage.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1137. Filling and Crowning [formerly paragraph 6:156]

A. Manual filling or crowning is prohibited. Bottles shall be filled and capped with automatic machinery, and the operator or his clothes shall not come in contact with any portion of the bottle or machinery which might result in contamination of the product.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1139. Storage of Crowns [formerly paragraph 6:157]

A. Crowns shall be stored in dust proof containers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1141. Preparation and Storage of Colors [formerly paragraph 6:158]

A. All non-alcoholic colors shall be prepared in small batches, sterilized immediately before use and stored so as protected against dust.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1143. Finished Product Storage [formerly paragraph 6:159]

A. The finished products shall be stored in such a manner as not to interfere with the sanitation of the bottling room.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1145. Refuse and Rubbish [formerly paragraph 6:160]

A. Bottle cases shall be kept free of broken bottles, garbage, litter or other materials which may harbor insects or rodents and other refuse.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1247 (June 2002).

§1147. Cleaning and Sanitizing of Apparatus
[formerly paragraph 6:161]

A. All pipe lines, apparatus and containers employed in the manufacturing processes shall be thoroughly washed, cleaned and sanitized at 4-hour intervals, so as to be maintained at all times in a clean and sanitary condition. Steam, hot water, chlorine or other equally efficient agents are permissible for sanitizing.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

§1149. Water
[formerly paragraph 6:162]

A. The water employed in the manufacture of beverages and for rinsing bottles or other containers shall be free from substances deleterious to health and shall conform to the regulations of this Code and to the standards for potable water.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

§1151. Prohibited Preservatives
[formerly paragraph 6:163]

A. No antiseptic, disinfectant or preservative prohibited by federal or state food and drug or health laws (21 CFR I et seq.; R.S. 40:601 et seq.), shall be used in beverages.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

§1153. Allowable Acids and Flavors; Prohibited Mineral Acids
[formerly paragraph 6:164]

A. Citric, tartaric or other edible organic acids, and their salts, may be used. Mineral acids, other than phosphoric acid or its salts, are prohibited in carbonated beverages. Acids and flavors shall be stored in covered containers, properly labeled, and protected against contamination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

§1155. Colors Additives
[formerly paragraph 6:165]

A. Only caramel, U. S. certified coal tar, or approved vegetable colors as described in the food additive statutes - 21 USC 409 or 21 CFR 170 shall be used.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

§1157. Employee Health
[formerly paragraph 6:166]

A. The requirements of Part I, §117, Part II, §§501 and 503 and Part VI, §§305-309 shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

Chapter 13. Cold Storage and Ice Plants

§1301. Definitions
[formerly paragraph 6:167]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Cold Storage Plants or Cold Storage Rooms—places artificially cooled by refrigerating machinery or ice, or other means in which articles of food are stored at a temperature of 45EF or lower; provided, however, that frozen food lockers for the convenience of individuals who rent such lockers for the storage of privately owned foods not intended for sale are not included.

Cross Connection—a physical connection through which a supply of potable water could be contaminated or polluted and/or a connection between a supervised potable water supply and an unsupervised supply of unknown potability.

Ice Plant—any building, or group of buildings, used or maintained for the manufacture of ice.

Personnel—any person who may in any manner come in contact with artificial ice during its manufacture, storage or distribution or with foods in cold storage.

Proprietor—any person, firm, corporation or governmental agency owning or operating an artificial ice or cold storage plant.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

§1303. Plans Review
[formerly paragraph 6:168]

A. Plans for the construction of new ice plants and cold storage plants and rooms, or for major changes in existing plants, shall be submitted to the state health officer for approval. Construction, or improvements, shall not begin before approval of the state health officer is obtained.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

§1305. Building Construction: Ice Plants, Cold Storage Plants or Cold Storage Rooms
[formerly paragraph 6:169]

A. Storage in any basement, room or receptacle which is subject to sewerage or waste water backflow, or in any place having defective drain pipes or appliances, is prohibited. Floors shall be constructed of tight, sound, smooth material, free from cracks and easily cleanable. The cold storage rooms shall be constructed and maintained to prevent entrance of rodents, in accordance with Part V (Disease Vector Control) of this Code.

B. All cold storage rooms shall be properly lighted by natural or artificial means.

C. No new ice plant shall hereafter be constructed nor shall major alterations be made to existing ice plants without

the prior written approval of, and unless in accordance with plans and specifications approved in advance by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1248 (June 2002).

§1307. Potable Water Supply
[formerly paragraph 6:170]

A. The water supply used by an artificial ice plant to make ice shall meet the requirements of Part XII of this Code for safe water supplies.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1309. Cross Connections
[formerly paragraph 6:171]

A. Physical connections between a potable water supply and a water of unknown or questionable quality are prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1311. Sewage Disposal
[formerly paragraph 6:172]

A. Sewage disposal facilities shall be provided in compliance with Part XIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1313. Toilet and Lavatory Facilities
[formerly paragraph 6:173]

A. Every artificial ice plant and cold storage plant shall be provided with toilet and hand washing facilities for employees as required by Section 407, titled "Minimum Plumbing Fixtures", of the LSPC. Handwashing facilities shall be located conveniently to all toilet facilities. These facilities shall be kept clean. Toilet room doors shall be self-closing.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1315. Air Blowers
[formerly paragraph 6:174]

A. The air intake of air blowers used at artificial ice plants shall be so located and protected as to ensure the use of a safe and clean air supply.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1317. Outside Entrances
[formerly paragraph 6:175]

A. Outside doors shall be self closing.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1319. Permits
[formerly paragraph 6:176]

A. Cold storage and ice plants must obtain permits from the state health officer, in accordance with Part I of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1321. Employee Health
[formerly paragraph 6:177]

A. The requirements of Part I, §117, and Part II, §§501-503.C shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1323. Spitting
[formerly paragraph 6:178]

A. Spitting in the ice plant and cold storage rooms is prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1325. Cleanliness
[formerly paragraph 6:179]

A. Floors of the brine rooms, ice storage and cold storage rooms, toilets and all other appurtenances shall be kept clean. Employees working on brine tanks or in ice storage rooms shall wear rubber boots, which shall be worn in these areas only.

B. [Formerly paragraph 6:180] Cold storage plants shall be kept free from rust, growths, molds and slime.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1327. Storage of Meats and Foods
[formerly paragraph 6:181]

A. Meats and foods shall not be placed in direct contact with ice, or upon the flooring of cold storage rooms. Bins, racks or other receptacles used for the storage of meats and foods shall be kept in a sanitary condition

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1329. Ice Removal From Cans
[formerly paragraph 6:182]

A. Submerging or spraying of ice cans for removal of ice cakes in other than potable water is prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1249 (June 2002).

§1331. Transportation, Distribution and Storage of Ice [formerly paragraph 6:183]

A. Ice intended for human or domestic consumption shall not be placed on streets, sidewalks, roads or alleys, or transported through such streets, sidewalks, roads or alleys, unless protected in a sanitary manner.

1. [Formerly paragraph 6:184] Trucks and other vehicles from which ice is sold or delivered, and all factories, shops, storerooms, pantries and other places where ice is handled for sale, service or consumption, shall be thoroughly clean and in a sanitary condition, and shall be kept free from all dirt, dust, trash or any other substance or matter which is liable to become mixed with or enter into the ice or anything prepared with ice, so as to contaminate or render it unclean or insanitary.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1250 (June 2002).

§1333. Grinding, Crushing and Packaging of Ice [formerly paragraph 6:185]

A. Crushed or ground ice intended for human consumption or use shall be crushed or ground and packaged in a sanitary manner so as to prevent contamination by filth, foreign material, dust, insects, rodent filth such as hairs, droppings, etc.

1. [Formerly part of paragraph 6:185] The crushing or grinding and packaging of ice on wagons, trucks or other vehicles used to deliver ice to be used for human or domestic consumption is strictly prohibited.

2. [Formerly part of paragraph 6:185] Ice intended to be used for human or domestic consumption shall be thoroughly washed before being placed in the crusher or grinder. The facilities for crushing or grinding and packaging of ice shall be located in a satisfactorily enclosed building or structure, and shall be maintained in a sanitary condition so that the ice will be protected from dust, dirt, flies, insects, rust and other contaminating sources during the grinding or crushing and packaging operations.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1250 (June 2002).

§1335. Records [formerly paragraph 6:186]

A. It shall be the duty of every person, firm or corporation operating a cold storage plant to keep an accurate record of the receipts and withdrawals of all goods stored therein. All goods stored in such an establishment shall be identified by a code or lot number, which number shall be entered in the record book at the time such goods are accepted for cold storage. The state health officer shall have free access to these records at any reasonable time during working hours.

§1337. Unwholesome Food [formerly paragraph 6:187]

A. No article of food shall be placed in cold storage if it shows evidences of decomposition, such as, but not limited to, spoilage, rodent defilement, insect infestations, chemical or pesticide contamination, filth and foreign object contamination, swollen cans, etc., or of other conditions which would make it unfit for food.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1250 (June 2002).

§1339. [Formerly paragraph 6:188] Reserved.

§1341. Sale of Cold Storage Goods; Prohibited AFresh@ Food Claims [formerly paragraph 6:189]

A. It shall be a violation of the State Sanitary Code to sell or offer or expose for sale uncooked articles of food which have been held in cold storage without advising or notifying persons purchasing, or intending to purchase, such articles of food that they have been held in cold storage; and it shall be unlawful to represent or advertise as "fresh", articles of food which have been held in cold storage.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1250 (June 2002).

§1343. Transfer of Cold Storage Goods; Prohibited Return to Cold Storage [formerly paragraph 6:190]

A. It shall be a violation of the Sanitary Code to return to cold storage any article of food which has once been released from storage, except that nothing in these regulations shall be construed as preventing the transfer of goods from one cold storage plant to another; provided, such goods are refrigerated at a temperature of 45EF or lower during such transfer; and, provided further, that such transfer is not made for the purpose of evading any provision.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1250 (June 2002).

Chapter 15. Current Good Manufacturing Practices in the Manufacture of Drugs

§1501. Definitions [formerly paragraph 6:191]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

*Active Ingredient*Cany component which is intended to furnish pharmacological activity or other direct effect in the diagnosis, care, mitigation, treatment or prevention of disease or to affect the structure of any function of the body of man or other animals. The term shall include other components which may undergo chemical change in the manufacture of the drug or be present in the finished product in a modified form intended to furnish the specified activity or effect.

*Batch*Ca specific quantity of a drug that has uniform character and quality within specified limits, and is produced according to a single manufacturing order.

Component—any ingredient intended for use in the manufacture of drugs in dosage form, including those that may appear in the final product.

Factory—see Chapter 1, §101 of this Part.

Inactive Ingredient—any component other than an Active Ingredient present in a drug.

Lot—a batch or any portion of a batch of a drug or, in the case of a drug manufactured in a continuous process, an amount of drug product in a unit of time or quantity in a manner that assures its uniformity and in either case which is identified by a distinctive lot and has uniform character and quality within specified limits.

Lot Numbers or Control Numbers—any distinctive combination of letters or numbers, or both from which the complete history of the manufacture, control, packaging and distribution of a batch or lot of drug can be determined.

Materials Approval Unit—any organizational element having the authority and responsibility to approve or reject components, in processing materials, packaging components and final products.

Strength—

a. the concentration of the drug substance (for example: w/w, w/v or unit dose/volume basis); and/or

b. the potency, that is the therapeutic activity of the drug substance as indicated by appropriate laboratory test or by adequately developed or clinically controlled data expressed (for example: in terms of units by reference to a standard).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1250 (June 2002).

§1503. Permits
[formerly paragraph 6:192]

A. No person shall operate any factory or process or repackage any drug within the State of Louisiana, without first applying for, paying the required fee and obtaining a permit to operate, issued by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1251 (June 2002).

§1505. Public Display of Permits
[formerly part of paragraph 6:192]

A. Every establishment regulated by this Part shall have displayed, at all times, in a place designated by the state health officer, a permit to operate.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1251 (June 2002).

§1507. Permit Exemptions
[formerly paragraph 6:193]

A. The following shall be exempt from the above permit procedures.

1. [Formerly paragraph 6:193-1] Pharmacies that are operating under applicable State laws regulating the dispensing of prescription drugs and that do not manufacture, prepare, propagate, compound or process drugs for sale other than in the regular course of the profession of pharmacy including the dispensing and selling of drugs at retail.

2. [Formerly paragraph 6:193-2] Hospitals, clinics and public health agencies which maintain establishments in conformance with any applicable State laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs, other than human blood products, upon prescription of practitioners, licensed by law to administer such drug for patients under the care of such practitioners in the course of their professional practice; practitioners who are licensed by law to prescribe or administer drugs and who manufacture, prepare, propagate, compound or process drugs solely for use in the course of their professional practice; and manufacturers of harmless inactive ingredients which are excipients, colorings, flavoring, emulsifiers, lubricants, preservatives or solvents that become components of drugs.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1251 (June 2002).

§1509. Examination, Condemnation and Destruction of Unwholesome or Adulterated Drugs
[formerly paragraph 6:194]

A. Samples of drugs and drug components may be taken and submitted to a state approved laboratory by the state health officer for examination as often as he deems necessary for the detection of unwholesomeness or adulteration. The state health officer may condemn and forbid the sale of, or cause to be removed or destroyed, any drug which he deems unwholesome or adulterated.

AUTHORITY NOTE: Promulgated in accordance with the provisions of §258(B) of Title 36, and Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes of 1950. See in particular, R.S. 40:4(A)(1)(a) and R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1251 (June 2002).

§1511. Personnel
[formerly paragraph 6:195]

A. The personnel responsible for directing the manufacture and control of the drug shall be adequate in number, and in education, training and experience, or combination thereof, to assure that the drug has the safety, identity, strength, quality and purity that it purports to possess. All personnel shall have capabilities commensurate with their assigned functions, a thorough understanding of the manufacturing and control functions they perform and adequate information concerning the reason for application of pertinent provisions of this Part to their respective functions.

B. [Formerly paragraph 6:196] Any person shown at any time (either by medical examination or supervisory observation) to have an apparent illness or open lesion that may adversely affect the safety or quality of drugs, shall be excluded from direct contact with drug products until the condition is corrected. All employees shall be instructed to report to supervisory personnel any condition that may have an adverse affect on drug products.

AUTHORITY NOTE: Promulgated in accordance with the provisions of §258(B) of Title 36, and Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes of 1950. See in particular, R.S. 40:4(A)(1)(a) and R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1251 (June 2002).

§1513. Building Construction [formerly paragraph 6:197]

A. Buildings shall be maintained in a clean and orderly manner and shall be of a size and construction to comply with the requirements of §§107-109.J of this Part, and of Part XIV (Plumbing) of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of §258(B) of Title 36, and Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes of 1950. See in particular, R.S. 40:4(A)(1)(a) and R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1252 (June 2002).

§1515. Building Requirements [formerly paragraph 6:198-1]

A. [Formerly paragraph 6:198-1] Buildings shall provide space for:

1. [Formerly paragraph 6:198-1 (1)] orderly placement of equipment and materials to minimize the possibility of contamination;

2. [Formerly paragraph 6:198-1 (2)] the receipt, storage and withholding from use of components pending sampling, identification and testing prior to release by the materials approval unit for manufacturing or packaging;

3. [Formerly paragraph 6:198-1 (3)] the holding of rejected components prior to distribution to preclude the possibility of their use in manufacturing or packaging procedures for which they are unsuitable;

4. [Formerly paragraph 6:198-1 (4)] the storage of components, containers, packing materials and labeling;

5. [Formerly paragraph 6:198-1 (5)] any manufacturing and processing operation performed;

6. [Formerly paragraph 6:198-1 (6)] any packing or labeling operation;

7. [Formerly paragraph 6:198-1 (7)] storage of finished product;

8. [Formerly paragraph 6:198-1 (8)] control and production laboratory operations.

B. [Formerly paragraph 6:198-2] Provide lighting and ventilation as per §313.A.3 and 4 of this Part, and screening, and when necessary for the intended production or control purposes (for example, the production of sterile products or to prevent antibiotic pollution) provide facilities for positive air pressure, microbiological, dust and temperature controls to:

1. [Formerly paragraph 6:198-2 (1)] minimize contamination of products by extraneous adulterants, including cross contamination of one product with dust particles of ingredients arising from the manufacture, storage or handling of another product;

2. [Formerly paragraph 6:198-2 (2)] provide for storage of drug components, in-process materials, and finished drugs in conformance with stability information as derived under §1705.B of this Code;

3. [Formerly paragraph 6:198-2 (3)] minimize dissemination of microorganisms from one area to another;

4. [Formerly paragraph 6:198-2 (4)] provide locker facilities for employee clothing and belongings. Provide washing facilities equipped with hot and cold water under pressure, delivered through a mixing faucet. Soap and sanitary towels or air dryer shall be provided at each lavatory.

C. [Formerly paragraph 6:198-3] Provide a supply of potable water (Part XIV, Plumbing) under conditions of positive pressure in a plumbing system free of defects that could cause or contribute to contamination of any drug. Drains shall be a minimum of 4 inches, and where connected directly to a sewer, shall be equipped with traps to prevent back-siphonage.

D. [Formerly paragraph 6:198-4] Provide suitable housing and space for the care of all laboratory animals.

E. [Formerly paragraph 6:198-5] Provide for safe and sanitary disposal of sewage, trash and other refuse within and from the building and immediate premises.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1252 (June 2002).

§1517. Equipment [formerly paragraph 6:199]

A. Equipment used for the manufacture, processing, packing, labeling, holding, testing or control of drugs shall be maintained in a clean and orderly manner and shall be of suitable design, size, construction and location to facilitate cleaning, maintenance and operation of its intended purpose. The equipment shall:

1. [Formerly paragraph 6:199-1] be constructed so that all surfaces that come into contact with a drug product shall not be reactive, additive or absorptive so as to alter the safety, identity strength, quality or purity of the drug or its components beyond established requirements;

2. [Formerly paragraph 6:199-2] be constructed so that any substance required for operation of the equipment, such as lubricant or coolants, do not contact drug products so as to alter the safety, identity, strength, quality or purity of the drug or its components beyond the established requirements;

3. [Formerly paragraph 6:199-3] be constructed and installed to facilitate adjustment, disassembly, cleaning and maintenance to assure the reliability of control procedure's uniformity of production and exclusion from the drugs of contamination from previous and current operations that might affect the safety, identity, strength, quality or purity of the drug or its components beyond established requirements;

4. [Formerly paragraph 6:199-4] be of suitable type, size and accuracy for any testing, measuring, mixing, weighing or other processing of storage operations. The regulations in this part permit the use of precision automatic, mechanical or electronic equipment in the production and control of drugs when inspection and checking procedures are used to assure proper performance.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1252 (June 2002).

§1519. Product Production and Quality Control [formerly paragraph 6:200]

A. Production and control procedures shall include all reasonable precautions including the following to assure that the drugs produced have the safety, identity, quality, strength and purity they purport to possess:

1. [Formerly paragraph 6:201-1] each significant step in the process, such as selection, weighing and measuring during the various stages of the processing and determination of the finished yield shall be performed by a competent and responsible individual and checked by a second competent and responsible individual; or if such steps in the processing are controlled by precision automatic, mechanical or electronic equipment, their performance is checked. The written record of the significant steps in the process shall be performed by a person having requisite abilities; such identifications shall be recorded immediately following the completion of such steps;

2. [Formerly paragraph 6:201-2] all containers, lines and equipment used during the production of a batch of drugs shall be properly identified at all times to accurately and completely indicate their contents, and when necessary, the stage of processing of the batch;

3. [Formerly paragraph 6:201-3] to minimize contamination and prevent mix-ups, equipment, utensils and containers shall be thoroughly cleaned or sanitized and stored and have previous batch identification removed or obliterated between batches at intervals while production operations are continuing;

4. [Formerly paragraph 6:201-4] precautions shall be taken to minimize microbiological and other contamination in the production of drugs purporting to be sterile, or which by virtue of their intended use should be free from objectionable microorganisms, such as the known common pathogens and others which might affect stability, color or taste;

5. [Formerly paragraph 6:201-5] procedures shall be established to minimize the hazard to any drugs while being manufactured or stored. Such procedures shall meet with the approval of the state health officer;

6. [Formerly paragraph 6:201-6] to assure the uniformity and integrity of products, there shall be in-process controls, such as checking the weights and disintegration times of tablets, the adequacy of mixing, the homogeneity of suspensions and the clarity of solutions. In-process sampling shall be done at intervals.

7. [Formerly paragraph 6:201-7] Representative samples of all dosage form drugs shall be tested to determine their conformance with the specifications of the product before distribution;

8. [Formerly paragraph 6:201-8] review and approval of all production and control records, including packing and labeling, shall be made prior to the release for distribution of a batch, and records maintained to show this review. A thorough investigation of the failure of a batch to meet any of its specifications shall be undertaken whether or not the batch has been distributed. The investigation shall extend to other batches of the same drug and other drugs that may have been associated with a problem found with that batch. A written record of the investigation shall be made and shall include the conclusion and follow-up;

9. [Formerly paragraph 6:201-9] returned goods shall be identified as such and held. If the conditions under which returned goods have been held, stored or shipped prior to or during their return, or the condition of the product, its container, carton or labeling as a result of storage or shipping cast doubt on the safety, identity, strength, quality or purity of the drug, the returned goods shall be destroyed or subjected to examination or testing to assure the material meets all original standards or specifications before being returned to stock for warehouse distribution or repacking. If the product is neither destroyed nor returned to store, it may be reprocessed provided the final product meets all of its standards and specifications. Records of returned goods shall be maintained and shall indicate the quantity returned, date and actual disposition of the product. If the reason for returned goods implicates associated batches, an appropriate investigation shall be made in accordance with the requirements of §1519.A.8 of this Part;

10. [Formerly paragraph 6:201-10] use of asbestos-containing or other fiber releasing filters:

a. [Formerly paragraph 6:201-10 (1)] filter used in the manufacture, process or packing of components of drug products for parenteral injections in humans shall not release fibers into such products. No asbestos-containing or other fiber-releasing filter may be used in the manufacture, process or packaging of such products unless it is not possible to manufacture that drug product or component without the use of such a filter. Filtration, as needed shall be through a non-fiber-releasing filter. This filter shall be defined as a non-asbestos filter that after the pretreatment such as washing or flushing, will not continue to release fibers into the drug product or component that is being filtered. A fiber is defined as any particle with length at least three times greater than its width;

b. [Formerly paragraph 6:201-10 (2)] if the use of a fiber-releasing filter is required, an additional non-fiber releasing filter or maximum pore size of 0.22 microns (0.45 microns if the manufacturing conditions so dictate) shall subsequently be used to reduce the content of any asbestos-form particle in the drug product or component.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1252 (June 2002).

§1521. Components
[formerly paragraph 6:202]

A. All components and other materials used in the manufacture, processing and packing of drug products, and materials necessary for building and equipment maintenance, shall upon receipt be stored and handled in a safe, sanitary and orderly manner to assure safety, purity and strength. Precautions shall be taken to prevent mix-ups and cross-contamination affecting drugs and drug products. Components shall be held from use until they have been identified, sampled and tested for conformance to established specifications and are released by a material approval unit. Controls of components shall include the following.

1. [Formerly paragraph 6:202-1] Each container of component shall be examined visually for damage or contamination prior to use, including examination for breakage of seals, when indicated.

2. [Formerly paragraph 6:202-2] Samples shall be taken from component containers from each lot and shall be subjected to one or more tests to establish their specific identity.

3. [Formerly paragraph 6:202-3] Samples of components liable to contamination with filth, insect

infestation or other extraneous contaminants shall be appropriately examined.

4. [Formerly paragraph 6:202-4] Samples of components liable to microbiological contamination shall be subjected to microbiological test prior to use. Such components shall not contain microorganisms that are objectionable in view of their intended use.

5. [Formerly paragraph 6:202-5] Samples of all components intended for use as active ingredients shall be tested to determine their strength in order to assure conformance with specifications approved by the state health officer.

6. [Formerly paragraph 6:202-6] Components which have previously been approved shall be identified and retested as necessary to assure that they continue to meet specifications:

a. [Formerly paragraph 6:202-6 (1)] Components which have been approved shall be handled and stored to guard against contamination or being contaminated by other drugs or components.

b. [Formerly paragraph 6:202-6 (2)] Components which have been approved shall be rotated in such a manner that the oldest stock is used first.

c. [Formerly paragraph 6:202-6 (3)] Rejected components shall be identified and held to preclude their use in manufacturing or processing procedures for which they are unsuitable.

7. [Formerly paragraph 6:202-7] Records shall be maintained for at least two years after distribution has been completed, or one year after the drug's expiration date, whichever is longer. Such records shall include:

a. [Formerly paragraph 6:202-7 (1)] The identity and quantity of the component, the name of the supplier, the supplier's lot number and the date of receipt.

b. [Formerly paragraph 6:202-7 (2)] Examinations and tests performed, and rejected components and their disposition.

c. [Formerly paragraph 6:202-7 (3)] An individual inventory and record for each component used in each batch of drug manufactured or processed.

8. [Formerly paragraph 6:202-8] An identified reserve sample of all active ingredients consisting of at least twice the quantity necessary for all required tests, except those for sterility and determination of pyrogens, shall be retained for at least two years after distribution of the last drug lot incorporating the component has been completed, or one year after the expiration date of this last drug lot, whichever is longer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1253 (June 2002).

§1523. Product Containers and Their Components [formerly paragraph 6:203]

A. Specifications, test methods, cleaning procedures and when indicated, sterilization procedures shall be used to assure that containers, closures and other component parts of drug packages are suitable for their intended use. Containers for parenteral drugs, drug products or drug components shall be cleansed with water which has been filtered through a non-fiber releasing filter. Product containers and their components shall not be reactive, additive or absorptive so as to alter the safety, strength, identity, quality or purity of the drug or its components beyond the official or established requirements, and shall provide protection against external factors that can cause the deterioration or contamination of the drug.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1254 (June 2002).

§1525. Laboratory Controls [formerly paragraph 6:204]

A. Laboratory controls shall include the establishment of scientifically sound specifications, standards and test procedures to assure that the components, in-processed drugs and finished products conform to standards of identity, strength, quality and purity. Laboratory controls shall include requirements listed in §§1525.A.1 - 1525.A.10.

1. [Formerly paragraph 6:205-1] The establishment of master records containing specifications for the acceptance of each lot of components, product containers and their components used in drug production and packaging and a description of the sampling and testing procedures used for them. Such records shall also contain provisions for retesting of drug components, product containers and their components which are subject to deterioration.

2. [Formerly paragraph 6:205-2] A reserve sample of all active ingredients as required by §1521.

3. [Formerly paragraph 6:205-3] The establishment of master records containing specifications and a description of sampling procedures for in-process drug preparations.

4. [Formerly paragraph 6:205-4] The establishment of master records containing a description of sampling procedures and appropriate specifications for the finished drug product.

5. [Formerly paragraph 6:205-5] Provisions for checking the identity and strength of a drug product for all active ingredients and for assuring:

a. [Formerly paragraph 6:205-5 (1)] sterility of drugs purported to be sterile; and freedom from objectionable microorganisms (such as the known common pathogens and others which might affect safety, strength and purity) for those drugs which should be so by virtue of their intended use;

b. [Formerly paragraph 6:205-5 (2)] the absence of pyrogens for those drugs purporting to be pyrogen-free;

c [Formerly paragraph 6:205-5 (3)] minimal contamination of ophthalmic ointment by foreign particles and harsh or abrasive substances;

d. [Formerly paragraph 6:205-5 (4)] that the drug release pattern of sustained-release products is tested by laboratory methods to assure conformance to release specifications.

6. [Formerly paragraph 6:205-6] Provisions for auditing the reliability, accuracy, precision and performance of laboratory instruments and test procedures.

7. [Formerly paragraph 6:205-7] An identified reserve sample of the finished product (stored in the same immediate container-closure system in which the drug is marketed) consisting of at least twice the quantity necessary to perform all the necessary tests, except those for sterility and

determination of the absence of pyrogens, shall be stored under conditions consistent with product labeling, and shall be retained for at least two years after distribution has been completed or one year after the expiration date, whichever is longer.

8. [Formerly paragraph 6:205-8] Provisions for retaining complete records of all laboratory data relating to each batch or lot of drug to which they apply. Such records shall be retained for at least two years after distribution has been completed or one year after the drug's expiration date, whichever is longer.

9. [Formerly paragraph 6:205-9] Provisions that animals shall be maintained and controlled in a manner that assures suitability for their intended use. They shall be identified and records maintained to determine the history of use.

10. [Formerly paragraph 6:205-10] Provisions that firms which manufacture non-penicillin products (including certifiable antibiotic products) on the same premises or use the same equipment as that used for manufacturing penicillin products, or that operate under any circumstances that may be regarded as conducive to contamination of other drugs by penicillin, shall test such non-penicillin products. Such products shall not be marketed if intended for use in man and the product is contaminated with an amount of penicillin equivalent to 0.05 units or more of penicillin AG" per maximum single dose recommended in the labeling of a drug intended for oral use.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1254 (June 2002).

§1527. Stability
[formerly paragraph 6:206]

A. There shall be assurance of the stability of the finished drug products. This stability shall be:

1. [Formerly paragraph 6:206-1] determined by reliable, specific test methods;

2. [Formerly paragraph 6:206-2] determined on products in the same container closure system in which they are marketed;

3. [Formerly paragraph 6:206-3] determined on any dry drug product that is to be reconstituted at the time of dispensing (as directed in its labeling) as well as on the reconstituted product;

4. [Formerly paragraph 6:206-4] recorded and maintained in such a manner that the stability data may be utilized in establishing product expiration dates.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1255 (June 2002).

§1529. Expiration Dating
[formerly paragraph 6:207]

A. To assure that the drug product liable to deterioration meets appropriate standards of identity, strength, quality and purity at the time of use, the label of all such drugs shall have suitable expiration dates which relate to the stability test performed on the product.

1. [Formerly paragraph 6:207-1] Expiration dates appearing on the drug product label shall be justified by readily available data from stability studies such as described in §1527.

2. [Formerly paragraph 6:207-2] Expiration dates shall be related to storage conditions stated on the labeling wherever the expiration date appears.

3. [Formerly paragraph 6:207-3] When the drug is marketed in the dry state for use in preparing a liquid product, the label shall bear expiration date and information for the reconstituted product as well as an expiration date for the product.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1255 (June 2002).

§1531. Packaging and Labeling
[formerly paragraph 6:208]

A. Packaging and labeling operations shall be controlled to assure that only those products that have met the standards and specifications in their master production and control records shall be distributed; to prevent mix-ups between drugs during filling, packaging and labeling operations to assure that correct labels and labeling are employed for the drug and to identify the finished product with a lot or control number that permits determination of the history of the manufacture and control of the batch. An hour, day or shift code is appropriate as a lot or control number for drug products manufactured or processed in continuous production equipment. Packaging and labeling operations shall:

1. [Formerly paragraph 6:208-1] be separated (physically or spatially) from operations on other drugs in a manner so as to avoid mix-ups and minimize cross-contamination. Two or more packaging or labeling operations having drugs, containers or labeling similar in appearance shall not be in process simultaneously on adjacent or nearby lines unless these operations are separated physically or spatially;

2. [Formerly paragraph 6:208-2] provide for an inspection of the facilities prior to use to assure that all drugs and previously used products and labeling materials have been removed;

3. [Formerly paragraph 6:208-3] include the following labeling controls:

a. [Formerly paragraph 6:208-3 (1)] the holding of labels and package labeling upon receipt pending review and proofing against an approved final copy to assure that they are accurate regarding identity, and content before release to inventory;

b. [Formerly paragraph 6:208-3 (2)] the maintenance and storage of each type of label and package labeling representing different products, strength, dosage forms or quantity of contents in such a manner as to prevent mix-ups and provide identification;

c. [Formerly paragraph 6:208-3 (3)] a system for assuring that only current labels and package labeling are retained and that stocks of obsolete package labeling are destroyed;

d. [Formerly paragraph 6:208-3 (4)] restriction of access to labels and package labeling to authorized personnel;

e. [Formerly paragraph 6:208-3 (5)] avoidance of gang printing of cut labels, cartons or inserts when the

labels, cartons or inserts are for different products or different strengths of the same products or are of the same size and have identical or similar format and/or color schemes. If gang printing is employed, packaging and labeling operation shall provide for added control procedures. These added controls should consider sheet layout, stacking, cutting and handling during and after printing;

4. [Formerly paragraph 6:208-4] provide for strict control of the package labeling issued for use with the drug. Such issue shall be carefully checked by a competent individual for identity and conformity to the labeling specified in the batch production. Said individual shall reconcile any discrepancy between the quantity of the drug finished and the quantities of labels issued;

5. [Formerly paragraph 6:208-5] provide for examination or laboratory testing of samples of finished product after packaging and labeling to safeguard against any errors in the finished operation and to prevent distribution of any batch until all tests have been met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1255 (June 2002).

§1533. Records and Reports
[formerly paragraph 6:209-1]

A. To assure uniformity from batch to batch, a master production and control record for each drug product and each batch size of drug product shall be independently checked, reconciled, dated and signed or initialed by a second. The master production and control record shall include:

1. [Formerly paragraph 6:209-1 (1)] the name of the product, description of the dosage form and a specimen of the copy of each label and all other labeling associated with the retail or bulk unit, including copies of such labeling signed or initialized and dated by the person or persons responsible for the approval of such labeling;

2. [Formerly paragraph 6:209-1 (2)] the name and weight or measure of each active ingredient per dosage unit, or per unit of weight or measure of the finished drug, and statement of the total weight or measure of any dosage unit;

3.a. [Formerly paragraph 6:209-1 (3)] a complete list of ingredients designated by names or codes to indicate any special quality characteristic;

b. an accurate statement of the weight or measure of each ingredient, regardless of whether it appears in the finished product. Reasonable variations may be permitted in the amount of components necessary in the preparation in dosage form, provided that provisions for such variations are included in the master production and control record;

c. a statement of theoretical weight or measure at various stages of processing and a statement of theoretical yield;

4. [Formerly paragraph 6:209-1 (4)] a description of the containers, closures and packaging and finishing materials;

5. [Formerly paragraph 6:209-1 (5)] manufacturing and control instructions, procedures and specifications, special notations and precautions to be followed.

B. The batch production and control record shall be prepared for each batch of drug produced and shall include complete information relating to the production and control of each batch. These records shall be retained for at least two years after the batch distribution is complete or at least one year after the batch expiration date, whichever is longer. These records shall identify the specific labeling and lot or control numbers used on the batch, and shall be readily available during such retention period. The batch record shall include:

1. [Formerly paragraph 6:209-2 (1)] an accurate reproduction of the master formula record checked, dated and signed or initialed by a person responsible for the approval of this record;

2. [Formerly paragraph 6:209-2 (2)] a record of each step in the manufacturing, processing, packaging, labeling, testing and controlling of the batch, including dates, individual major equipment and lines employed, specific identification of each batch of components used, weights and measures of components and products used in the course of processing, in-process and laboratory control results and identification and checking each significant step in the operation;

3. [Formerly paragraph 6: 209-2 (3)] a batch number that identifies all the production and control documents relating to the history of the batch and all lot and control numbers associated with the batch;

4. [Formerly paragraph 6:209-2 (4)] a record of any investigation made according to §1533.A.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1256 (June 2002).

§1535. Distribution Records
[formerly paragraph 6:209-3]

A. Finished goods warehouse control and distribution procedures shall include a system by which the distribution of each lot of drug can be readily determined to facilitate its recall if necessary. Records within the system shall contain the name and address of the consignee, date and quantity shipped and lot or control number of the drug. They shall be kept for two years after the batch has been completed or one year after the expiration of the drugs, whichever is longer.

B. [Formerly paragraph 6:209-4] To assure the quality of the product, finished goods warehouse control shall also include a system whereby the oldest stock is distributed first whenever possible.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1256 (June 2002).

§1537. Complaint Files
[formerly paragraph 6:210]

A. Records shall be maintained of all written and oral complaints regarding each product. An investigation of each complaint shall be made in accordance with Part I of this Code. The record of each investigation shall be maintained for at least two years after the distribution of the drug has been completed or one year after the expiration date, whichever is longer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1256 (June 2002).

Chapter 17. Drug Distributors, Drug Wholesalers and Drug Storage Warehouses

§1701. Definitions
[formerly paragraph 6:211]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Drug Wholesaler or Drug Distributor—any person or establishment that distributes drugs other than to the ultimate consumer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1257 (June 2002).

§1703. Permits
[formerly paragraph 6:212]

A. No person shall operate as a drug wholesaler, drug distributor or operate a drug warehouse within the State of Louisiana without first applying for, paying required fee and obtaining a permit to operate issued by the state health officer. Operating without such permit is a violation of this Code.

B. Every establishment regulated by this Part shall have displayed at all times a permit to operate.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1257 (June 2002).

§1705. Buildings
[formerly paragraph 6:213]

A. All buildings shall be maintained in a clean and orderly manner approved by the state health officer and shall be large enough and constructed and located in a way to facilitate cleaning and maintenance of good storage conditions of drugs and drug products.

B. [Formerly paragraph 6:214] All building shall be well lighted and ventilated.

C. [Formerly paragraph 6:215] All floors, walls, ceilings, tables and other fixtures shall be constructed of such materials that they may be readily cleaned.

D. [Formerly paragraph 6:216] All buildings shall be free of flies, rats, mice and other vermin. All insecticides and pesticides used shall be approved by the state health officer.

E. [Formerly paragraph 6:217] All buildings shall provide locker facilities for employee clothing and belongings. Provide washing facilities equipped with hot and cold water under pressure, delivered through a mixing faucet. Soap and sanitary towels or air dryer shall be provided at each lavatory.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1257 (June 2002).

§1707. Premises
[formerly paragraph 6:218]

A. All grounds where buildings are located shall be properly graded to provide a natural drainage, thus preventing an accumulation of stagnant water and other material.

B. [Formerly paragraph 6:219] No litter, waste or refuse shall be allowed to accumulate in and around the building or yards. Waste shall be removed and disposed of in an approved manner

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1257 (June 2002).

§1709. Water Supply
[formerly paragraph 6:220]

A. An ample supply of potable water (Part XII) under pressure shall be provided on the premises for drinking, cleaning, washing or other purposes. Such water supply shall not be connected to any other supply.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1257 (June 2002).

§1711. Records
[formerly paragraph 6:221]

A. Readily retrievable records shall be maintained which will show the disposition of all prescription items. Such records shall be retained for two years.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1257 (June 2002).

Part VII. Milk, Milk Products, and Manufactured Milk Products Regulations Cross Reference

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Part VII. Milk, Milk Products, and Manufactured Milk Products Regulations

Chapter 1. Milk and Milk Products

§101. Definitions and Standards of Identity [formerly paragraph 7:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be

adopted, are defined for the purposes thereof as follows (those definitions denoted by an asterisk are standards of identity and a milk, milk product, or manufactured milk product must conform to one of these standards of identity in order to be sold in this state).

Abnormal Milk **C**any milk or milk product shall be deemed to be abnormal if:

a. it contains filth, dirt or any foreign material;

b. it is obtained from a cow suffering from a disease which might adversely affect the milk for human consumption;

c. it is obtained from cows with infected udders;

d. it is colored;

e. it has a foreign taste or odor; or

f. it is slimy or ropy.

*Acidified Milk and Milk Products****C**milk and milk products obtained by the addition of food grade acids to pasteurized cream, half-and-half, milk, low fat milk, or skim milk, resulting in a product acidity of not less than 0.20 percent expressed as lactic acid.

*Adulterated Milk and Milk Products***C**any milk or milk products shall be deemed to be adulterated:

a. if defined in these regulations and fails to conform to its definition;

b. if it contains any unwholesome substance;

c. if water or any other substance has been added to the milk product so as to reduce, lower or injuriously affect its quality; or

d. if any substance has been substituted wholly, or in part, for any substance naturally inherent in the milk or milk product.

*Anomalous Milk and Milk Products***C**any other product containing milk or milk derivatives not defined herein. Purveyors of anomalous milk and milk products may request the establishment of a standard of identity for such products.

*Bacterial Plate Count, Direct Microscopic Count, Coliform Determinations, Mastitis Tests***C**the results of laboratory analysis of milk or milk products samples taken upon separate days, irrespective of the date of grading or regrading. Laboratory tests shall conform to the procedures in the latest edition of AStandard Methods for the Examination of Dairy Products@ recommended by the American Public Health Association.

*Breed Milk***C**milk which complies with all standards as required by the respective purebred association for that brand of milk. The sale of breed milk is permissible, provided that if this product is handled in a plant with other milk, same shall be subject to special requirements which shall be issued by the state health officer, to assure proper segregation.

*Buttermilk****C**a product resulting from the churning of milk or cream or from the souring or treatment by a lactic acid or other culture of milk, skim milk, reconstituted skim milk, evaporated or condensed milk or skim milk, or skim milk powder. It contains not less than 8.25 percent of milk solids-not-fat.

*Concentrated Milk****C**a fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from milk, which, when combined with potable water, results in a product conforming with the standards for milk fat and solids-no-fat of milk as defined above.

*Concentrated Milk Products****C**homogenized concentrated milk, vitamin D concentrated milk, concentrated skim milk, concentrated low fat milk, concentrated flavored milk, concentrated flavored milk products, and similar concentrated products made from concentrated milk or concentrated skim milk, and which, when combined with potable water in accordance with instructions printed on the container, conform with the definitions of the corresponding milk products in this section.

*Cottage Cheese****C**the soft uncured cheese prepared from the curd obtained by adding harmless lactic acid-producing bacteria, with or without rennet, to pasteurized skim milk. It contains not more than 80 percent moisture content to not less than 0.5 percent or not more than 2 percent.

*Creamed Cottage Cheese****C**the soft uncured cheese prepared by mixing cottage cheese with pasteurized cream or a pasteurized mixture of cream with milk or skim milk, which contains not less than 4 percent of milk fat by weight, nor more than 80 percent of moisture.

*Cream****C**a portion of milk which contains not less than 18 percent milk fat. Light cream, coffee cream, or table cream is cream which contains less than 30 percent milk fat. Whipping cream is cream which contains not less than 30 percent milk fat.

*Dairy Farm***C**any place or premises where one or more cows or goats are kept, and from which a part or all of the milk or milk product(s) is provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

*Egg Nog****C**a milk product consisting of a mixture of milk or milk products of at least 6.0 percent butterfat, at least 1.0 percent egg yolk solids, sweetener and flavoring.

*Filled Milk (Special Milk)***C**any milk product made by combining milk solids-not-fat and/or a derivative of milk with some fat or oil (other than butterfat and chocolate) and with one or more other wholesome ingredients. This definition shall not include any distinctive proprietary food not readily mistaken for milk or milk products, if such compound is:

a. prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician;

b. is packed in individual containers bearing a label in bold type that the contents are to be for said purposes as enumerated in Subclause a above.

*Filled or Imitation Milk or Milk Products***C**any milk or milk products or any combination of milk, whey, cream, or skimmed milk products in which some fat or oil, other than milk fat, has been substituted for the natural buttermilk of the milk, thus producing a product which resembles milk or milk products. Note that this definition shall not include any distinctive proprietary food compound not readily mistaken for milk or milk products, if such compound:

a. is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician;

b. is packed in individual containers bearing a label in bold type that the contents are to be used for said purposes, and, provided further, that nothing in this definition shall be held or construed to prevent the use, blending or compounding of chocolate as a flavor with milk,

cream or skimmed milk to which or with which no other fats or oils have been added, blended or compounded.

*Flavored Milk, Flavored Low Fat Milk, or Flavored Skim Milk****C**a food compound or confection consisting of milk or skim milk or low fat milk to which has been added a syrup, or flavor, and/or sugar, consisting of nutritive value ingredients.

*Goat Milk****C**the lacteal secretion practically free from colostrum, obtained by the complete milking of healthy goats, and shall comply with all the requirements of these regulations. The word Acows@ shall be interpreted to include goats.

*Grade A Dry Milk (Powdered Milk)****C**the product resulting from the removal of water from milk and contains the milk fat, lactose, milk proteins and milk minerals in the same relative proportions as in the fresh milk from which it is made. It contains not more than 2.5 percent by weight of moisture. Said product has been processed in compliance with §§1317 through 1359 of this Part.

*Grade A Dry Milk Products****C**include but are not limited to dry milk (powdered milk), non-fat dry milk (powdered skim milk), instant non-fat dry milk, and any other products resulting from the combination of Grade A dry milk products with other wholesome dry ingredients, and which comply with the applicable provisions of this Chapter.

*Half and Half****C**a milk product consisting of a mixture of milk and cream which shall contain not less than 10.5 percent milk fat.

*Hi-Lyte****C**a filled milk made in semblance of, and resembles a milk or a milk product. It shall contain at least 3.5 percent edible fat or oil, other than milk fat, not less than 8.25 percent of solids-not-fat (composed of any derivative of milk, including any caseinate product, and solids-not-fat from sources other than milk). It shall contain at least 400 U.S.P. units of Vitamin D and 1,500 I.U. of Vitamin A per quart. Harmless stabilizers and/or emulsifiers may be added.

*Homogenized Milk***C**milk which has been treated in such a manner as to insure break-up of the fat globules to such an extent that after 48 hours storage no visible cream separation occurs on the milk and in which the fat percentage of the top 100 c.c. of milk in a quart bottle, or of proportionate volumes in containers of other sizes, does not differ by more than 10 percent of itself from the fat percentage of the remaining milk as determined after thorough mixing.

*Imitation Milk or Imitation Milk Product***C**a food product made in semblance of, and resembles a milk or a milk product. It contains no milk fat nor milk solids.

*Lo-Lyte***C**a filled milk made in semblance of, and resembles a milk or a milk product. It shall contain not less than 0.5 percent nor more than 2 percent of edible fat or oil, other than milk fat, not less than 8.25 percent of solids-not-fat (composed of any derivative of milk, including any caseinate product, and solids-not-fat from sources other than milk). It shall contain at least 400 U.S.P. units of Vitamin D, and 1,500 I.U. of Vitamin A per quart. Harmless stabilizers and/or emulsifiers may be added.

*Lo-Rene****C**filled milk containing not less than 0.5 percent nor more than 2 percent of edible fat or oil, other than milk fat, and which also contains not less than 8.25 percent of milk solids-not-fat. It shall contain at least 400 U.S.P. units of Vitamin D and 1,500 I.U. of Vitamin A per quart. Harmless stabilizers and/or emulsifiers may be added.

*Lo-Veg****C**an imitation milk made in semblance of, and resembles a milk or a milk product. It contains no milk fat nor milk solids. It shall contain not less than 0.5 percent nor more than 2 percent of edible fat or oil, other than milk fat, and shall also contain not less than 8.25 percent of solids-not-fat from sources other than milk. It shall contain at least 400 U.S.P. units of Vitamin D and 1,500 I.U. of Vitamin A per quart. Harmless stabilizers and/or emulsifiers may be added.

*Low Fat Cottage Cheese****C**the same as Cottage Cheese except that it contains 0.5% to 2.0% butterfat by weight and a minimum of 82.5 percent moisture. The label must bear the phrase Acontains not more than 2% butterfat.@

*Low Fat Milk****C**milk from which a sufficient portion of milk fat has been removed to reduce its milk fat content to not less than 0.5 percent nor more than 2 percent.

*Manufactured Milk Products***C**shall include, but not be limited to hermetically sealed containers of condensed milk and condensed skim milk, butter, cheese, sweetened condensed milk, evaporated milk, evaporated skim milk, imitation milk and imitation milk products, and any other product made from milk and designated as a manufactured milk product by the state health officer.

*Milk***C**the lacteal secretion obtained by the complete milking of one or more healthy cows, excluding that obtained within fifteen days before and five days after calving, or such longer periods as may be necessary to render the milk practically colostrum free. Such milk contains not less than 8.25 percent of milk solids-no-fat, and not less than 3.5 percent of milk fat. The finished product packaged in its final container and intended for human consumption shall contain not less than 3.5 percent of milk fat.

*Milk Distributor***C**any person who offers for sale or sells to another any milk or milk products for human consumption as such.

*Milk Fat or Butter Fat***C**the fat of milk.

*Milk Hauler***C**any person who transports raw milk and/or raw milk products to or from a milk plant, receiving or transfer station.

*Milk Plant***C**any place, premises or establishment, other than a dairy or dairy farm, where milk or milk products are collected, handled, processed, stored, bottled, pasteurized or prepared for distribution.

*Milk Producer***C**any person who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station.

*Milk Products***C**other than frozen desserts and manufactured milk products, shall include, but not be limited to cream, whey, sour cream, homogenized milk, goat milk, flavored vitamin D milk, flavored vitamin D skim milk, flavored vitamin D low fat milk, buttermilk, skim milk, non-fat milk, reconstituted or recombined milk and cream, cream cheese, cottage cheese, concentrated milk, sterilized milk, sterilized cream, cultured milk, dry milk, (powdered milk), non-fat dry milk (powdered skim milk), lowfat dry milk (powdered lowfat milk), dry whey, condensed milk, condensed whey, acidified milk and acidified milk products, filled milk and filled milk products and any other product made by the addition of any substance to milk or to any of these products and used for similar purposes and designated as a milk product by the state health officer.

Misbranded Milk and Milk Products—any milk or milk product which is not labeled in accordance with the requirements of §§165 through 171 of this Part.

Official Laboratory—a biological, chemical, or physical laboratory which is under the direct supervision of the state health officer.

Optional Ingredients—a dry milk products, concentrated milk, concentrated milk products, lactose, flavors, sweeteners, stabilizers, emulsifiers, acidifiers, vitamins, minerals, and similar ingredients. These optional ingredients may be used in milk products with the permission of the state health officer.

Overflow Milk or Milk Product—a milk or milk product which has either:

a. been caught in containers from leaking valves, leaking joints in sanitary milk pipelines, spillage at coolers and bottling machines, or broken bottles; or

b. been exposed to contamination by contact with the surfaces of equipment which have not been treated with a bactericide.

Pasteurization, Pasteurized (and other derivations of this word)—the process of heating every particle of milk or milk product to at least 145°F, and holding it continuously at or above this temperature for at least 30 minutes, or to at least 161°F, and holding it continuously at or above this temperature for at least 15 seconds, in equipment which is properly operated and approved by the state health officer, provided:

a. that milk products which have a higher milk fat content than milk and/or contain added sweeteners shall be heated to at least 150°F, and held continuously at or above this temperature for at 30 minutes, or to at least 166°F, and held continuously at or above this temperature for at least 15 seconds, and

b. that nothing in this definition shall be construed as barring any other pasteurization process which has been recognized to be equally efficient and which is approved by the state health officer.

Phosphatase Test—used to determine whether or not milk has been properly pasteurized. The test is based on the detection of phosphatase enzyme, a constituent of raw milk, which is inactivated by pasteurizing at 145°F for 30 minutes, or 161°F for 30 minutes, or 161°F for 15 seconds. Milk or cream pasteurized under commercial conditions at 145°F for 30 minutes or at 161°F for 15 seconds will give a definite color which may be compared to color standards. The test indicates small but significant deficiency in pasteurization, such as a drop in temperature of one to two degrees below 145°F, a shortage in holding time and the presence of as little as .1 percent of raw milk.

Receiving Station—any place, premise, or establishment where raw milk is received, collected, handled, stored or cooled and prepared for further transporting.

Reconstituted or Recombined Milk and Milk Products—result from the recombining of milk constituents with fluid milk or water and comply with the standards for milk and milk products as defined herein. Reconstituted or recombined cream is a product resulting from the combination of dried cream, butter or butterfat with cream, milk, skim milk or water, and which complies with the standards for milk and milk products as defined herein.

*Reene**—a filled milk containing at least 3.5 percent of edible fat or oil, other than milk fat, and which also contains not less than 8.25 percent of milk solids-not-fat. It shall contain at least 400 U.S.P. of Vitamin D and 1,500 I.U. of Vitamin A per quart. Harmless stabilizers and/or emulsifiers may be added.

Sanitation—the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the state health officer.

*Skim Milk**—milk from which a sufficient portion of milk fat has been removed to reduce its milk fat percentage to less than 1/2 of 1 percent.

Sour Cream or Cultured Sour Cream—a fluid or semifluid cream resulting from the souring, by lactic acid producing bacteria or similar culture, of pasteurized cream, which contains not less than 0.20 percent acidity expressed as lactic acid.

*Sterilized Cream**—cream which has been heated to such a temperature as to render it free of living organisms. Said product may or may not require refrigeration in order to maintain its original quality. Sterilized light cream, coffee cream or table cream shall contain not less than 18 percent milk fat. Sterilized whipping cream shall contain not less than 30 percent milk fat.

*Sterilized Milk, Sterilized Lowfat Milk, Sterilized Skim Milk**—whole, lowfat or skim fluid milk which has been heated to such a temperature as to render it free of living organisms. Said product may or may not require refrigeration in order to maintain its original quality.

Sterilized Flavored Milk, Sterilized Low-Fat Milk, and Sterilized Skim Milk—flavored milk, flavored lowfat milk or flavored skim milk which has been heated.

Transfer Station—any place, premises, or establishment where milk or milk products are transferred directly from one transport tank to another.

*Vegatine**—an imitation milk made in semblance of, and resembles a milk or a milk product. It contains no milk fat nor milk solids. It shall contain at least 3.5 percent edible fat or oil, other than milk fat, and shall also contain not less than 8.25 percent of solids-not-fat from sources other than milk. It shall contain at least 400 U.S.P. units of Vitamin D and 1,500 I.U. of Vitamin A per quart. Harmless stabilizers and/or emulsifiers may be added.

*Vitamin D Milk and Vitamin D Milk Products**—milk products in which the vitamin D content has been increased by a method and in an amount approved by the state health officer.

*Yogurt**—a cultured product made from whole milk which may be cultured by a combination of several strains of bacteria, but primarily with *Lactobacillus bulgaricus* and *Streptococcus thermophilus*. It shall have a butterfat content of not less than 3.5 percent. Yogurt with added fruits and/or other approved optional ingredients may have a butterfat content reduced in proportion to the fruits and/or optional ingredients added, provided that it shall not be less than 2 percent. All yogurts, other than plain, shall contain not less than 8 percent butterfat by weight. The use of artificial flavors as the sole flavoring agent is prohibited.

*Low Fat Yogurt**—the same as Yogurt, except that it contains a lower butterfat content. It must contain at least 0.5 percent but not more than 2 percent butterfat.

Ultra-Pasteurized—when used to describe a dairy product, shall mean that such product shall have been thermally processed at or above 280°F (138°C) for at least two seconds, either before or after packaging, so as to produce a product which has an extended shelf life under refrigerated conditions.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is R.S. 36:258 (B), with more particular provisions found in Chapters 1 and 4 of Title 40. This Part is promulgated in accordance with specific provisions of R.S. 40: 4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1258 (June 2002).

§103. Local Ordinances
[formerly paragraph 7:003]

A. Parishes and municipalities may adopt local milk ordinances provided that such ordinances do not conflict with the United States Public Health Service Pasteurized Milk Ordinance, the Code, or state statutes pertaining to milk and further provided that such ordinances are approved by the state health officer prior to adoption.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1262 (June 2002).

§105. Grading by State Health Officer
[formerly paragraph 7:004]

A. Milk and milk products shall be graded by the state health officer. Manufactured milk products are exempt from grading requirements.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1262 (June 2002).

Subchapter A. Required Permits

§107. Permits
[formerly paragraph 7:005]

A. It shall be unlawful for any person who does not possess a permit from the state health officer in whose jurisdiction the products (except Extra and Standard grade of dry milk and dry milk products) are being sold or offered for sale, to bring into or receive into a municipality, parish or health district, or its police jurisdiction, for sale; or to sell or offer for sale therein or to have in storage where milk or milk products are sold or served, and milk or milk products defined in these regulations.

B. [Formerly paragraph 7:006] Operators of dairy farms, milk cooling plants, transfer stations, receiving stations, pasteurization plants and milk haulers are required to have a permit from the state health officer within whose jurisdiction the farm, plant or route is located. Only a person who complies with the requirements of these regulations shall be entitled to receive and retain such a permit.

C. [Formerly paragraph 7:007] Such a permit may be temporarily suspended by the state health officer upon violation by the holder of any of the terms of these regulations, or for interference with the state health officer in the performance of his duties, or may be revoked after an opportunity for a hearing by the state health officer upon serious or repeated violations.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1262 (June 2002).

§109. Permits Required for Imported Milk and Milk Products
[formerly paragraph 7:008]

A. It shall be unlawful for any person, firm, or corporation to ship milk or milk products (except Extra and Standard grades of dry milk and dry milk products) into Louisiana from outside the state without first obtaining a permit from the state health officer.

1. All milk and milk products (except Extra and Standard grades of dry milk and dry milk products) brought into Louisiana from outside the state shall be of Grade A quality. The production sources may be inspected by a duly authorized representative of the state health officer, or in lieu thereof, the state health officer may accept the certificate of inspection of a duly authorized governmental representative, agent or agency of such other state wherein such products are produced.

2. All dry milk and dry milk products brought into Louisiana from outside the state shall meet minimum requirements for at least one of the following grade designations and shall be labeled accordingly: (a) Grade A, as defined in §1301 of this Part, (b) Extra, as defined in §1311 of this Part, (c) Standard, as defined in §1313 of this Part. Production sources and processing plants may be inspected by the state health officer, or in lieu thereof, the state health officer may accept the certificate of inspection of a duly authorized governmental representative, agent or agency of such other state wherein such products are produced.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1262 (June 2002).

Subchapter B. Required Reports and Records

§111. Reporting Sources of Supply
[formerly paragraph 7:009]

A. Dealers and operators of milk plants, milk depots, cooling stations, and others receiving milk from one or more sources, shall report new sources of supply to the state health officer prior to receiving same.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1262 (June 2002).

§113. Milk Records
[formerly paragraph 7:010]

A. Each milk plant, milk depot, cooling station, or others receiving milk, milk products and manufactured milk products from one or more sources shall keep records of the sources and the amounts of such products received. They shall also keep records showing utilization and disposition of all such products they receive. These records shall include names and amounts of each such product used or disposed of. Such records shall be open to inspection by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1262 (June 2002).

§115. Certificate of Grade
[formerly paragraph 7:011]

A. Dairies and milk plants which offer milk or milk products for sale shall use labels specifying the grade of the product as approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1263 (June 2002).

Chapter 3. Dairy Farm Sanitation

§301. Approval of Plans
[formerly paragraph 7:012]

A. All dairies from which milk or milk products are offered for sale and which are hereafter constructed, reconstructed, or altered shall conform in their construction to the requirements of these minimum regulations for dairy farms producing milk. Plans shall be approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1263 (June 2002).

Subchapter A. Health of Dairy Cattle

§303. Health of Dairy Cattle
[formerly paragraph 7:013]

A. [Formerly paragraph 7:013-1] Tuberculosis. All milk for pasteurization shall be from herds which are located in a modified accredited tuberculosis -free area, as determined by the Animal Disease Eradication Branch, ARS, U.S. Department of Agriculture, or the Louisiana State Livestock Sanitary Board and which have been tested for tuberculosis at least once in every six year period. Note that herds located in an area that fails to maintain such accredited status, or that has an incidence of bovine tuberculosis in excess of 0.2 percent shall have been accredited by said Animal Disease Eradication Branch, ARS, U.S. Department of Agriculture, or the Louisiana State Livestock Sanitary Board, for tuberculosis -free, accredited herds, in effect at the time of the adoption of this ordinance. A certificate identifying each animal signed by the veterinarian and filed as directed by the state health officer shall be evidence of the above tests.

B. [Formerly paragraph 7:013-2] Brucellosis. All milk and milk products for pasteurization shall be from herds certified by the Livestock Sanitary Board of the Louisiana State Department of Agriculture and the Animal Health Division of the U.S. Department of Agriculture as being under continual Brucellosis disease surveillance. Evidence of this certification shall be filed as directed by the state health officer. All additions to the herd shall be Brucellosis free and know Brucellosis reactors must be removed from the herd immediately. Tests and retests shall be made and reactors disposed of in accordance with the latest requirements of the Livestock Sanitary Board and the Animal Health Division of the U.S. Department of Agriculture. A certificate identifying each animal, signed by the veterinarian and filed as directed by the state health officer shall be evidence of these tests.

C. [Formerly paragraph 7:013-3] Mastitis. Cows which show an extensive induration of one or more quarters of the udder upon physical examination, whether secreting abnormal milk or not, and cows giving bloody, stringy or otherwise abnormal milk shall be excluded from the milking herd until reexamination shows that the milk and the udder have become normal.

1. The state health officer may require the use of the strip cup, a mastitis screening test or bacteriological examination of the milk if, in his opinion, it is necessary in the public interest.

2. If streptococci or other organisms are found in abnormally large numbers in a fresh sample from an individual cow, the milk from that cow shall be excluded from the supply until it has returned to normal.

D. [Formerly paragraph 7:013-4] For other diseases such tests and examinations as the state health officer may require shall be made at intervals and by methods prescribed by him, and any diseased animal or reactors shall be disposed of as he may require.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1263 (June 2002).

§305. Surroundings of Dairy Barns
[formerly paragraph 7:014]

A. The immediate surroundings of the dairy barn shall be kept in a neat and clean condition. Swine are prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1263 (June 2002).

§307. Cow Yard
[formerly paragraph 7:015]

A. All cow yards shall be effectively graded and drained and have no standing pools of water or accumulations of organic waste. A slab of concrete or other impervious material shall be provided, sufficient in size to hold the milking herd. There shall be no stagnant water or mud elsewhere deep enough to soil udders when cows are standing. Swine shall be kept out.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1263 (June 2002).

§309. Manure Disposal
[formerly paragraph 7:016]

A. All manure shall be removed and stored or disposed of in such manner as best to prevent the breeding of flies therein or the access of cows to piles thereof. Note that in loafing or pen type stables manure droppings shall be removed or clean bedding added at sufficiently frequent intervals to prevent the accumulation of manure on cows' udders and flanks and the breeding of flies.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1263 (June 2002).

§311. Dairy Barn Required
[formerly paragraph 7:017]

A. A dairy barn shall be required. The exterior of said barn shall be neat in appearance and finished in a manner approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1264 (June 2002).

§313. Milking Barn or Parlor Cleanliness
[formerly paragraph 7:018]

A. The interior shall be kept clean. Floors, walls, windows, pipelines, and equipment shall be free of filth and/or litter, and shall be clean. Swine and fowl shall be kept out of the milking barn. All pens, calf stalls, etc. Shall be located at a reasonable distance away from the milking barn and shall be kept clean.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1264 (June 2002).

§315. Lighting
[formerly paragraph 7:019]

A. The areas of the milking barn where cows are milked shall be provided with natural and/or artificial light, well distributed for day and/or night milking. When necessary, barns shall be provided with adequate supplementary artificial light. The equivalent of 10-foot candles of light in all working areas shall be provided.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1264 (June 2002).

§317. Air Space Ventilation
[formerly paragraph 7:020]

A. Such sections of all dairy barns where cows are kept or milked shall be well ventilated and shall be so arranged as to avoid overcrowding.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1264 (June 2002).

§319. Floors
[formerly paragraph 7:021]

A. The floors, gutters, and feed troughs of such parts of all dairy barns in which cows are milked shall be constructed of concrete or other approved impervious and easily cleaned material, shall be graded to drain and shall be in good repair.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1264 (June 2002).

§321. Walls and Ceilings
[formerly paragraph 7:022]

A. The walls and ceilings of all dairy barns shall be smooth, painted or finished in a manner approved by the state health officer and shall be kept clean and in good repair. In case there is a second story above that part of the barn in which cows are milked, the ceiling shall be tight. If the feed room adjoins the milking space it shall be separated therefrom by a dust-tight partition and door. Feed may be stored in the milking portion of the barn only in such a manner as will not increase the dust content of the air, attract flies, or interfere with cleaning of the floor (as in covered, dust-tight boxes, or bins). Open feed dollies may be used for distributing the feed, but not for storing feed, in the milking barn. A minimum of eight feet ceiling height shall be required in all dairies. When elevated stanchions are used this height shall be measured from the elevated portion of the barn.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1264 (June 2002).

§323. Milk House or Room
[formerly paragraph 7:023]

A. There shall be provided a milk house or milk room in which the cooling, handling and storing of milk and milk products and the washing, bactericidal treatment and storing of milk containers and utensils shall be done. The milk house or milk room shall conform to the following requirements.

1. It shall be provided with a tight floor constructed of concrete or other impervious material, in good repair, graded to drain through trapped floor drains.

2. It shall have walls and ceilings of such construction as to permit easy cleaning and shall be painted or finished in an approved manner.

3. The milk house shall have adequate natural and/or artificial light and be well ventilated. A minimum of 20-foot candles of light is to be provided in all working areas. Artificial lights shall not be located over bulk milk tanks.

4. It shall be provided with glazed windows and solid doors which shall be kept closed during dusty weather. It shall have all openings effectively screened, including outward openings, self-closing screen doors, unless other effective means are provided to prevent the entrance of flies.

5. It shall be used for no other purpose than those specified above, except as may be approved by the state health officer.

6. It shall not open directly into a stable or into any room used for domestic purposes.

7. The water supply for the milk room and/or dairy barn shall be from a supply easily accessible, constructed and operated according to Part XII of this Code.

8. It shall have water piped into it, protected against normal freezing conditions.

9. It shall be provided with automatic facilities for the heating of water for the cleaning of utensils.

10. It shall be equipped with two-compartment stationary wash and rinse vats, large enough to submerge the largest piece of equipment or container.

11. Convenient hand washing facilities shall be provided, including hot and cold water under pressure delivered through a mixing faucet, soap, approved single service sanitary towels and lavatory.

12. Every dairy farm shall be provided with one or more sanitary toilets, conveniently located, constructed according to Part XIII of this Code, and operated in a sanitary manner.

13. The floors, walls, ceilings, and equipment of the milk house or room shall be kept clean at all times.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1264 (June 2002).

§325. Construction of Containers and Equipment [formerly paragraph 7:024]

A. All multi-use containers, utensils and equipment used in the handling, storage or transportation of milk or milk products shall be made of smooth, non-absorbent and non-oxidizable material and of such construction and so located as to be easily cleaned, shall be free of exposed copper or brass, and shall be kept in good repair. Joints and seams shall be soldered flush. Woven wire cloth shall not be used for straining milk. All milk pails shall be of heavy-gauge material and of a small mouth design approved by the state health officer. The design and construction of all milk equipment shall be approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§327. Cleaning of Containers and Equipment [formerly paragraph 7:025]

A. All multi-use containers, equipment, and other utensils used in the handling, storage, transportation of milk and milk products shall, between each usage in clean, hot water containing a suitable diary cleanser, and rinsed in clean water.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§329. Bactericidal Treatment of Containers and Equipment [formerly paragraph 7:026]

A. All multi-use containers, equipment, and other utensils used in the handling, storage, transportation of milk and milk products shall, between usage, be subjected to an approved bactericidal process with steam, hot water, chlorine or hot air, or the application of any other method or substance for the destruction of bacteria which, in the opinion of the state health officer, does not adversely affect the equipment, the milk or the milk products or the health of the consumer, and which is effective. When empty and before being returned to a producer by a milk plant each container shall be thoroughly cleaned, rinsed and effectively subjected to an approved bactericidal process.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§331. Storage [formerly paragraph 7:027]

A. All containers and other utensils used in the handling, storage, or transportation of milk or milk products shall, unless stored in bactericidal solutions, be so stored as to drain, and dry and so as not to become contaminated before use.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§333. Handling [formerly paragraph 7:028]

A. After bactericidal treatment, no container or other milk or milk product utensil shall be handled in such manner as to permit any part of any person or his clothing to come in contact with any source with which milk or milk products come in contact.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§335. Milk Stools, Surcingles, and Antikickers [formerly paragraph 7:029]

A. Milk stools, surcingles and antikickers shall be clean and stored above the floor.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§337. Sanitary Piping [formerly paragraph 7:030]

A. All piping used to conduct milk or milk products shall be sanitary milk piping of a type which can be easily cleaned.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§339. Udders and Teats, Abnormal Milk [formerly paragraph 7:031]

A. The udders and teats of all milk cows shall be cleaned, rinsed with a bactericidal solution and wiped dry prior to milking. Abnormal milk shall be kept out of the milk supply and shall be so handled and disposed of as to preclude the infection of the cows and the contamination of milk utensils. The use of a common towel, sponge, or similar device for cleaning udders is prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§341. Flanks [formerly paragraph 7:032]

A. The flanks, bellies, tails and udders shall be clipped as necessary and be free from visible dirt at the time of milking.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§343. Removal of Milk [formerly paragraph 7:033]

A. Each pail of milk shall be removed immediately to the milk house or straining room. No milk shall be strained or poured in the dairy barn.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1265 (June 2002).

§345. Cooling
[formerly paragraph 7:034]

A. Milk must be cooled immediately after milking to 45°F or less and maintained at or below that temperature until delivery.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§347. Cow Feed
[formerly paragraph 7:035]

A. No cows shall be fed on any substance in a state of fermentation and putrefaction or on any swill or unwholesome feed. This regulation shall not be construed to prohibit the use of properly prepared ensilage.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§349. Teat Cup Inflation Sanitization
[formerly paragraph 7:036]

A. All teat cups shall be effectively sanitized after each cow has been milked to completion.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§351. Insect and Rodent Control
[formerly paragraph 7:037]

A. Effective measures shall be taken to prevent the contamination of milk, containers, equipment, and utensils by insects and rodents, and by chemicals used to control such vermin. Milk rooms shall be free of insects and rodents. Surroundings shall be free of insects and rodents. Surroundings shall be kept neat, clean, and free of conditions which might harbor or be conducive to the breeding of insects and rodents.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§353. Personal Cleanliness
[formerly paragraph 7:038]

A. All persons coming in contact with milk, milk products, containers, or equipment shall wear clean outer garments and shall keep their hands clean at all times while thus engaged.

B. [Formerly paragraph 7:039] Milkers' hands shall be clean, rinsed with a bactericidal solution and dried with a clean towel immediately before milking and following any interruption in the milk operation. Wet-hand milking is prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§355. Clarifiers in the Milk Room
[formerly paragraph 7:040]

A. It shall be unlawful for a milk producer to use any clarifiers, equipment or device in the milk room or dairy barn that would remove or alter a portion or all of the constituents of the milk, provided that this would not prohibit the use of single service filters to remove hair or foreign particles that may accidentally gain access to the milk.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

Chapter 5. Milk and Milk Products Processing Plants

§501. Approval of Plans
[formerly paragraph 7:045]

A. All milk and milk products plants from which milk or milk products are offered for sale and which are hereafter constructed, reconstructed, or altered shall conform in their construction to the requirements of these minimum regulations for processing plants. Signed approval shall be obtained from the state health officer for all construction or equipment plans that are to be constructed, reconstructed, or altered.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§503. Immediate Surroundings
[formerly paragraph 7:046]

A. The immediate surroundings of the milk plant shall be kept in a neat, clean condition.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§505. Floors
[formerly paragraph 7:047]

A. The floors of all rooms in which milk or milk products are handled or stored or in which utensils are washed shall be constructed of concrete or other equally impervious and easily cleaned material and shall be smooth, properly drained, provided with trapped drains and kept clean.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§507. Walls and Ceilings
[formerly paragraph 7:048]

A. Walls and ceilings of rooms in which milk and milk products are handled or stored or in which utensils are washed shall be constructed of concrete or other equally imperious and easily cleaned material and shall be smooth, properly drained, provided with trapped drains and kept clean.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1266 (June 2002).

§509. Doors and Windows
[formerly paragraph 7:049]

A. The milk plant shall be provided with glazed windows and solid doors which shall be kept closed during dusty weather. Unless other effective means are provided to prevent the access of flies, all openings into the outer air shall be effectively screened. Screen doors shall be self-closing and open outward.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1267 (June 2002).

§511. Light and Ventilation
[formerly paragraph 7:050]

A. All rooms shall be well lighted and ventilated. Window space shall not be less than 10 percent of the floor area, and the light shall be evenly distributed. When necessary, all rooms shall be provided with adequate supplementary artificial light and ventilation: Provided further, that all working areas shall have at least 20-foot candles of light evenly distributed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1267 (June 2002).

§513. Separate Rooms
[formerly paragraph 7:051]

A. There shall be separate rooms for:

1. pasteurizing, processing, cooling, and packaging; and

2. cleaning of milk cans and bottles. In addition, plants receiving milk in bulk transport tanks shall provide for cleaning and sanitizing facilities.

B. Unless all milk and milk products are received in bulk transport tanks, a receiving room, separate from rooms Paragraph 1 and 2 above, shall be required.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1267 (June 2002).

§515. Toilet Facilities
[formerly paragraph 7:052]

A. Every milk plant shall be provided with flush toilet facilities conforming to the regulations of Part XIII of this Code. Toilet rooms shall not open directly into any room in which milk, milk products, equipment, or containers are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in clean condition, in good repair, and well ventilated.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1267 (June 2002).

§517. Water Supply
[formerly paragraph 7:053]

A. The water supply shall comply with Part XII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1267 (June 2002).

§519. Hand Washing Facilities
[formerly paragraph 7:054]

A. Convenient hand-washing facilities shall be provided, including hot and cold running water, soap and single-service sanitary towels. The use of a towel in common is prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1267 (June 2002).

§521. Protection From Contamination
[formerly paragraph 7:055]

A. The various milk plant operations shall be so located and conducted as to prevent any contamination of the milk or of the cleaned equipment. All means necessary for the elimination of the milk or of the cleaned equipment. All means necessary for the elimination of flies shall be used. Pasteurized milk or milk products shall not be permitted to come in contact with equipment with which unpasteurized or milk products have been in contact unless such equipment has first been thoroughly cleaned and subjected to bactericidal treatment. Rooms in which milk, milk products, cleaned utensils or containers are handled or stored shall not open directly into any stable or living quarters. The pasteurization plant shall be used for no other purpose than the processing of milk and milk products and the operations incident thereto, except as may be approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1267 (June 2002).

§523. Milk Plant Cleanliness
[formerly paragraph 7:056]

A. All rooms in which milk and milk products are handled, processed, or stored, and/or in which containers, utensils, or equipment are washed or stored, shall be kept clean, neat and free of evidence of insects and rodents. Pesticides shall be safely used so as not to present a health hazard. Only equipment directly related to processing operations or to handling of containers, utensils and equipment shall be permitted in the receiving, pasteurizing, processing Cooling, packaging, and bulk milk storage areas.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1267 (June 2002).

§525. Sanitary Piping
[formerly paragraph 7:057]

A. All sanitary piping, fittings and connections which are exposed to milk and milk products, or from which liquids may drip, drain or be drawn into milk or milk products, shall consist of smooth, impervious, corrosion-resistant, non-toxic, easily cleanable material. All piping shall be in good repair. Pasteurized milk and milk products shall be conducted from one piece of equipment to another only through sanitary piping.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1268 (June 2002).

§527. Construction and Repair of Containers and Equipment
[formerly paragraph 7:058]

A. All multi-use containers and equipment with which milk or milk products come into contact shall be of smooth, impervious, corrosion-resistant, non-toxic material; shall be constructed for ease of cleaning, and shall be kept in good repair. All single-service containers, closures, gaskets and other articles with which milk or milk products come in contact shall be non-toxic, and shall have been manufactured, packaged, transported and handled in a sanitary manner. Articles intended for single-service use shall not be reused. The design and construction of all milk equipment shall be approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1268 (June 2002).

§529. Cleaning and Sanitizing of Containers and Equipment
[formerly paragraph 7:059]

A. The product-contact surfaces of all multi-use containers, utensils, and equipment used in the transportation, processing handling, and storage of milk and milk products shall be effectively cleaned and shall be sanitized before each use. Non-product-contact surfaces shall be clean at all times.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1268 (June 2002).

§531. Storage of Cleaned Containers and Equipment
[formerly paragraph 7:060]

A. After cleaning all multi-use milk or milk products containers, utensils, and equipment shall be transported and stored to assure complete drainage, and shall be protected from contamination before use.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1268 (June 2002).

§533. Storage of Single-Service Containers, Utensils and Materials
[formerly paragraph 7:061]

A. Single-service caps, cap stock, parchment paper, containers, gaskets and other single-service articles for use in contact with milk and milk products shall be purchased and stored in sanitary tubes, wrappings, or cartons; shall be kept therein in a clean, dry place until used; and shall be handled in a sanitary manners.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1268 (June 2002).

§535. Bottling and Packaging
[formerly paragraph 7:062]

A. Bottling and packaging of milk and milk products shall be done at the place of pasteurization in mechanical equipment approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1268 (June 2002).

§537. Capping
[formerly paragraph 7:063]

A. Capping or closing of milk and milk product containers shall be done in a sanitary manner by approved mechanical capping and/or closing equipment approved by the state health officer. The cap or closure shall protect the pouring lip to at least its largest diameter.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1268 (June 2002).

§539. Delivery Containers
[formerly paragraph 7:064]

A. All pasteurized milk and milk products shall be placed in their final delivery containers in the plant in which they are pasteurized. Milk and milk products sold in the distributors containers in quantities less than 1 gallon shall be delivered in standard milk bottles or in single-service containers. It shall be unlawful for hotels, soda fountains, restaurants, groceries and similar establishments to sell or serve any milk or milk products except in the original containers received from the distributor; or, from a bulk container equipped with an approved dispensing device. This requirement shall not apply to cream consumed on the premises, which may be served from the original bottle or from a dispenser approved for such service.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1268 (June 2002).

§541. Cooling of Milk
[formerly paragraph 7:065]

A. All raw milk and milk products shall be received at 45°F or below and maintained at or below that temperature until processed. All pasteurized milk and milk products, except those to be cultured, shall be cooled immediately after processing in approved equipment to 45°F or below and maintained at or below that temperature until delivered. All pasteurized milk and milk products shall be stored at a temperature of 45°F or below. Every room or tank in which milk or milk products are stored shall be equipped with an accurate thermometer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

§543. Employee Health
[formerly paragraph 7:066]

A. The requirements of Part I, Chapter I , §117 and Part II, Chapter 5, §§501-503.C of this Code shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§545. Sale of Overflow Milk
[formerly paragraph 7:067]

A. The sale of overflow milk and milk products for human consumption is prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§547. Sale of Reconstituted Milk
[formerly paragraph 7:068]

A. No reconstituted fluid milk products, reconstituted homogenized milk, reconstituted vitamin D milk, reconstituted fluid milk products, reconstituted homogenized milk, reconstituted vitamin D milk, reconstituted cream, or reconstituted skim milk shall be permitted to be held, kept offered for sale, sold or delivered except by special permit from the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§549. Use of Inhibitors
[formerly paragraph 7:069]

A. The addition of any substance to milk and milk products for the purpose of preventing growth of bacteria is prohibited (See definition of adulterated milk and milk products, §101 of this Part).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§551. Denaturing of Milk or Milk Products
[formerly paragraph 7:070]

A. The state health officer shall immediately denature, with rennet or some harmless coloring matter, milk or milk products found to be adulterated, misbranded with respect to grading or sold without a permit.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§553. Dipping or Transferring Milk
[formerly paragraph 7:071]

A. No milk producer or distributor shall transfer milk or milk products from one container to another on the street, or in any vehicle or store, or in any place except a bottling or milk room especially used for that purpose. The sale of dipped milk is hereby prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§555. Apparatus, Containers, Equipment and Utensils
[formerly paragraph 7:072]

A. Apparatus, containers, equipment and utensils used in the production, handling, storage, processing or transporting of milk or milk products shall not be used for any other purpose without the permission of the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§557. Notification of Disease
[formerly paragraph 7:073]

A. Notice shall be sent to the duly authorized representative of the state health officer immediately by any processor or distributor of milk or milk products in whose milk plant any infectious, contagious or communicable disease occurs.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5 15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§559. Procedure when Infection Suspected
[formerly paragraph 7:074]

A. When suspicion arises as to the possibility of transmission of infection from any person concerned with the handling of milk or milk products, the state health officer is authorized to require any or all of the following measures:

1. the immediate exclusion from milk handling;
2. the immediate exclusion of the milk supply concerned from distribution and use;
3. adequate medical and bacteriological examination of the person or his associates, and of his and their body discharges or body fluids.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§561. Personal Cleanliness
[formerly paragraph 7:075]

A. All persons coming in contact with milk, milk products, containers, or equipment shall wear clean outer garments and shall keep their hands clean at all times while thus engaged. The use of tobacco by any person while engaged in the processing of milk or milk products is prohibited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

Chapter 7. The Grading of Milk and Milk Products

§701. Uniform Grading
[formerly paragraph 7:076]

A. In order that the grading programs and specifications for grades may be uniform throughout the State they shall conform to the requirements of the regulations in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1269 (June 2002).

§703. Certificate of Grade
[formerly paragraph 7:077]

A. Certificates of grade shall be issued by the state health officer to all producers of raw milk and to all processors or distributors of milk or milk products within his jurisdiction to indicate conformity with the requirements for production and quality of such milk. The certificate of grade shall be based upon conformity with the regulations governing milk production and handling and upon examination of at least four samples of milk and milk products during any consecutive six month period, collected from each supply on separate days by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5 (15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

Subchapter A. Inspections

§705. Frequency of Inspections
[formerly paragraph 7:078]

A. The state health officer shall, at least once during each six month period, inspect all dairy farms and all milk plants within his jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

§707. Inspection of Receiving and Collecting Stations
[formerly paragraph 7:079]

A. When grading a pasteurized milk supply, the state health officer shall include the inspection of receiving and collection stations with respect to §§501 through 533 inclusive, §541 and §543, except that the partitioning requirements of §521 shall not apply.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

§709. Posting Inspection Reports
[formerly paragraph 7:080]

A. One copy of the inspection report shall be posted by the state health officer in a conspicuous place upon an inside wall of one of the dairy farm or milk plant buildings, and said inspection report shall not be defaced or removed by any person except the state health officer. Another copy of the inspection report shall be filed with the records of the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

§711. Field Supervision
[formerly paragraph 7:081]

A. Each producer or association to which he belongs, or others receiving milk from one or more sources shall maintain field supervision for the purpose of inspecting and testing all sources of supply.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

Subchapter B. Degrading

§713. Degrading on Physical Violation
[formerly paragraph 7:082]

A. In case the state health officer discovers the violation of any major item of sanitation prescribed in these regulations he shall made or have a second inspection made after a lapse of such time as he deems necessary for the defect to be remedied, but not before the lapse of three days; and the second inspection shall be used in determining the grade of milk or milk products. Any violation of the same item of these regulations on the succeeding inspection after the nature of the defect has been explained to the dairyman shall call for immediate degrading.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

§715. Notification of Laboratory Analysis
[formerly paragraph 7:083]

A. Whenever two of the last four bacteria counts, coliform counts, cooling temperatures, butterfat tests, or mastitis tests fail to meet the requirements as given in these regulations, the state health officer shall send written notice thereof to the person concerned and shall take an additional sample, within 21 days but not before the lapse of three days.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

§717. Degrading on Laboratory Analysis
[formerly paragraph 7:084]

A. Violation of the Code requirements by the additional sample referred to in §1049 shall call for immediate degrading and/or suspension of permit. Violation of the Code requirements by three of the last five bacteria counts, coliform tests, cooling temperatures, butterfat tests or mastitis tests during the remainder of the current six month period shall call for immediate degrading and/or suspension of the permit, unless the last individual sample result is within the Code requirements.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

§719. Insanitary Conditions
[formerly paragraph 7:085]

A. The presence of bacteria in excess of the standards, insanitary methods of producing and handling milk, diseased cattle, lack of proper cooling, or a combination of same shall be considered evidence of the existence of insanitary conditions.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1270 (June 2002).

§721. Continuous Grading
[formerly paragraph 7:086]

A. If at any time the lowering of a grade of milk or certain milk products becomes justified in accordance with §§713 or 717 of these regulations, the state health officer shall immediately lower the grade of such milk or milk products and shall enforce proper labeling thereof.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1271 (June 2002).

§723. Adulterated Milk
[formerly paragraph 7:087]

A. Should any raw milk supply be found to be adulterated (water, antibiotics, etc.) said violation shall call for immediate suspension of the permit.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1271 (June 2002).

Subchapter C. Regrading

§725. Application for Regrading
[formerly paragraph 7:088]

A. Any producer or distributor, the grade of whose milk or milk products has been lowered by the state health officer, and who is properly labeling his milk and milk products, or who has removed the product from the market, may at any time make application for the regrading of his product.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1271 (June 2002).

§727. Regrading on Laboratory Results
[formerly paragraph 7:089]

A. Upon receipt of a satisfactory application, in case the lowered grade or suspension of permit is the result of adulteration, excessive bacterial count, excessive coliform count, high cooling temperature, mastitis test, or any other tests required, the state health officer shall take further samples of the applicant=s output at a rate of not more than two samples per week. The state health officer shall regrade the milk or milk products upward, or reinstate the permit, whenever a minimum of two successive samples meet grade requirements, provided they are the last two samples collected.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1271 (June 2002).

§729. Regrading on Physical Violations
[formerly paragraph 7:090]

A. Whenever a suspension of permit or the lowering of grade of the product resulted from a violation of an item of these regulations other than those enumerated in §1061, the said application must be accompanied by a statement signed by the applicant to the effect that the violated item of the regulations has been corrected. Within one week of the receipt of such an application and statement, the state health officer shall make a reinspection of the applicant=s establishment or product, and thereafter as many additional reinspections as may be deemed necessary, to assure that the applicant is again complying with the requirements; and, in case the findings justify, shall reinstate the permit or regrade the milk or milk products upward.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1271 (June 2002).

Chapter 9. Specification of Grades of Milk

§901. Grade A Raw Milk for Pasteurization
[formerly paragraph 7:091]

A. Grade A raw milk for pasteurization is raw milk produced on dairy farms conforming with all the articles of sanitation in these regulations and the bacterial plate count or the direct microscopic clump count of which, as delivered from the farm, does not exceed 100,000 per milliliter, as determined in accordance with §101 (definition of bacterial plate count) and §§713 through 723 of this Part. At no time prior to pasteurization shall the bacterial count exceed 300,000 per milliliter.

Grade A Raw Milk for Pasteurization	
Temperature	Cooled to 45°F (7°C) or less within two hours after milking, provided that the blend temperature after the first and subsequent milkings does not exceed 50°F (10°C).
Bacterial limits	Individual producer milk not to exceed 100,000 per ml. Prior to commingling with other producer milk. Not exceeding 300,000 per ml. As commingled milk prior to pasteurization.
Antibiotics	No detectable zone by the Sarcina Lutea Cylinder Plate Method or equivalent.
Somatic Cell Count Individual producer milk: Not to exceed 1,500,000 per ml.	

B. [Formerly paragraph 7:091.1] Grade A raw milk for pasteurization certified for interstate milk shipment is raw milk produced on dairy farms in Louisiana that meets all requirements of the Sanitary Code, State of Louisiana, as well as the requirements for Grade A as set forth by the National Conference on Interstate Milk Shipments (NCIMS). In cases of Aconflicting provisions,@ the stricter codal requirement must be met.

1. Raw milk produced in Louisiana in substantial compliance with the provisions in this Section may be certified by the state health officer for inclusion in the U.S. Food and Drug Administration Interstate Milk Shippers List.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1271 (June 2002).

§903. Grade B Raw Milk for Pasteurization
[formerly paragraph 7:092]

A. Grade B raw milk for pasteurization is raw milk which violates bacterial standards for Grade A raw milk for pasteurization but conforms with all other requirements, and the bacterial plate count or the direct microscopic clump count of which, as delivered from the farm, does not exceed 500,000 per milliliter as determined in accordance with the definition of bacterial plate count, §101 and §§713 through

723 of this Part. At no time prior to pasteurization shall the bacterial count exceed 1,000,000 per milliliter.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1271 (June 2002).

§905. Grade C Raw Milk for Pasteurization [formerly paragraph 7:093]

A. Grade C raw milk for pasteurization is raw milk which violates any of the requirements for Grade B raw milk for pasteurization.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1272 (June 2002).

§907. Grade A Pasteurized Milk [formerly paragraph 7:094]

A. Grade A pasteurized milk is Grade A raw milk for pasteurization which has been paste pasteurized, cooled and placed in the final container in milk plant conforming with all of the sections of sanitation in this Chapter. In all cases milk shall show efficient pasteurization as evidenced by satisfactory phosphatase test. At no time after pasteurization and until delivery shall milk have a bacterial plate count exceeding 20,000 per milliliter or a coliform count exceeding 10 per milliliter in more than one of the last four samples.

Grade A Pasteurized Milk and Milk Products	
Temperature	Cooled at 45°F or less and maintained thereat.
Bacterial Limits	Milk and milk products not to exceed 20,000 per milliliter.
Coliform Limits	Not exceeding 10 per milliliter.
Phosphatase	Less than 1 ug per milliliter by Scharer Rapid Method (or equivalent by other means).
Antibiotics No detectable zone by the Scarcina lxutea Cylinder Plate Method or equivalent.	

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1272 (June 2002).

§909. Grade A Pasteurized Milk Certified for Interstate Shipment [formerly paragraph 7:094-1]

A. Grade A pasteurized milk certified for interstate milk shipment is pasteurized milk certified for interstate milk shipment that meets all Grade A requirements of the Sanitary Code, State of Louisiana, as well as the requirements for Grade A as set forth by the National Conference on Interstate Milk Shipments (NCIMS). In cases of Aconflicting provisions,@ the stricter codal requirement must be met.

B. Pasteurized milk processed in Louisiana in substantial compliance with the provisions in this Section may be certified by the state health officer for inclusion in the U.S. Food and Drug Administration Interstate Milk Shippers List.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1272 (June 2002).

§911. Grade B Pasteurized Milk [formerly paragraph 7:095]

A. Grade B pasteurized milk is pasteurized milk which violates:

1. the bacterial standard for grade A pasteurized milk; and/or

2. the provision of lip-cover caps of §537; and/or

3. the requirements that Grade A raw milk for pasteurization be used; but:

a. which conforms with all other requirements for Grade A pasteurized milk;

b. has been made from raw milk for pasteurization of not less than Grade B quality; and

c. has a bacterial plate count after pasteurization and before delivery not exceeding 50,000 per milliliter as determined in accordance with §§101 and 713 through 723.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1272 (June 2002).

§913. Grade C Pasteurized Milk [formerly paragraph 7:096]

A. Grade C pasteurized milk is pasteurized milk which violates any of the requirements for Grade B pasteurized milk.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1272 (June 2002).

Subchapter A. Miscellaneous

§915. Handling More Than One Grade [formerly paragraph 7:097]

A. Any pasteurization plant receiving two or more grades of milk for processing and distributing as fluid milk and/or cream must label the entire output of fluid milk and/or cream with the grade of the lowest grade of milk received or distributed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1272 (June 2002).

§917. Procedure in Emergency [formerly paragraph 7:098]

A. During emergency periods the state health officer may temporarily permit the sale of Grade B and Grade C milk in the public interest, provided that the words AGrade B@ or AGrade C Pasteurized Milk@ shall appear on the label.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1272 (June 2002).

§919. Grades of Milk to Be Sold [formerly paragraph 7:099]

A. No milk or milk products (except dry-milk products) shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments except Grade A pasteurized. Note that when any milk distributor fails to qualify for one of the above grades the state health officer is authorized to suspend his permit and/or to institute

court action (or, in lieu thereof, to degrade his product and to permit its sale during a temporary period not exceeding 30 days, or in emergencies such longer periods as he may deem necessary).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1272 (June 2002).

§921. Insanitary Handling of Milk
[formerly paragraph 7:100]

A. Milk produced and handled under conditions which violates any of the provisions of these regulations shall be considered as produced and handled in an improper, unclean and insanitary manner. Any conditions or practices, existing or found in operation at a dairy or milk plant which may be determined by the state health officer as immediately dangerous to the public health, shall be considered sufficient grounds for immediate closure of the dairy or milk plant.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

§923. Samples and Examinations
[formerly paragraph 7:101]

A. Samples of milk and milk products from stores, cafes, soda fountains, restaurants and other places where milk or milk products are sold shall be examined as often as the state health officer may require. Bacterial plate count, direct microscopic counts, coliform determinations, phosphatase test, antibiotics, and other tests shall be made in conformity with the latest standard methods recommended by the American Public Health Association. Examination may include such other chemical and physical determinations as the state health officer may deem necessary for the detection of adulteration. These examinations are to be made in accordance with the latest standard methods of the American Public Health Association and the Association of Official Analytical Chemists. Samples may be taken by the state health officer at any time prior to the final delivery of the milk or milk products. All proprietors of stores, cafes, restaurants, soda fountains and other places shall furnish the state health officer, upon request, with the names of all distributors from whom their milk and milk products are obtained. Bio-assays of the vitamin D content of vitamin D milk shall be made when required by the state health officer in a laboratory approved by him for such examinations.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

§925. Delivery of Samples
[formerly paragraph 7:102]

A. All persons engaged in the production, handling or selling of milk or milk products shall deliver to the state health officer upon request, a sample of the milk or milk products in his possession. Any refusal to deliver such samples in his possession shall be deemed a violation of these regulations. All samples so collected shall be sealed, when possible, in the presence of the person from whom taken.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

§927. Storage of Bottled Milk
[formerly paragraph 7:103]

A. Bottled milk or milk products, if stored in water, shall be so stored that the tops of bottles will not be submerged.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

§929. Sale of Warm Milk
[formerly paragraph 7:104]

A. Any hotel, soda fountain, restaurant, grocery or similar establishment which sells or serves any milk or milk products shall maintain such milk or milk products at a temperature of 45°F or less.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

§931. Cleaning of Containers
[formerly paragraph 7:105]

A. All persons to whom milk or milk products are delivered shall thoroughly clean the containers in which milk or milk products are delivered before returning such containers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

§933. Rat Proofing
[formerly paragraph 7:106]

A. When rat proofing regulations are in existence, such as those in Part V of this Code, they shall apply in the construction of buildings in which the production, handling and sale of milk or milk products are to be conducted and which conform to these regulations.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

§935. Waste Disposal
[formerly paragraph 7:107]

A. All wastes shall be properly disposed of as specified by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

§937. Vehicles
[formerly paragraph 7:108]

A. All vehicles used for the transportation of milk or milk products shall be so constructed and operated as to protect their contents from the sun and from contamination. All vehicles used for the transportation of milk or milk products in their final delivery containers shall be constructed with permanent tops and with permanent sides

and back; provided, that openings, of the size necessary to allow the delivery men to pass may be permitted in the sides or back for loading and unloading purposes. All vehicles shall be kept clean, and no substance capable of contaminating milk or milk products shall be transported with milk or milk products in such manner as to permit contamination. All vehicles used for the distribution of milk or milk products shall have the name of the distributor prominently displayed. No claim for grade of the product shall be made on the vehicle unless a valid certificate exists for that grade.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1273 (June 2002).

Chapter 11. Manufactured Milk Products Regulations

§1101. Definitions

[formerly paragraph 7:109]

A. Unless otherwise specifically provided, the following definitions shall apply in the interpretation of these regulations.

*Butter*Cthe clean, sound, food product made by gathering, in any acceptable manner, the fat or fresh or ripened milk, or cream, into a mass which also includes a small portion of other constituents natural to milk, with or without common salt, with or without additional harmless food coloring, and which contains in the finished product not less than 80 per cent by weight of milk fat, all tolerances having been allowed for.

*Butter Plant or Creamery*Cany place where milk, cream or milk products may be received or purchased for the manufacture of butter.

*Creamery Butter*Cbutter manufactured in a butter plant or creamery. The finished product contains not more than 16 percent of water and not less than 80 percent by weight of milk fat, all tolerances having been allowed for.

*Country Butter*Cbutter manufactured at a dairy farm or establishment other than a regular butter manufacturing plant or creamery. The finished product contains not more than 16 percent of water and not less than 80 percent by weight of milk fat, all tolerances having been allowed for. No country butter shall be offered for sale except that which is manufactured in a room or establishment that meets the following requirements: adequate lighting facilities, doors and windows effectively screened, having no direct opening into stable or living quarters, impervious floors, proper equipment for cleaning and sterilizing utensils, adequate automatic water heating facilities, hand washing facilities, and room and equipment kept clean. Country butter shall be labeled or marked in compliance with §107.B of this Chapter.

Renovated Butter or Processed ButterCthe product made by melting and reworking butter, without the addition or use of chemicals or any substances except milk or cream, with or without salt and with or without additional harmless food coloring. The finished product contains not more than 16 percent of water and not less than 80 percent by weight of milk fat, all tolerances having been allowed for.

*Casein*Cthat solid or semi-solid material obtained from skimmed milk or buttermilk by precipitation of the milk solids by the addition of acids or whey. The casein may be subsequently washed, ground and dried.

*Cheese*C

a. the product made from the separated curd obtained by coagulating the casein of milk, skimmed milk, or milk enriched with cream. The coagulation may be accomplished:

i. by means of rennet or other suitable enzyme,

ii. by lactic fermentation, or by a combination of the two.

b. The curd may be modified by heat, pressure, ripening-ferments, special molds, or suitable seasoning. Certain varieties of cheese are made from the milk of animals other than the cow. These regulations apply to all cheese made from the milk of any animal, but where milk of animals other than the cow is used, the cheese shall be so labeled, unless it is a variety of cheese made only from the milk of a certain animal and that fact is known and accepted by the consuming public. Any cheese defined in these regulations may contain added harmless food coloring. The name Acheese@ unqualified means Cheddar Cheese (American Cheese, American Cheddar Cheese).

*Camembert Cheese*Ccheese made by the Camembert process from unheated, unpressed curd obtained by the action of rennet on whole milk or on a slightly skimmed milk, and which otherwise conforms to the definition of cheese. As it ripens, a growth of special mold (Penicillium Camembert) develops on the outer surface. The finished cheese contains, in the water-free substances, not less than 45 percent milk fat.

*Cheddar Cheese, American Cheese, American Cheddar Cheese*Ccheese made by the Cheddar process from heated and pressed curd obtained by the action of rennet on milk. It contains not more than 39 percent water and, in the water-free substance, not less than 50 percent milk fat. Cheddar Cheese obtains its name from a special cutting and handling process.

*Edam Cheese*Ccheese made by the Edam process from heated and pressed curd obtained by the action of rennet on whole milk or on partly skimmed milk, and which otherwise conforms to the definition of cheeses. It is commonly made in spherical form and coated with a suitable oil and harmless red food coloring.

*Gorgonzola Cheese*Ccheese made by the Gorgonzola process from curd obtained by the action of rennet on whole milk, and which otherwise conforms to the definition of cheese. The cheese is ripened in a cool, moist atmosphere conducive to the development of an inoculated blue-green mold and thus has a mottled or marbled appearance when sliced.

*Limburger Cheese*Ccheese made by the Limburger process from unpressed curd obtained by the action of rennet on whole milk. The curd is ripened in a damp atmosphere by a special fermentation process. The finished cheese contains, in the water-free substance, not less than 50 percent of milk fat and otherwise conforms to the definition of cheese.

*Neuchatel Cheese*Ccheese made by the Neufchatel process from unheated curd obtained by the combined action of lactic fermentation and rennet on whole milk, and which otherwise conforms to the definition of cheese. The curd, drained by gravity and light pressure, is kneaded or worked into a butter-like consistency and pressed into forms for immediate consumption or for ripening. The finished cheese contains, in the water-free substance, not less than 50 percent milk fat.

*Pasteurized Cheese-Pasteurized Blended Cheese***C**the pasteurized cheese product made by comminuting and mixing, with the aid of heat and water, one or more lots of cheese into a homogenous plastic mass. The unqualified name APasteurized Cheese@, APasteurized-blended Cheese@ is understood to mean pasteurized Cheddar Cheese, pasteurized-blended Cheddar Cheese, and applies to a product which conforms to the standard of Cheddar Cheese. Pasteurized cheese, pasteurized-blended cheese, bearing a varietal name, is made from cheese of the variety indicated by the name and conforms to the limits for fat and moisture for cheese of that variety.

*Process Cheese***C**the modified cheese made by comminuting and mixing one or more lots of cheese into a homogenous plastic mass, with the aid of heat, with or without the addition of water, and with the incorporation of not more than 3 percent of a suitable emulsifying agent. The name Aprocess cheese@ unqualified is understood to mean Cheddar Cheese, and applied to a product which contains not more than 40 percent water and, in the water-free substance, not less than 50 percent milk fat. Process cheese, qualified by a varietal name, is made from cheese of the variety indicated by the name and conforms to the limits for fat and moisture for cheese of that variety.

*Roquefort Cheese***C**cheese made by the Roquefort process from unheated, unpressed curd obtained by the action of rennet on the whole milk of sheep, with or without the addition of a small proportion of the milk of goats, and which otherwise conforms to the definition of cheese. The curd is inoculated with a special mold (Penicillium roqueforti) and ripens with the growth of the mold. The fully ripened cheese has a tendency to crumble and is mottled or marbled in appearance when sliced.

*Skimmed Milk Cheese***C**cheese made from skimmed milk the finished product of which contains less than 50 percent butterfat based on the moisture free substance, or contains more than 39 percent moisture.

*Special Cheese***C**there are a number of varietal cheese on the market with names fixed by trade custom, by special processes of manufacture, or by location of manufacture. The use of such names on cheese, unless processed or manufactured according to special trade custom, process of manufacture, or location of manufacture, is prohibited. The following definitions shall apply to the Special Cheeses:

a. *Stilton Cheese***C**cheese made by the Stilton process from unpressed curd obtained by the action of rennet on whole milk with or without added cream, and which otherwise conforms to the definition of cheese. During the ripening process a special blue green mold develops, and the cheese thus has a marbled or mottled appearance when sliced.

b. *Swiss Cheese***C**cheese made by the Emmentaler process from heated and processed curd obtained by the action of rennet on whole milk or on partly skimmed milk; and which otherwise conforms to the definition of cheese. It is inoculated with special gas-producing bacteria which, as the cheese ripens, causes the formation of Aeyes@ or holes. The finished cheese contains, in the water-free substance, not less than 45 percent of milk fat.

*Cheese Plant or Factory***C**any place where milk, cream or milk products may be received or purchased for the manufacture of cheese.

*Condensed Milk or Evaporated Milk***C**the food product obtained by the evaporation of a considerable portion of the water from whole, fresh, clean milk, and contains, all tolerances being allowed for, not less than 25.5 percent total milk solids and not less than 7.9 percent milk fat. Such products, except packaged in hermetically sealed containers of one gallon or less, shall contain a tracer approved by and in such quantities as may be prescribed by the state health officer.

*Condensed Skimmed Milk or Evaporated Skimmed Milk***C**the food product obtained by the evaporation of a considerable portion of the water from fresh, clean skimmed milk, and contains, all tolerances being allowed for, not less than 20 per cent of total milk solids.

*Filled Manufactured Milk Products***C**any manufactured milk product made by combining solids-not-fat and/or a derivative of milk with some fat or oil (other than butterfat and chocolate) and with one or more other wholesome ingredients. This definition shall not include any distinctive proprietary food not readily mistaken for milk or milk products, if such preparation:

a. is prepared and designed for the feeding of infants or young children, sick or inform persons, and customarily used on the order of a physician; and

b. is packed in individual containers bearing a label in bold type that the contents are to be for said purposes as enumerated in Subparagraph a above.

*Imitation Manufactured Milk Product***C**any manufactured food product made in semblance of, and which resembles in taste, a manufactured milk product, except that it contains neither milk fats nor milk solids.

*Milk Plants, Milk Products Plants, Milk Condensing Plants and Cream Stations***C**any place where cream, milk or milk products may be received, cooled, skimmed or purchased for manufacture or held for shipment or delivery to a butter, cheese, condensed milk, evaporated milk, sweetened condensed milk, sweetened evaporated milk, condensed skimmed milk, evaporated skimmed milk, sweetened condensed evaporated skimmed milk, sweetened condensed skimmed milk or sweetened evaporated skimmed milk.

*Person***C**as defined in §101 of Chapter 1 of this Part, includes milk producers.

*Sour Cream***C**same as in §101 of Chapter 1 of this Part.

*Sweet Cream***C**for manufacturing butter shall consist of fresh, clean cream of good flavor, the acidity of which does not exceed .2 of 1 percent, expressed as lactic acid.

*Sweetened Condensed Milk or Sweetened Evaporated Milk***C**the food product obtained by the evaporation of a considerable portion of the water from whole fresh clean milk, to which sugar (sucrose) has been added. It contains, all tolerances being allowed for, not less than 28 percent total milk solids, and not less than 8 percent milk fat.

*Sweetened Condensed Skimmed Milk or Sweetened Evaporated Skimmed Milk***C**the food product obtained by the evaporation of a considerable portion of the water from fresh, clean skimmed milk to which sugar (sucrose) has been added. It contains, all tolerances being allowed for, not less than 28 percent total milk solids.

*Tracer***C**defined as a harmless substance added to milk or milk products for the purpose of detecting or tracing the

use of these products in any other milk or milk product to which it has been added.

*Whey*Cthe liquid or semi-liquid material remaining after the removal of fat and casein from milk or cream in the process of cheese making.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1274 (June 2002).

§1103. Sale of Adulterated or Misbranded Cheese, Butter or Other Manufactured Milk Products Prohibited [formerly paragraph 7:110]

A. No person shall produce, sell or expose for sale, or have in his or their possession with intent to sell, any milk, cream, butterfat or other milk product for cheese or butter making purposes, or any cheese, butter, or other milk product which is adulterated, misbranded, or which has been produced or handled in violation of these regulations. Any cheese, butter or other milk product which is not properly labeled in compliance with R.S. 40:608, shall be deemed misbranded.

B. [Formerly paragraph 7:111] Where manufactured milk products are shipped into a municipality, parish or health district, it shall be the duty of the receiver to furnish evidence satisfactory to the state health officer that the cream or butterfat was produced under conditions equal to the minimum requirements of these regulations.

C. [Formerly paragraph 7:112] The records and lists showing sources of supply of milk dealers, butter and cheese plants, and others receiving milk, cream or butterfat, from one or more sources, shall be open to inspection by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1276 (June 2002).

§1105. Registration [formerly paragraph 7:113]

A. It shall be unlawful for any person to bring into or receive into a municipality, parish or health district, or its police jurisdiction, for sale, or to sell, or offer for sale therein or to have in storage where butter, cheese or other manufactured milk products are sold or served, any butter, cheese, or other manufactured milk products defined in these regulations, unless the product has been registered with the Department of Health and Human Resources in compliance with R.S. 40:627.

B. [Formerly paragraph 7:114] Only those who comply with the requirements of these regulations shall be entitled to receive and retain such registration.

C. [Formerly paragraph 7:115] Such a registration may be suspended or revoked by the state health officer upon violation by the holder of any of the terms of these regulations.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1276 (June 2002).

§1107. Labeling and Marking [formerly paragraph 7:116]

A. All packages and other containers enclosing cheese, butter or other manufactured milk products as defined in these regulations shall be plainly labeled or marked with:

1. the quantity of contents in terms of weight, measure of numerical count;

2. the name of the contents as given in the definitions in these regulations;

3. the name and address of the producer, seller, distributor, or manufacturer;

4. the word Apasteurized@, only if the contents have been pasteurized , the word Araw@, only if the contents are raw, and the name of the plant at which the contents were pasteurized, if the contents are pasteurized.

B. [Formerly part of paragraph 7:116] The label or mark shall be in letters of a size, kind, and color approved by the state health officer and shall contain no marks or words which are misleading.

C. [Formerly paragraph 7:117] Butter and cheese when sold at retail shall be labeled with the name of the manufacturer and the net weight.

D. [Formerly paragraph 7:118] Renovated or processed butter shall comply with all the provisions for labeling butter and in addition shall carry the words ARenovated Butter@ or AProcessed Butter@ displayed in bold face type in such a way that these words are equally as large, legible and readable as any other portion of the label.

E. [Formerly paragraph 7:119] Country butter shall comply with all the provisions for labeling butter and, in addition, shall carry the words APasteurized Country Butter@, if the product has been manufactured from raw milk or cream. The words shall be displayed in bold face type in such a way that these words are equally large, legible and readable as any other portion of the label.

F. [Formerly paragraph 7:120] All packaged cheese sold must be labeled to indicate the variety.

1. [Formerly paragraph 7:121-1] It shall be unlawful to manufacture or expose for sale any Apart skim milk cheese@, or Askim milk cheese@, unless every vessel, can, package, cheese, or piece of cheese so exposed or sold is legibly and conspicuously labeled with the words Apart skim milk cheese@ or Askim milk cheese@ as the case may be.

2. [Formerly part of paragraph 7:121-1] Any place or establishment where Apart skim milk@ or Askim milk cheese@ is sold at retail shall display:

a. a conspicuous legible sign containing the words ›part skim milk cheese sold here@ or Askim milk cheese sold here@ in plain, block letters, not less than six inches high, and

b. the guaranteed maximum moisture and minimum fat content of such cheese in plain, block letters, not less than one inch high.

G. [Formerly paragraph 7:121-2] The labels on imitation milk and imitation milk products shall prominently indicate the exact source and percent of each fat used in the products. In addition, an ingredient statement listing all ingredients shall appear on the label.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1276 (June 2002).

§1109. Inspection of Butter Plants, Cheese Plants and Other Manufactured Milk Products Plants [formerly paragraph 7:122]

A. The duly authorized representative of the state health officer shall inspect all butter plants, cheese plants and other manufactured milk products plants within his jurisdiction as often as the state health officer may deem necessary, but shall made such inspection at least every six months. If any violations of these regulations are discovered, the state health officer shall then follow a procedure similar to that given in §§107.C, 713 and 729.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1277 (June 2002).

§1111. Sanitation Requirements [formerly par agraph 7:123]

A. All butter plants, cheese plants and other manufactured milk products plants shall comply with all of the items of sanitation as prescribed in §§501 through 561 inclusive.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1277 (June 2002).

§1113. Pasteurization of Creamery Butter [formerly paragraph 7:124]

A. All milk and cream used in the manufacture of creamery butter must be pasteurized as prescribed in §101 of Chapter 1 of this Part. All pasteurization vats shall be equipped with Federal Drug Administration/United States Public Health Service (FDA/USPHS) approved indicating and recording thermometers, and an FDA/USPHS approved air heating device. The pasteurization of milk and cream used in the manufacture of creamery butter shall be done in the plant where such butter is manufactured.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1277 (June 2002).

§1115. Pasteurization of Cheese [formerly paragraph 7:125]

A. All milk and cream used in the manufacture of pasteurized cheese shall be pasteurized as prescribed in §101 of Chapter 1 of this Part. All pasteurization vats shall be equipped as prescribed in §1113 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1277 (June 2002).

§1117. Packing and Handling [formerly paragraph 7:126]

A. Packaging, cutting, molding and other handling processes of butter, cheese and other manufactured milk products or their ingredients shall be done in an approved manner. Containers and packages shall be handled in such manner as to prevent contamination of the package or container.

B. [Formerly paragraph 7:127] All molds used in the preparation of cheese shall be of a non-rusting material. Molds used in the manufacture of cheese shall remain at the place of manufacture or preparation and shall not be used to transport the cheese away from the place of manufacture.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1277 (June 2002).

§1119. The Examination of Butter, Cheese and Other Manufactured Milk Products [formerly paragraph 7:128]

A. Samples of butter, cheese and other manufactured milk products or their ingredients shall be examined as often as the state health officer may deem necessary. The examination of butter, cheese and other manufactured milk products shall be done in accordance with the latest standard methods of the American Public Health Association and the Association of Official Analytical Chemists.

B. [Formerly paragraph 7:129] Butter, cheese and other manufactured milk products from points beyond the limits of routine inspection of a municipality parish or health district may not be sold in the municipality, parish or health district or its police jurisdiction, unless manufactured under equivalent regulations and requirements herein prescribed; provided, that the representative of the state health officer having jurisdiction in the municipality, parish or health district in which the product is sold, should satisfy himself that the product is being manufactured under at least equivalent regulations.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1277 (June 2002).

§1121. Manufactured Milk Products Plants, Manufactured Milk Concentration Plants and Cream Stations [formerly paragraph 7:130]

A. No manufactured milk product plants, manufactured milk concentration plants or cream stations shall be allowed to operate until the operator of such a plant or plants shall have secured a permit to operate from the duly authorized representative of the state health officer having jurisdiction in the municipality, parish or health district in which the plant or plants are located. The state health officer may revoke such permit at any time such establishment is found to be in an insanitary condition or is being operated in violation of these regulations, after the holder of the permit has been given a hearing by the representative of the state health officer having jurisdiction, and has been allowed a reasonable length of time in which to correct the violation or violations.

B. [Formerly paragraph 7:131] The establishment shall be used for no purpose other than to receive and handle milk and cream and shall not have a direct connection with any meat market, grocery store, poultry market or storage, gasoline station or other place of business from which disagreeable odors might be absorbed by the milk or cream.

C. [Formerly paragraph 7:132] It shall have a floor of concrete, tile, glazed brick or other impervious material, with proper drainage and sewerage for the disposition of all waste water.

D. [Formerly paragraph 7:133] It shall be equipped with steam, running hot and cold water and any brushes, tools or other equipment necessary for the thorough washing and sterilization of all cans, pails, separator parts and any equipment or containers that may come in direct contact with the milk or cream.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1277 (June 2002).

§1123. Insanitary Handling of Butter, Cheese and Other Manufactured Milk Products [formerly paragraph 7:134]

A. Same as in §101 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1278 (June 2002).

§1125. Rat Proofing [formerly paragraph 7:135]

A. Same as in §933 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1278 (June 2002).

§1127. Future Butter Plants, Cheese Plants, Manufactured Milk Products, Plants and Cream Stations [formerly paragraph 7:136]

A. Same as in §501 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1278 (June 2002).

§1129. Notification of Disease [formerly paragraph 7:137]

A. Same as in §559 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1278 (June 2002).

§1131. Suspension and Reissuing of Permits [formerly paragraph 7:138]

A. Same as in §107.C of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1278 (June 2002).

Chapter 13. Dry Milk Products Regulations

§1301. Definitions [formerly paragraph 7:139]

A. Unless otherwise specifically provided, the following definitions shall apply in the interpretation of these regulations in this Chapter of this Part.

Condensed Milk—milk unsterilized and unsweetened, resulting from the vacuum removal of a considerable portion of water.

Dry Milk—the product resulting from the removal of water from milk and contains the milk fat, lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which it is made. It contains not more than 2.5 percent moisture by weight.

Dry Milk Products—products resulting from the drying of milk or milk products including, but not limited to dry milk (powdered milk), non-fat dry milk (powdered skim milk), instant nonfat dry milk, dry whey, and any other products resulting from the combination of dry milk products with other wholesome dry ingredients.

Grade A Dry Milk Products—same as in §101 of this Part.

Grade A Pasteurized—a term identifying a dry milk or dry milk product which has been pasteurized prior to drying and which complies with all the requirements of this Part.

Instant Non-Fat Dry Milk—dry milk products which have been produced in such a manner as to substantially improve their dispersing and reliquification characteristics over that produced by the conventional processes.

Milk Drying and/or Condensing Plant—a plant in which milk or milk products are dried, condensed, or in which milk or milk products are received, separated, or otherwise processed for drying and packaging.

Milk Products—see §101 of this Part.

Non-Fat Dry Milk—a product resulting from the removal of fat and water from milk and contains lactose, milk proteins and milk minerals in the same relative proportion as in the fresh milk from which it is made. It contains not more than 4.00 percent by weight of moisture. The fat content is not more than 1.25 percent by weight.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1278 (June 2002).

§1303. Permits [formerly paragraph 7:140]

A. Any person desiring to manufacture dry milk or dry milk products in the State of Louisiana shall secure a permit to do so from the state health officer. Such a permit shall be issued after an inspection by the state health officer has determined that the plant and methods being employed are in compliance with the terms of these regulations. Failure to comply with any provision of these regulations or any subsequent inspection or failure to permit access to any part of plant or records shall be grounds for suspension, and, after a hearing before the state health officer, for revocation of said permit. Any person, firm or corporation desiring to ship dry milk or dry milk products into the State of Louisiana shall secure a permit to do so from the state health officer. The state health officer shall make investigations to determine that the products comply with the grade designation as defined in this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1278 (June 2002).

§1305. Labeling [formerly paragraph 7:141]

A. Dry milk and dry milk products shall be packaged in containers which are plainly and permanently labeled or marked with:

1. the common or usual name of the product and, if fabricated from two or more ingredients, the common or usual name of each ingredient;

2. the grade designation;

3. the identity of the plant in which the product was manufactured by name and address, the name qualified by an expression of connection with the product, such as ADistributed by ....@, shall also be shown;

4. a code or lot number identifying the contents with a specific date, run or batch of the product;

5. the quantity of the contents of the container; and

6. the statement Anot pasteurized@ on consumer packages that have not been pasteurized.

B. [Formerly a part of paragraph 7:141] Other information such as:

1. a registered trade mark design; and

2. U.S. Department of Agriculture grade label, may also be included, provided that it is not misleading and does not obscure any of the labeling required above.

C. [Formerly a part of paragraph 7:141] The label of all containers shall be approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1278 (June 2002).

§1307. The Examination of Dry Milk or Dry Milk Products [formerly paragraph 7:142]

A. The bacteriological examination of samples of dry milk or dry milk products shall be in accordance with the procedures for dry milk or dry milk products incorporated in the latest edition of Standard Methods for the Examination of Dairy Products published by the American Public Health Association.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1279 (June 2002).

§1309. Requirements for Grade A Dry Milk [formerly paragraph 7:143]

A. Dry milk products designated as Grade A shall:

1. be manufactured from milk which has been produced and handled in accordance with the requirements specified in Part VII of the Louisiana State Sanitary Code and/or those recommended by the United States Public Health Service for Grade A raw milk for pasteurization, and shall be from sources under the supervision of a regulatory agency following the enforcement procedures stipulated in the Louisiana Sanitary Code, or requirements substantially equivalent thereto, and which are enforced with equal effectiveness as determined by a milk sanitation rating;

2. be processed, pasteurized and manufactured to conform with the following chemical, physical, bacteriological, and temperature standards and the sanitation requirements of this Section:

a. raw milk and raw milk products used for the manufacture of Grade A dry milk and dry milk products shall at no time between receipt at the milk drying plant and pasteurization have a bacterial plate count or a direct microscopic clump count exceeding 300,000 per milliliter;

b. Grade A dry milk and dry milk products shall have at no time a bacterial plate count exceeding 30,000 per gram, or a coliform count exceeding 10 per gram; and shall be free of unwholesome and deleterious materials;

c. no process or manipulation other than pasteurization, processing methods integral therewith, and appropriate refrigeration shall be applied to milk and milk products for the purpose of removing or deactivating micro-organisms;

3. comply with the flavor, odor, physical and chemical requirements for U.S. Extra grade spray-process products as promulgated by the U.S. Department of Agriculture as published in the Federal Register; and

4. be manufactured in a plant conforming to the physical and sanitation requirements provided in §§1321 through 1359 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5 (15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1279 (June 2002).

§1311. Requirements for Extra Grade Dry Milk Products [formerly paragraph 7:144]

A. [Formerly paragraph 7:144-1] Dry whole milk designated as Extra Grade shall be processed from raw milk meeting the requirements of this Part except that when can milk is produced it shall be cooled to 60°F; the bacterial plate count or a direct microscopic clump count shall not exceed 3,000,000 per ml. The finished product shall:

1. have bacterial count of not more than 50,000 per gram, standard plate count;

2. have coliform count of not more than 90 per gram;

3. have butterfat content not less than 26.0 percent;

4. have moisture content not exceeding 2.5 percent;

5. have scorched particle content not exceeding 15.00 mg.;

6. have solubility index not exceeding 0.50 ml.;

7. have titratable acidity not exceeding 0.15 percent;

8. comply with the flavor, odor, physical and chemical requirements as promulgated by the U.S. Department of Agriculture and published in the Federal Register.

B. [Formerly paragraph 7:144-2] Non fat dry-milk, designated as Extra Grade shall be processed from raw milk meeting the requirements of this Part except that when can milk is produced it shall be cooled to 60°F; the bacterial plate count or a direct microscopic clump count shall not exceed 3,000,000 per ml. The finished product shall:

1. have bacterial count of not more than 50,000 per gram, standard plate count;

2. have coliform count of not more than 90 per gram;

3. have butterfat content not exceeding 1.25 percent;

4. have moisture content not exceeding 4.0 percent;

5. have scorched particle content not exceeding 15.0 mg.;

6. have titratable acidity not exceeding 0.15 percent;

7. have dispersibility of not less than 44.0 grams;

8. have solubility index not exceeding 1.00 ml.;

9. comply with the flavor, odor, physical and chemical requirements as promulgated by the U. S. Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1279 (June 2002).

§1313. Requirements for Standard Grade Dry-Milk Products [formerly paragraph 7:145]

A. [Formerly paragraph 7:145-1] Dry whole milk designated as Standard Grade shall be processed from raw milk meeting the requirements of this Part except that when canned milk is produced it shall be cooled to 60°F; the bacterial plate count or a direct microscopic clump count shall not exceed 3,000,000 per ml. The finished product shall:

1. have bacterial count of not more than 100,000 per gram, standard plate count;
2. have coliform count of not more than 90 per gram;
3. have butterfat content not less than 26.0 percent;
4. have moisture content not exceeding 3.0 percent;
5. have scorched particle content not exceeding 22.5 mg.;
6. have solubility index not exceeding 1.0 ml.;
7. have titratable acidity not exceeding 0.17 percent;
8. comply with the flavor, odor, physical and chemical requirements as promulgated by the U. S. Department of Agriculture and published in the Federal Register (21 CFR 131.147).

B. [Formerly paragraph 7:145-2] Non fat dry-milk designated as Standard Grade shall be processed from raw milk meeting the requirements of this Part except that when canned milk is produced it shall be cooled 60°F; the bacterial plate count or a direct microscopic clump count shall not exceed 3,000,000 per ml. The finished product shall:

1. have bacterial count of not more than 100,000 per gram standard plate count;
2. have coliform count of not more than 90 per gram;
3. have butterfat content not exceeding 1.50 percent;
4. have moisture content not exceeding 5.0 percent;
5. have scorched particle content not exceeding 22.5 mg.;
6. have solubility index not exceeding 2.0 ml.;
7. have titratable acidity not exceeding 0.17 percent;
8. comply with the flavor, odor, physical and chemical requirements as promulgated by the U. S. Department of Agriculture and published in the Federal Register.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1280 (June 2002).

§1315. Suspension of Permit or Registration Certificate [formerly paragraph 7:146]

A. If at any time the state health officer should find that the milk has not been produced or handled in accordance with the requirements of this Part, or whenever the standard is violated by three of the last five bacteria counts, coliform determinations, or cooling temperatures, the permit to operate or the registration certificate shall be suspended or the product shall be degraded to the applicable grade.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1280 (June 2002).

§1317. Floors [formerly paragraph 7:147]

A. The floors of all rooms in which milk is handled or stored or in which utensils are washed shall be constructed of concrete or other equally impervious and easily cleaned material and shall be smooth, properly drained, provided with trapped drains and kept clean.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1280 (June 2002).

§1319. Walls and Ceilings [formerly paragraph 7:148]

A. Walls and ceilings of rooms in which milk is handled or stored, or in which milk utensils are washed, or in which dry-milk or a dry-milk product is handled, up to and including packaging, but not including rooms used only for storage of packaged dry-milk or dry-milk products, shall be kept clean and in good repair. Walls and ceiling of storage rooms for packaged dry products shall be kept clean and in good repair and shall protect the packaged product from contamination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1280 (June 2002).

§1321. Doors and Windows [formerly paragraph 7:149]

A. Unless other effective means are provided to prevent the access of files, all openings to the outer air from rooms in which fluid milk and milk products are handled and stored, or in which milk utensils are washed, or in which dry-milk or dry-milk products are processed or handled, up to and including packaging, but not including rooms used for storage of packaged dry-milk or dry-milk products, shall be effectively screened, and all doors shall be self-closing.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1280 (June 2002).

§1323. Lighting and Ventilation [formerly paragraph 7:150]

A. All rooms shall be well lighted, with a minimum of 20-foot candles on all working surfaces, and well ventilated.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1280 (June 2002).

§1325. Miscellaneous Protection from Contamination [formerly paragraph 7:151]

A.1. The various milk-drying plant operations shall be so located and conducted to prevent any contamination of milk, milk products, dry-milk or dry-milk products or clean equipment. All necessary means shall be used for the elimination of flies, other insects and rodents. There shall be separate rooms for:

a. the receiving of milk; and

b. the processing of milk, milk products, dry-milk and dry-milk products.

2. Cans of incoming milk or milk products shall not be unloaded directly into the processing rooms. Rooms in which milk, milk products, dry milk, dry milk products, or clean containers are handled or stored shall not open directly into any stable or living quarters. The milk-drying plant, milk containers, utensils and equipment shall be used for no purpose other than the processing of milk, milk products, dry-milk, dry-milk products, and the operations incident thereto, except as may be approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1280 (June 2002).

§1327. Toilet Facilities
[formerly paragraph 7:152]

A. Every milk-drying plant shall be provided with adequate and satisfactory flush-toilet facilities. Toilet rooms shall not open directly into any room in which milk, milk products, dry-milk, dry-milk products, equipment or containers are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well ventilated. The text of §§557 and 1351 of this Part of these regulations and a notice directing employees to wash their hands before returning to work shall be posted in all toilet rooms used by employees.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1281 (June 2002).

§1329. Water Supply
[formerly paragraph 7:153]

A. The water supply shall be easily accessible, adequate, and of a safe sanitary quality as defined in Part XII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1281 (June 2002).

§1331. Hand-Washing Facilities
[formerly paragraph 7:154]

A. Convenient hand-washing facilities shall be provided, including hot and cold running water, soap, and approved sanitary towels. Hand-washing facilities shall be kept clean. The use of a common towel is prohibited. No employees shall resume work after using the toilet room without having washed their hands.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1281 (June 2002).

§1333. Sanitary Piping
[formerly paragraph 7:155]

A. All piping, including fittings, used to conduct milk and milk products shall be constructed of smooth, impervious, non-corrosive and non-toxic materials; shall be so constructed as to permit proper cleaning; and shall be kept in good repair.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1281 (June 2002).

§1335. Construction and Repair of Containers and Equipment
[formerly paragraph 7:156]

A. All multi-use containers and equipment with which milk, milk products, dry milk, or dry milk products come into contact shall be of smooth, impervious, non-corrosive, non-toxic materials; shall be so constructed and so located as to be easily cleaned; and shall be kept in good repair. All single-service containers, gaskets, and other articles used shall have been manufactured, packaged, transported and handled in a sanitary manner.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1281 (June 2002).

§1337. Disposal of Wastes
[formerly paragraph 7:157]

A. All wastes shall be properly disposed of. All plumbing and equipment shall be so designed and so installed as to prevent contamination of processing equipment shall be so designed and so installed as to prevent contamination of processing equipment by backflow as specified by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1281 (June 2002).

§1339. Cleaning and Bactericidal Treatment of Containers and Equipment
[formerly paragraph 7:158]

A. All milk and milk product containers and equipments, except single-service containers shall be thoroughly cleaned after each use. Equipment comprising the drying system shall be cleaned as often as is necessary to prevent contamination of the product. All multi-service containers shall be subjected effectively to an approved bactericidal process after each cleaning, and all equipment immediately before each usage. When empty, and before being returned to a producer by a milk-drying plant, each container shall be thoroughly cleaned and subjected to an effective bactericidal process approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1281 (June 2002).

§1341. Storage of Containers and Equipment
[formerly paragraph 7:159]

A. After bactericidal treatment, all cans and other multi-use milk, milk products, dry milk, or dry milk products containers and equipment shall be transported and stored in such a manner as to be protected from contamination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1281 (June 2002).

§1343. Handling of Containers and Equipment
[formerly paragraph 7:160]

A. Between bactericidal treatment and use, and during periods of use, containers and equipment shall not be handled or operated in such a manner as to permit contamination of the milk, milk products, dry milk, or dry milk pro ducts. No milk, milk products, dry milk, or dry milk products shall be permitted to come into contact with equipment with which ungraded or a lower grade of milk, milk product, dry milk or dry milk product has been in contact.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

§1345. Storage of Single-Service Containers and Materials
[formerly paragraph 7:161]

A. Single-service containers and materials shall be purchased and stored in sanitary packages; shall be kept therein in a clean, dry place until used; and shall be handled in a sanitary manner.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

§1347. Cooling
[formerly paragraph 7:162]

A. All milk and milk products received for drying shall be 45°F or less until preheated for the drying process.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

§1349. Package and Packaging
[formerly paragraph 7:163]

A. Dry milk or dry milk products shall be packaged in new containers to protect the contents from contamination. Packaging shall be done only at the place of manufacture and by methods approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

§1351. Employee Health
[formerly paragraph 7:164]

A. The requirements of Part 1, §117, and Part II, §§501-503.C shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

§1353. Cleanliness of Personnel
[formerly paragraph 7:165]

A. All persons who come into contact with milk, milk products, dry milk, dry milk products, unsealed containers, or processing equipment, shall wear clean outer garments, and shall keep their hands clean at all times, while engaged in such work.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

§1355. Vehicles
[formerly paragraph 7:166]

A. Milk tank cars and tank trucks shall comply with the construction, cleaning, bactericidal treatment, storage, and handling requirements of §§1325, 1335, 1339, 1341, and 1343 of this Part. While containing milk, cream, or milk products, they shall be sealed and labeled in an approved manner. For each tank shipment, a bill of lading containing all necessary information shall be prepared in triplicate, and shall be kept on file by the shipper, the consignee, and the carrier for a period of six months for the information of the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

§1357. Notification of Disease
[formerly paragraph 7:167]

A. The requirements of §557 of this Part shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

§1359. Dry Milk or Dry Milk Products from Points beyond Limits of Routine Inspections
[formerly paragraph 7:168]

A. Dry milk or dry milk products from points beyond the limits of routine inspection of the State of Louisiana may not be used within the State in the preparation of pasteurized milk products as defined in this Part, unless manufactured under provisions which are substantially equivalent to the requirements of this Part, and which are enforced with equal effectiveness, as determined by a sanitation rating.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1282 (June 2002).

Part VIII. Frozen Desserts
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part VIII	**Chapter VIII**
Chapter 1	
§101	8:001
§103	8:002
§105	8:003
§107	8:004
§109	8:005
§111	8:006
§113	8:007
§115	8:008
§117	8:009
§119	8:010
§121	8:011
§123	8:012
§125	8:013
§127	8:014

§129	8:015
§131	8:016
§133	8:017 & 8:018
§135	8:019
§137	8:020
§139	8:021
§141	8:022

Part VIII. Frozen Desserts

Chapter 1. Definitions and Standards

§101. Definitions and Standards of Identity [formerly paragraph 8:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows (these definitions denoted by an asterisk are standards of identity, and a frozen dessert shall conform to one of these standards of identity in order to be sold in this state).

Frozen Custard, French Ice Cream, or *French Custard Ice Cream*—a frozen dessert made from a cooked combination of the ingredients prescribed for ice cream in this section. It shall comply with the requirements prescribed for ice cream in this section, except that *frozen custard* or *French ice cream* shall contain not less than 2 1/2 dozen of egg yolks, or 3/4 pound of dry egg yolks, or 1 1/2 pounds of frozen egg yolks, or the equivalent of egg yolks in any other form for each 90 pounds of *frozen custard* or *French ice cream.*

Frozen Dessert—any sound and clean, frozen or partially frozen combination of two or more of the following: milk or milk products, vegetable fat, animal fat, other food products approved by the Louisiana state health officer, eggs or egg products, nutritive sweetening ingredients, artificial sweetening ingredients (used only in dietetic desserts), water confection, (defined in this section) nut meats, fruit or fruit juices, citric or other organic food acid, other wholesome flavoring agents and colors, and harmless stabilizer; and shall be deemed to include ice cream, fruit ice cream, nut ice cream, ice milk, french ice cream, milk sherbets, mellorine, olarine, sherine, icicle bars and frozen yogurt.

a. The sale of products purporting to be *frozen desserts*, but not meeting the standards of identity contained in these definitions is hereby prohibited.

Frozen Dessert Mixes—shall be made with ingredients in such proportions that the mix when frozen will meet the definitions and standards of identity prescribed for the frozen product.

Frozen Dietary Dairy Dessert and *Frozen Dietary Dessert*—a food for any special dietary use, prepared by freezing, with or without agitation, composed of a pasteurized mix which may contain fat, protein, carbohydrates, flavoring, stabilizers, emulsifiers, vitamins and minerals.

Frozen Yogurt—a frozen dessert prepared with one or more of the optional milk or milk products prescribed in §109 of this Part, sweetened with one or more of the optional sweetening agents prescribed in §103, with or without eggs or egg products, fruit or fruit juices, confection or other optional flavoring ingredients prescribed in §109, with or without harmless coloring, which is cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus.* The standard plate count requirement for the product shall apply only to the mix prior to culturing. The finished yogurt shall weigh not less than 5 pounds per gallon. For the purpose of this regulation, the strains of bacteria may be collectively referred to as yogurt culture. It shall contain not less than 3 and 3.25 percent by weight of milk fat.

Frozen Lowfat Yogurt—a frozen dessert prepared with one or more of the optional milk or milk products prescribed in §107 sweetened with one or more of the optional sweetening agents prescribed in §103, with or without eggs or egg products, fruit or fruit juices, confection or other optional flavoring ingredients prescribed in §109, with or without harmless coloring, which is cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus.* The standard plate count requirement for the product shall apply only to the mix prior to culturing. The finished product shall weigh not less than 5 pounds per gallon. For the purpose of this regulation, the strains of bacteria may be collectively referred to as yogurt culture. It shall contain not less than 0.5 percent and not more than 2.0 percent by weight of milk fat.

Frozen Non-Fat Yogurt—a frozen dessert prepared with one or more of the optional milk or milk products prescribed in §107 sweetened with one or more of the optional sweetening agents prescribed in §103 with or without eggs or egg products, fruit or fruit juices, confection or other optional flavoring ingredients prescribed in §109, with or without harmless coloring, which is cultured after pasteurization by one or more strains of *Lactobacillus bulgaricus* and *Streptococcus thermophilus.* The standard plate count requirement for the product shall apply only to the mix prior to culturing. The finished product shall weigh not less than 5 pounds per gallon. For the purpose of this regulation, the strains of bacteria may be collectively referred to as yogurt culture. It shall contain less than 0.5 percent by weight of milk fat.

Fruit Ice or Fruit Water Ice—a frozen dessert which complies with the definition and standard of identity for fruit sherbet prescribed in §101with the exception that it contains no milk or milk products, except that not more than 2 percent by weight of milk solids used for the purpose of freezer lubrication only is allowed.

Ice Cream—a frozen dessert prepared with one or more of the optional milk or milk products as prescribed in §107, sweetened with one or more optional sweetening agents prescribed in §103 with or without eggs or egg products, fruit or fruit juices, confection or other flavoring ingredients prescribed in §109, with or without harmless coloring. It shall contain not less than 10 percent milk fat, 10 percent non-fat milk solids, except that the non-fat milk solids level may be reduced as the milk fat level increases. (See following chart.)

Percent Milk Fat	Minimum Percent Non-Fat Solids
10	10
11	9
12	8
13	7
14	6

a. It shall contain not less than 20 percent by weight of total milk solids, and not more than 0.5 percent by weight

of harmless stabilizer or binder, except that when the ingredients include eggs, fruit or fruit juices, specially prepared cereal flavoring, cocoa or chocolate, or nuts used for the purpose of flavoring, the ice cream shall contain not less than 8 percent milk fat and 16 percent total milk solids. The finished ice cream shall contain not less than 1.6 pounds of total food solids to the gallon and shall weigh not less than 4.5 pounds per gallon. Caseinates may be used once the 20 percent total milk solids requirement is met.

Fruit Ice Cream—a frozen dessert which complies with the definition and standard of identity of ice cream as prescribed in §101, except that it shall contain fruit or fruit juice or a combination of the two in such amount that the finished product contains not less than 10 percent by weight of such fruit ingredient. The butter fat and total milk solids content shall be that required for ice cream (§101) with the exception that allowance be made for reduction due solely to dilution of the mix with the fruit ingredient. In no case shall it contain less than 8 percent by weight of milk fat, nor less than 16 percent by weight of total milk solids, nor more than 0.5 percent by weight of harmless stabilizer or binder. The finished product shall in no case contain less than 1.6 pounds of total food solids per gallon and shall weigh not less than 4.5 pounds per gallon.

Nut Ice Cream—a frozen dessert which complies with the definition and standard of identity for ice cream as prescribed in §101 and which also contains properly prepared nut meats in such quantity that the finished products shall contain not less than 3 percent by weight of nuts. The butterfat and total milk solids content shall be the same as for ice cream (§101) with the exception that a reduction in these ingredients due solely to dilution of the ice cream mix with the nut ingredient is allowed. In no case shall it contain less than 8 percent milk fat, nor less than 16 percent of total milk solids, nor more than 0.5 percent of stabilizer or binder. The finished product shall in no case contain less than 1.6 pounds of total food solids per gallon and shall weigh not less than 4.5 pounds per gallon.

Ice Milk—a frozen dessert prepared with one or more of the optional milk or milk products prescribed in §107, sweetened with one or more of the optional sweetening agents prescribed in §103 with or without eggs or egg products, fruit or fruit juices, confection or other optional flavoring ingredients prescribed in §109, with or without harmless coloring. It shall contain not less than 3 percent by weight of milk fat and not less than 11 percent by weight of total milk solids, not more than 0.5 percent by weight of harmless stabilizer, or binder except that when the ingredients include eggs, fruit or fruit juices, confection, specially prepared cereal flavoring, cocoa or chocolate, or nuts used for the purpose of flavoring such reduction of the percentage of milk fat and non-fat solids as may be due to the addition of such ingredient shall be allowed, but not to exceed 20 percent. The finished ice milk shall contain not less than 1.3 pounds of total food solids to the gallon and shall weigh not less than 4.5 pounds per gallon. Caseinates may be added once the 11 percent total milk solids requirement is met.

Icicle Bar—a frozen dessert (including, but not limited to fudgesicles, popsicles) which is frozen with or without agitation and prepared from any of the optional sweetening ingredients listed in §103, any of the optional milk or milk products listed in §107, any of the optional flavoring ingredients listed in §109, harmless stabilizer or binder, not to exceed 0.5 percent by weight of finished product, listed in §115, water, and with or without artificial flavor. This class of frozen dessert shall be prepared in such a way that it will not simulate or purport to be any other frozen dessert defined in these regulations.

a. This type of frozen dessert shall be sold only in properly labeled individual portions as prepared by the manufacturer (in accordance with labeling provisions hereinafter provided in §121).

Mellorine—

a. a frozen dessert composed of:

i. food fats as prescribed in §111;

ii. non-fat milk solids as prescribed in §107, sugar and other sweetening ingredients prescribed in §103;

iii. flavoring as prescribed in §109.

b. It may contain one or more stabilizers as prescribed in §115 in an amount not exceeding 1 percent of active ingredients (either used singularly or in combination) of the weight of the finished product. It shall contain not less than 10 percent by weight of food fats and not less than 20 percent by weight of total solids, except for such reduction as is due to the addition of such optional flavoring ingredients, but in no case shall it contain less than 8 percent food fats or less than 16 percent by weight of food fats and non-fat milk solids. The finished product shall contain not less than 1.6 pounds of total food solids to the gallon and shall weigh not less than 4.5 pounds per gallon. Each gallon of *Mellorine* shall contain 8400 U.S.P. units of Vitamin A per gallon. In the case of *Mellorine* containing more than 10 percent of food fats, the vitamin content shall be increased proportionately.

Milk Shake—a product served on the premises where prepared, and consists of ice cream or ice milk, fluid milk, with or without the addition of flavoring. The finished product shall contain not less than 2 percent milk fat.

Malted Milk Shake or *Malted Milk Drink*—a product served on the premises where prepared, and consists of ice cream or ice milk, fluid milk and malt, with or without the addition of flavoring. The finished product shall contain not less than 2 percent milk fat.

Olarine—

a. a frozen dessert composed of:

i. food fats as prescribed in §111;

ii. milk solids-not-fat as prescribed in §107, sugar and other sweetening ingredients prescribed in §103;

iii. flavoring as prescribed in §109.

b. It may contain one or more stabilizers as prescribed in §115 in an amount not exceeding 1 percent of active ingredients (either used singularly or in combination) of the weight of the finished product. It shall contain not less than 4 percent by weight of food fats and not less than 10 percent by weight of food fats and milk solids-not-fat, except for such reduction as is due to the addition of such optional flavoring ingredients. The finished product shall contain not less than 1.0 pound of total food solids to the gallon and shall weigh not less than 4.5 pounds per gallon. Each gallon of *Olarine* shall contain 2940 U.S.P. units of Vitamin A per gallon. In the case of *Olarine* containing more than 4 percent of food fats, the vitamin content shall be increased proportionately.

*Sherbet***C**a frozen dessert which complies with the definition and standard of identity of fruit sherbet as prescribed in §101, with the exceptions that artificial flavoring may be substituted in whole or in part for the true fruit ingredient, and the butterfat content shall not be less than 1 percent.

*Fruit Sherbet***C**a frozen dessert made from one or more optional milk or milk products (prescribed in §107), water, and one or more sweetening ingredients prescribed in §103 with not more than 0.5 percent of stabilizer of binder with fruit or fruit juice ingredients in such an amount that the finished product shall contain not less than 20 percent by weight of such fruit ingredient, with or without addition of organic food acid. The finished product shall contain not less than 0.35 percent of organic acid calculated as lactic acid. The quantity of optional milk or milk products used shall be such that the finished product shall contain not less than 1 percent of milk fat and not more than 10 percent of total milk solids. The finished product shall weigh not less than 6 pounds per gallon.

*Sherine***C**a frozen dessert which complies with the definitions and standards of identity of fruit *Sherine* as prescribed in §101, with the exceptions that artificial flavoring in whole or in part may be substituted for the true fruit ingredient and the fat content shall not be less than 1 percent. Artificial color may be used.

*Fruit Sherine***C**a frozen dessert composed of food fats as prescribed in §111, and milk solids-not-fat as prescribed in §107, water and one or more sweetening ingredients as prescribed in §107 with not more than 1 percent of stabilizer or binder with fruit or fruit juice ingredients in such an amount that the finished product shall contain not less than 20 percent by weight of such frozen ingredients with or without addition of organic food acid. The finished product shall contain not less than 0.35 percent of organic acid calculated as lactic acid. The finished product shall contain not less than 1 percent of vegetable or animal fat and not more than 10 percent of food fats and milk solids-not-fat. Not more than 1 percent of stabilizer or binder may be used. The finished product shall weigh not less than 6 pounds per gallon.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is R.S. 36:258.B, with more particular provisions found in Chapters 1 and 4 of Title 40. This Part is promulgated in accordance with specific provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1283 (June 2002).

§103. Sweetening Ingredients Permitted [formerly paragraph 8:002]

A. The following optional nutritive sweetening ingredients may be used in the manufacture of frozen desserts:

1. sugar (sucrose);
2. dextrose;
3. invert sugar syrup;
4. corn syrup, dried corn syrup;
5. maple syrup, maple sugar;
6. honey;
7. caramel;
8. brown sugar;
9. cane syrup and edible can molasses;
10. maltose or malt sugar, malt syrup.

B. The use of saccharin or other non-nutritive sweetening ingredients is prohibited except in special dietetic foods.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1285 (June 2002).

§105. Use of Alcohol Prohibited [formerly paragraph 8:003]

A. The use of any alcohol or alcoholic beverage is prohibited, provided that this shall not apply to any frozen dessert containing less than 0.5 percent by volume of alcohol derived solely from the use of flavoring extracts.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1285 (June 2002).

§107. Milk and Milk Products Permitted [formerly paragraph 8:004]

A.1. The following optional milk or milk products may be used:

a. milk;
b. cream;
c. fluid skim milk;
d. sweetened and unsweetened evaporated skimmed milk;
e. sweetened and unsweetened evaporated milk;
f. sweetened and unsweetened condensed milk;
g. sweetened and unsweetened condensed skim milk;
h. dry powdered whole milk;
i. dry powdered skim milk;
k. or any of these products from which lactose has been wholly or partially removed;
l. butter;
m. plastic or extra heavy cream;
n. malted milk;
o. dried cream;
p. butter oil;
q. sweet cream buttermilk,
r. condensed sweet cream buttermilk;
s. dried sweet cream buttermilk;
t. concentrated cheese whey and dried cheese whey; and
u. casein or casein derivatives.

2. Any concentrated cheese whey and dried cheese whey used shall not contribute more than 25 percent by weight of the total non-fat milk solids content of the finished food. The use of milk products enriched with vitamins or other enrichment ingredients may be allowed at the discretion of the state health officer. The terms "milk" and "cream," as used herein, mean cows' milk and cream. The term "sour dairy product" means any dairy ingredient having an abnormally high acidity in excess of 0.25 percent (calculated as lactic acid).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1285 (June 2002).

§109. Flavoring Ingredients Permitted [formerly paragraph 8:005]

A. The following optional flavoring ingredients may be used:

1. ground spice;
2. ground vanilla beans, pure or imitation vanilla extract;
3. infusion of coffee or tea;
4. chocolate or cocoa (for the purpose of this provision the term "cocoa" means one or any combination of two or more of the following: cocoa, breakfast cocoa, defatted cocoa; the unpulverized residual material prepared by removing part of the fat from the ground cocoa nibs);
5. any natural food flavoring;
6. confection, for the purpose of this provision, means candy, cakes, cookies or glazed fruits;
7. certain prepared cereals which provide a distinctive and characteristic flavor;
8. any artificial flavor; and
9. salt.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1286 (June 2002).

§111. Vegetable and Animal Fats Permitted [formerly paragraph 8:006]

A. Vegetable and animal fat shall be deemed to be edible natural fats derived from vegetable and animal sources, including only such milk fat as is normally contained in products c, d, g, and i, of §107.A.1. of these regulations. Harmless optional ingredients may be used to prevent fat oxidation in an amount not exceeding 0.05 percent of the weight of the fat used.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1286 (June 2002).

§113. Filler Prohibited [formerly paragraph 8:007]

A. The use of any filler is prohibited. No starch-bearing material shall be added except as provided for under §109 and then only when used solely for the purpose of contributing a characteristic flavor such as the use of cake and specially prepared cereal for flavoring purposes only.

B. The use of gelatin, algin, agar, locust bean gum, gum acacia, gum karaya, gum tragacanth, extractive of Irish Moss, psyllium seed husk, cellulose gum, guar seed gum, monoglycerides or diglycerides, or other edible vegetable gums is prohibited except as hereinafter provided.

C. The use of any chemical or mixture of chemicals added for the purpose of renovating sour or otherwise decomposed products is prohibited. Use of harmless mineral salts for the sole purpose of neutralizing normal acidity not due to decomposition is permissible.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1286 (June 2002).

§115. Stabilizers Permitted [formerly paragraph 8:008]

A. The use of harmless stabilizer of binder such as gelatin, algin, agar, locust bean gum, gum acacia, gum karaya, gum tragacanth, extractive of Irish Moss, psyllium seed husk, cellulose gum, guar seed gum, monoglycerides or diglycerides, or other vegetable gums or other harmless, wholesome stabilizers or binders are allowed in limited amounts as prescribed under the definition for each frozen dessert provided in this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1286 (June 2002).

§117. Ingredients Prohibited [formerly paragraph 8:009]

A. The use of ingredients other than those listed in §109 of these regulations is prohibited. All listed ingredients which are used in each case shall consist entirely of clean, sound, wholesome food products which comply in every respect with the State Food, Drugs and Cosmetic Act (R.S. 40:601 et seq.) and regulations promulgated thereunder, and they shall have been produced in accordance with the provisions of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1286 (June 2002).

§119. Method of Analysis [formerly paragraph 8:010]

A. Methods of analysis to be used in determination of compliance of frozen desserts with these regulations shall be those recommended by the Association of Official Analytical Chemists of the American Public Health Association. In the absence of such methods, any scientifically sound method may be employed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1286 (June 2002).

§121. Labeling of Frozen Desserts [formerly paragraph 8:011]

A. All packages and containers enclosing frozen desserts defined in these regulations shall be plainly labeled or marked in accordance with the requirements of the Fair Packaging and Labeling Act.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1286 (June 2002).

§123. Processing, Packing and Distribution [formerly paragraph 8:012]

A. Mellorine, Olarine, Fruit Sherine, and Sherine shall be sold only in originally sealed, factory filled containers of one-half gallon or less in size. These products shall not be dispensed or served from their original container in any place where they are sold and shall not be dispensed by

vendors in milk shakes, milk drinks, sodas, sundaes, or other items customarily served at soda fountains or eating establishments.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1286 (June 2002).

§125. General Requirements
[formerly paragraph 8:013]

A. The processing, handling, and distribution of milk and milk products in the manufacture of frozen desserts shall conform to the minimum requirements for Grade A milk as prescribed in Part VII of the Louisiana State Sanitary Code. All milk and milk products shall be of quality approved by the state health officer. Counter freezer operations which freeze mixes and sell only at retail on the premises shall comply with the following requirements:

1. only mixes that have been processed and packaged in an approved plant shall be allowed;
2. mixes which require reconstitution are not allowed;
3. counter freezers used for freezing mixes which contain milk solids, milk fat, or vegetable fat shall be located only in premises which meet the minimum requirements for eating and drinking establishments.
4. no self-serve soft serve frozen desserts operation shall be allowed;
5. the frozen dessert operator shall be a food handler other than the cashier of a grocery or convenience store.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1287 (June 2002).

§127. Plans
[formerly paragraph 8:014]

A. Properly prepared plans for all plants for the production of frozen dessert which are hereafter constructed, reconstructed or expensively altered shall be submitted to the state health officer for approval.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1287 (June 2002).

§129. Pasteurization
[formerly paragraph 8:015]

A. All frozen dessert mixes shall be pasteurized. The term Apasteurized@ means the process of heating every particle of the mix to at least 155EF, and holding at such temperature for at least 30 minutes in approved and properly operated equipment; provided, that nothing contained in this definition shall be construed as disbarring any other process demonstrated to be equally efficient and approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1287 (June 2002).

§131. Bacterial Count
[formerly paragraph 8:016]

A. The average bacterial plate count of pasteurized mix or frozen dessert shall at no time exceed 50,000 per gram and the coliform count shall not be more than 10 per gram, except that the coliform count of those frozen desserts which contain fruits, nuts, chocolate or other bulky flavors shall not exceed 20 per gram.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1287 (June 2002).

§133. Permits
[formerly paragraph 8:017]

A. A permit from the state health officer is required of persons who hold with intent to sell, any frozen dessert or frozen dessert mix.

B. [Formerly paragraph 8:018] A permit for the manufacture of frozen dessert mix or frozen desserts issued by the state health officer shall be required of in-state manufacturers of frozen desserts or frozen dessert mix and of manufacturers whose products are imported into the state.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1287 (June 2002).

§135. Standards
[formerly paragraph 8:019]

A. Regulations governing definitions, standards of identity of frozen desserts, and labeling and placarding are adopted under the provisions of the State Food, Drugs and Cosmetic Act (R.S. 40:601 et seq.).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15), and R.S. 40:601, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1287 (June 2002).

§137. Records and Reports
[formerly paragraph 8:020]

A. Each manufacturer of frozen desserts or frozen dessert mixes shall maintain accurate record of their purchases, utilization and sales of ingredients and/or mixes. Such records shall be retained for six months.

B. Each manufacturer, supplier and/or jobber of cream, milk solids or vegetable fat shall maintain accurate records of the sale of their products to concerns selling frozen desserts or frozen dessert mixes in the State of Louisiana for six months.

C. The above manufacturers, suppliers and/or jobbers shall submit reports in a manner and at such intervals as may be required by the state health officer concerning the purchase or sale of ingredients, mixes or frozen desserts.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1287 (June 2002).

§139. Mobile Frozen Dessert Units
[formerly paragraph 8:021]

A. All milk and milk products used in the manufacture of frozen desserts shall be of a quality approved by the state health officer. The processing, handling and distribution of milk and milk products as well as the building, equipment, and other entities used in the manufacture of frozen desserts shall conform to the requirements for Grade A milk in Part

VII of this Code; except that §523 shall not apply. In addition, mobile frozen dessert units shall comply with the following requirements.

1. Each operator of a mobile frozen dessert unit shall obtain a permit to operate from the state health officer.

2. Truck interior shall be completely enclosed with the exception of serving windows and shall be of sufficient size with equipment and fixtures conveniently located so as to render efficient and sanitary operation.

3. Serving openings shall not be larger than 18 inches wide and 28 inches high, and there shall not be more than two serving openings to each mobile unit. The serving openings shall be closed at all times that the operator of the mobile unit is not actually dispensing frozen desserts.

4. A potable water supply tank, minimum capacity of 40 gallons, heated electrically or otherwise, and tilted toward a capped drain cock, shall be provided. Water inlet pipe shall be of removable flexible copper or other tubing approved by the state health officer, with nozzle for hose connection capped when not being used. The tank shall be provided with permanent vacuum breaker properly mounted (6 inches above top of tank). Tank shall be vented and screened with copper, brass or bronze screen. Hose and rack for connection to potable water supply shall be provided.

5. A three-compartment seamless sink supplied with running hot and cold water, equipped with a swivel faucet, shall be provided. Each compartment shall be large enough to accommodate the largest piece of equipment to be cleansed therein. Said sink shall be trapped and vented.

6. A hand sink, seamless, with running hot and cold water, soap and single service or individual towels, shall be provided. The sink shall be trapped and vented.

7. A suitable waste tank with capacity at least equal to the water supply tank, shall be provided, tilted toward a drain cock with an adequate method of gauging the contents. It shall be emptied and flushed as often as necessary in a sanitary manner.

8. A refrigerator box, constructed of stainless steel or other noncorrosive material and equipped with an indicating thermometer shall be provided. Metal racks or platforms shall be provided to store all ingredients.

9. Floors of the mobile unit shall be of material approved by the state health officer. Junctures of floors, wall and adjoining fixtures shall be watertight and covered. The floors shall be kept clean and dry at all times during the operation of the mobile unit.

10. Only mixes that have been processed and packaged in a plant approved by the state health officer shall be allowed, and mixes which require reconstitution are not allowed.

11. A covered waste can or container of sufficient size shall be provided for daily needs, constructed, designed and placed for ready cleaning. An easily accessible covered waste can or container shall be provided for customer's use. It shall be readily cleanable and kept clean, so located as not to create a nuisance, and so labeled that the public will be informed.

12. The truck interior shall be provided with artificial light sufficient to provide 15-foot candles of light in all areas.

13. Separation of partition (self-closing doors accepted) shall be made between driver's seat and manufacturing unit unless vehicle is air conditioned.

14. Persons preparing and handling frozen desserts shall wear clean, washable clothing, and effective, clean hair restraints.

15. The original frozen dessert permit to operate shall be displayed on each vehicle with photostat posted in operator's depot.

16. Each mobile unit shall display a sign advising the public of the type of frozen dessert being sold (e.g., Ice Milk, Ice Cream). The sign shall be printed in letters at least 8 inches in height.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1287 (June 2002).

§141. Depots for Mobile Frozen Dessert Units [formerly paragraph 8:022]

A. All mobile units shall operate from depots and shall report to their respective depot for cleaning and sanitizing at least once each day. All depots shall comply with the following requirements.

1. All plans and specifications for depots shall be approved by the state health officer prior to construction of same.

2. Structurally the building shall comply with §§511 through 527 in Part VII of this Code.

3. For washing purposes there shall be at least three large sinks, each of which shall be large enough to accommodate the largest piece of equipment to be washed. Sinks are to be provided with drainboards of impervious material.

4. A metal pipe drying rack for utensils shall be provided.

5. Clothes lockers and garbage cans shall be provided.

6. Adequate storage for perishable materials shall be provided.

7. A separate room shall be provided for the storage of all non-perishable food and paper products.

8. Adequate facilities shall be provided for the washing of vehicles.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a). Also see R.S. 40:5.(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1288 (June 2002).

Part IX. Seafood (Marine and Fresh Water Animal Food Products) Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part IX	**Chapter XIX**
Chapter 1	
§101	9:001
§103	9:002-1
§105	9:002-2
§107	9:002-3
§109	9:002-4
§111	9:002-5

§113	9:002-6
§115	9:002-7
§117	9:002-8
§119	9:002-9
§121	9:002-10
§123	9:002-11
§125	9:002-12
§127	9:002-13
§129	9:002-14
§131	9:002-15
§133	9:002-16
§135	9:002-17
§137	9:002-18
§139	9:003
§141	9:004
§143	9:004-1
§145	9:004-2
§147	9:004-3
§149	9:004-4
Chapter 3	
§301	9:005
§303	9:006
§305	9:007
§307	9:008
§309	9:009
§311	9:010
§313	9:011 - 9:021
§315	9:022 - 9:026
§317	9:027 - 9:041
§319	9:042 - 9:046
§321	9:047 - 9:050
§323	9:051 & 9:051-1
§325	9:051-2
§327	9:052
§329	9:052-1
§331	9:052-2
§333	9:052-3
§335	9:052-4
§337	9:053
§339	9:053-1
§341	9:053-2
§343	9:053-3
§345	Table I
§347	Appendix A

Part IX. Seafood
(Marine and Fresh Water Animal Food Products)

Chapter 1. Shellfish Growing Areas

§101. Definitions
[formerly paragraph 9:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Approved Area—the classification of a Louisiana shellfish growing area which has been approved by the state health officer with the assistance of the secretary of the Department of Wildlife and Fisheries for growing or harvesting shellfish for direct marketing. The classification of an approved area is determined through a sanitary survey conducted by the Department of Health and Hospitals in accordance with the guidelines set out in this rule and as hereafter amended and duly promulgated. An approved shellfish growing area may be temporarily made a closed area when a public health emergency resulting from, for instance a hurricane or flooding, is declared by the state health officer.

Bacteriological Database—bacteriological analysis organized and used as the basis for the classification of shellfish growing waters.

Central Laboratory, in New Orleans, Public Health Laboratory for the State—the reference laboratory for the state and is certified for water, milk and shellfish analysis. This laboratory is also the certifying laboratory for the state. The Central Laboratory is with the Department of Health and Hospitals, Office of Public Health.

Certified Laboratory—a laboratory conducting analysis for the Louisiana State Shellfish Sanitation Program that has received a satisfactory rating during an on-site evaluation by the shellfish evaluation officer for the State of Louisiana for the FDA evaluation officer. The purpose of the evaluation will be to assure the uniform application of standard procedures and methods in the sampling and analytical examination of shellfish growing waters and to determine and assure the adequacy of facilities, equipment and personnel to perform analytical testing necessary to meet the requirements recommended by the National Shellfish Sanitation Program and found to be acceptable by the Louisiana State Shellfish Sanitation Program. This evaluation only certifies that the laboratory facility and its staff meet the specifications of the National Shellfish Sanitation Program at the time of the evaluation.

Certified Laboratory Personnel—individuals administratively attached to an officially designated laboratory of the shellfish sanitation laboratory system for the purpose of conducting microbiological analysis for LSSP who have achieved a satisfactory rating during an on-site evaluation by the shellfish evaluation officer for the State of Louisiana for the FDA evaluation officer.

Closed Area—a growing area where the harvesting of shellfish is temporarily or permanently not permitted. A closed area status is or may be placed on any of four classified area designations—approved, conditionally approved, restricted, or prohibited.

Closed Safety Zone—an area designated by the state health officer for the purpose of lessening the impact of an actual or potential pollution source.

Coliform Group—includes all of the aerobic and facultative anaerobic, gram-negative, non-spore-forming bacilli which ferment lactose with gas formation within 48 hours at 35EC.

Conditional Management Plan—a written management program approved by the state health officer and the secretary of the Department of Wildlife and Fisheries governing classification of shellfish harvesting water classified as conditionally approved.

Conditionally Approved Area—the classification of a Louisiana shellfish growing area determined by the state health officer to meet the approved area criteria for a predictable period. A conditionally approved shellfish growing area is a closed area when the area does not meet the approved growing area criteria and is temporarily closed by the state health officer.

Direct Impact—a pollution source or potential source which may have an immediate impact on shellfish harvesting waters. Examples are:

a. any waste directly piped to shellfish harvesting waters;

b. any waste discharged to a property which would drain directly to shellfish harvesting waters;

c. domestic animals penned or confined so the animals have direct contact with the harvesting waters or their waste drain directly to growing waters;

d. marinas;

e. processing waste draining directly to harvesting waters.

Edible Crustaceans—include any edible, commercially distributed shrimp, crab, crayfish, lobster or other member of the animal kingdom classified as crustaceans (Crustacea).

FDA Evaluation Officer—an individual attached to the Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch for the purpose of conducting on-site evaluations of an officially designated laboratory of the shellfish sanitation laboratory system.

Fecal Coliform Group—includes bacteria of the coliform group which will produce gas from lactose in a suitable multiple tube procedure liquid medium (EC or A-1) within 24 plus/minus two hours at 44.5E plus/minus 0.2E C in a water bath.

Fish—includes any edible, commercially distributed fresh or salt water member of the animal kingdom classified as fish (Pisces).

Growing Area—an area which supports or could support live shellfish.

Habitable Structure—any structure capable of giving shelter from the environment and has waste treatment facilities.

Harvester—a person who takes shellfish by any means from a growing area.

Indirect Impact—a discharge or pollution source which could reach shellfish growing waters in a roundabout way. Example: an outfall which discharges to a drainage system which discharges into the immediate area of shellfish growing waters.

Louisiana State Shellfish Sanitation Laboratory System—all laboratories that have been successfully evaluated during an on-site evaluation by the shellfish evaluation officer for the State of Louisiana or FDA evaluation officer and have been consequently officially designated as a shellfish sanitation laboratory for the Louisiana State Shellfish Sanitation Program.

Louisiana State Shellfish Sanitation Program, Oyster Water Monitoring Program—that program which regulates and monitors the growing, harvesting, handling and shipping of shellfish in the State of Louisiana. The Program is with the Louisiana Department of Health and Hospitals, Office of Public Health, Division of Environmental Health Services.

Marina—any commercial facility for five or more floating vessels which may be utilized for docking, storing, servicing, or otherwise mooring vessels for which a fee is charged.

Marina Policy—the prescribed plan approved by the state health officer to be used in the classification of shellfish harvesting waters in and around marinas.

Marine Biotoxins—poisonous compounds accumulated by shellfish feeding upon toxin-containing dinoflagellates such as *Gonyaulax catanella, Q. tamarensis* and *Ptychodiscus brevis* (formerly *Gymnodlnlum brevet*.)

Marine and Fresh Water Animal Food Products—as used in these regulations shall include any or all of the above defined products and, in addition, any animal used as food for human consumption whose normal life span, in whole or part, is spent in fresh, brackish or salt water.

Most Probable Number (abbreviated MPN)—a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.

Narrative Report—a report submitted by the shellfish evaluation officer for the State of Louisiana or the FDA evaluation officer following an on-site evaluation. The report shall include the identity of the laboratory, the date of evaluation, name of evaluator, information on personnel and procedures and conclusions and shall precisely and accurately describe the conditions which existed during the evaluation, including what recommendations were made to correct deficiencies and proposed timetable for any corrective action necessary to bring the laboratory into substantial conformity with the requirements of NSSP as approved by the Louisiana State Shellfish Sanitation Program.

National Shellfish Sanitation Program (NSSP)—the cooperative State-FDA-Industry program for the certification of interstate shellfish shippers as described in the National Shellfish Sanitation Program Manual of Operations, Parts I and II. The National Shellfish Sanitation Program Manuals of Operation may be obtained by purchase from the Interstate Shellfish Sanitation Conference.

On-Site Evaluation—inspection and evaluation of a laboratory and all appropriate personnel at the physical laboratory site by the shellfish evaluation officer or FDA evaluation officer for the purpose of ascertaining if there is substantial compliance with all the requirements as listed in the Shellfish Laboratory Evaluation Check List C, (see form C, appendix A) provided by the Federal Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch, if the laboratory complies with recommended procedures and capabilities and if the analytical results produced by the laboratory are in support of the Louisiana Shellfish Sanitation Program and are acceptable to FDA.

Opening/Closing Line—a boundary drawn on a map to delineate the classification of shellfish grown waters.

Person—includes any individual, partnership, corporation, association or other legal entity.

Point Source—any discernible, confined and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, or conduit that carries pollution.

Poisonous or Deleterious Substance—a toxic compound occurring naturally or added to the environment that may be found in shellfish for which a regulatory tolerance or action level has been established or may be established to protect public health. Examples of naturally occurring substances would be paralytic shellfish toxins and trace elements geologically leached from the environment, such as mercury; examples of added substances would be agricultural pesticides and polynuclear aromatics from oil spills.

Pollution—the contamination of the shellfish waters by the discharge of noxious substances into these waters (chemicals, bacterial, or biotoxins).

Post-Harvest Processing—a treatment process approved by the Louisiana Department of Health and Hospitals Office of Public Health by which oysters are treated to reduce levels of *Vibrio vulnificus* and/or *Vibrio parachaemolyticus* and/or other specified pathogens to non-detectable levels.

Prohibited Area—Louisiana waters that have been classified by the state health officer as prohibited for the harvesting of shellfish for any purpose except depletion. A prohibited shellfish growing area is a closed area for the harvesting of shellfish at all times. Harvesting of shellfish from a closed area may result in criminal charges pursuant to R.S. 56:254.

Relaying—the transfer of shellfish from restricted areas to approved areas for natural biological cleansing using the ambient environment as a treatment system.

Restricted Area—Louisiana waters that have been classified by the state health officer as an area from which shellfish may be harvested only if permitted and subjected to a suitable and effective purification process.

Sanitary Survey—the evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing area water quality.

Satisfactory Rating—an indication that, during an on-site evaluation by the shellfish evaluation officer for the State of Louisiana or FDA evaluation officer that the laboratory and laboratory personnel were found to be in substantial compliance with all requirements as listed in the Shellfish Laboratory Evaluation Check List provided by the Federal Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch, that FDA recognizes that the laboratory complies with recommended procedures and capabilities and that the analytical results produced by the laboratory are in support of the Louisiana Shellfish Sanitation Program and are acceptable to FDA.

Seafood—includes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

Shellfish—all edible species of oysters, clams, or mussels, either shucked or in the shell, fresh or frozen; whole or in part. Some of the common bivalves included in this definition are:

Common Name	Scientific Name
Cockle	Clinordium nuttalli Cardium corbis (Pacific)
Geoduck	Panope generosa
Fresh water clam	Rangia cuneata
Soft shell clam	Mya aren't
Hard or quahog clam	Mercenaria mercenaria
Surf clam	Spisula solidissima
Mahogany or Ocean quahog, clam	Artica islandica
Gaper or Horse clam	Tresus nuttalli and T. capax
Razor clam	Solen resaceus, Ensis directus (Atlantic)
	Solen viridis, Tagelus plebeius, and Siliqua patula (Pacific)
Bent-nose clam	Macoma nasuta
Pismo clam	Tivela stultorum
Butter clam	Saxidomus giganteus
Calico clam	Macrocallista maculata
Sunray venus	Macrocallista nimbosa
Pacific littleneck clam	Protothaca tenerima and Protothaca staminea
Manila clam	Tapes semidecussata
Pacific (Japanese) oyster	Crassostrea gigas
Eastern oyster	Crassostrea virginica
Olympia or yaquina oyster	Ostrea lurida
European oyster	Ostrea edulis
Blue or bay mussel	Mytilus edulis
California sea mussel	Mytilus californianus
Green lipped mussel	Perna canaliculus (New Zealand)

Shellfish Evaluation Officer for the State of Louisiana—state health officer or his/her designee approved by letter by the federal Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch to conduct on-site evaluations of laboratories deserving official recognition as a member of the shellfish sanitation laboratory system other than the Central Laboratory in New Orleans. Official approval is based upon the individual meeting the requirements of Shellfish Sanitation Interpretation S.S. 35 entitled "Evaluation of Laboratories by State Shellfish Laboratory Evaluation Officers."

State Shellfish Patrol Agency—the enforcement agents of the Louisiana Department of Wildlife and Fisheries having the responsibility for the enforcement of lines concerning harvesting of shellfish.

State Waters—waters that belong wholly to the State of Louisiana, including the Territorial Sea.

Transplanting—the moving of shellfish from one area to another area for improving growth, stocking depleted area and leases, and for other aquiculture purposes.

Worst Pollution Conditions—conditions determined by changes in meteorological, hydrographic, seasonal, and point source conditions that have been historically demonstrated to adversely impact a particular growing area.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R. S. 36:258.B, with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40: 4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1289 (June 2002).

§103. Harvesting and/or Sales Shellfish-Approved Areas
[formerly paragraph 9:002-1]

A. No shellfish shall be harvested and/or sold in the State of Louisiana for food unless taken from areas approved by the state health officer, or if taken from sources outside of the state, from areas approved by the state authorities having jurisdiction, and unless secured from shellfish dealers whose state certifications have been endorsed by the United States Food and Drug Administration, Public Health Service for interstate shipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1291 (June 2002).

§105. Sanitary Surveys of Growing Areas—Satisfactory Compliance [formerly paragraph 9:002-2]

A. This item will be satisfied when the following requirements are met.

1. Before an areas is classified as approved, conditionally approved, or restricted, a sanitary survey shall be made. The survey is made prior to allowing harvesting from the area.

2. Each sanitary survey shall identify and evaluate all actual and potential sources of pollution which may affect the growing area; determine the distance of such sources to the growing area; assess the effectiveness and reliability of sewage treatment systems; and ascertain the presence of poisonous or deleterious substances, e.g., industrial and agricultural wastes, pesticides or radionuclides. The presence and location of small sources of pollution such as boats which might contribute direct fresh fecal matter and poisonous or deleterious substances to the area shall be evaluated. The presence of domestic, wild animal, or migrating bird populations shall be considered for possible adverse effects upon water quality. Offshore growing areas located in the vicinity of ocean dump sites shall be evaluated for biological and chemical wastes and radiological materials. Other environmental health factors that may affect the quality of the shellfish resources should also be evaluated in the sanitary survey.

3. Each sanitary survey shall evaluate any meteorological and hydrographic effects and geographic characteristics that may affect the distribution of pollutants over the growing area. These factors shall be assessed to determine their maximum effect on water quality.

4. Each sanitary survey shall include the collection of growing area water samples and their analysis for bacteriological quality. The number and location of sampling stations selected shall be adequate to produce the data necessary to effectively evaluate all point and non-point pollution sources. Recommended that sampling stations shall be established to evaluate all freshwater discharges into the growing area. The collection of samples shall form a profile for periods defining worst pollution conditions which reflect adverse meteorological, hydrographic, seasonal, and point sources of pollution to assure that the requirements for classifying growing areas as approved (Paragraph 3), conditionally approved (Paragraph 4), or restricted (Paragraph 5) are met.

5. The sanitary survey shall be maintained on an annual basis in order to assure that data is current and sanitary conditions are unchanged. If actual or potential pollution sources impact upon the area, it is necessary to annually update sanitary survey data including the field review of pollution sources and the collection of at least five water quality samples from each stations selected to accurately represent shellfish sanitation in the area under consideration.

6. The sanitary survey shall be reviewed and the growing area classification reevaluated at least every three years to assure the accurate classification of each growing area. The reevaluation shall include, at a minimum, an examination of the Oyster Water Monitoring Program's bacteriological database of at least the last five prior years. The minimum number of samples required within the five-year database is 15. For a harvesting area to be classified as approved, the requirements of §109 must be met. For a harvesting area to be classified as conditionally approved, the requirement of §111 must be met. For an area to be classified as restricted, the requirements of §113 shall be met.

7. A report shall be prepared for each sanitary survey and each reevaluation. Reports shall contain an analysis of the sanitary survey data, and a determination that the area classification conforms with the applicable criteria.

8. Areas classified as approved, conditionally approved, or restricted that do not comply with the sanitary requirements of the designated classification shall be immediately reclassified to the appropriate category.

9. The central sanitary survey file shall contain all information related to the classification of each area including sanitary survey reports, updated sanitary survey data, and reevaluation reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1292 (June 2002).

§107. Classification of Growing Areas—Satisfactory Compliance [formerly paragraph 9:002-3]

A. This item will be satisfied when:

1. all actual and potential shellfish growing areas in the State of Louisiana are correctly designated with one of the following classifications on the basis of sanitary survey information: approved, conditionally approved, or restricted;

2. a closed safety zone will be established adjacent to all identified actual or potential pollution discharges which have a direct or indirect impact and, which have been determined to be of a significant nature in the growing area. The closed safety zone shall be sufficiently large enough in area or time of travel to afford the time necessary to close the area to shellfish harvesting prior to the pollution affecting the harvesting area;

3. an upward revision of an area classification shall be supported by an adequate sanitary survey and documented in a sanitary survey report. This report shall include a written analysis of the data and shall be part of the growing area central file. The reopening of an area temporarily closed because of an emergency, the failure to meet the performance standards for a conditional area, or the presence of biotoxins shall be supported by appropriate data showing that the original classification criteria are met, and documented by a written record in the central file of the Oyster Water Monitoring Program, Office of Public Health, Department of Health and Hospitals;

4. maps showing the boundaries and classification of each shellfish growing area are maintained in the central file by the Oyster Water Monitoring Program, Office of Public Health, Department of Health and Hospitals;

5. maps showing the boundaries and classification of each shellfish growing area are posted at designated locations. These locations are listed in the *Louisiana Register* Vol. 13, Page 413.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1292 (June 2002).

§109. Approved Areas C Satisfactory Compliance [formerly paragraph 9:002-4]

A. Growing areas may be designated as approved when the sanitary survey and marine biotoxin surveillance data indicates that fecal material, pathogenic microorganisms, poisonous and deleterious substances are not present in the area in dangerous concentrations. This item will be satisfied when:

1. the fecal coliform median or geometric mean MPN of the water does not exceed 14 per 100 ml and not more than 10 percent of the samples exceed an MPN of 43 for a five-tube dilution test (or an MPN of 49 per 100 ml for a three-tube decimal dilution test);

2. Sanitary Survey Report, as required in §§103 and 105 are on file with the Oyster Water monitoring Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1293 (June 2002).

§111. Conditionally Approved Areas C Satisfactory Compliance [formerly paragraph 9:002-5]

A. Growing areas that are subject to intermittent micro-biological pollution may be classified as conditionally approved. Shellfish growing areas that are subject to intermittent microbiological pollution may, at the discretion of the state health officer, be classified as conditionally approved when:

1. the factors, environmental and otherwise, which affect a growing area are known and predictable;

2. a sanitary survey of less than one year is on file with the Oyster Water Monitoring Program;

3. data review of the factors indicates the area will meet approved area criteria;

4. statistical analysis shows the area to meet approved area classification under regulated factors;

5. statistical analysis shows the factor(s) to be a significant contributor to the microbiological pollution event. In order for a factor(s) to be considered a significant contributor, the sample station(s) must meet approved area criteria when the factor(s) is eliminated from the bacteriological database.

B. If the growing area meets the requirements specified in §111.A.1.-5, a conditional management plan will be developed. The conditional management plan will include, at a minimum, the following:

1 definition of the growing area by use of a map or verbal description. When a verbal description is used, a map will be included as part of the conditional management plan;

2. an evaluation of each known or potential source of pollution which may have a direct or indirect impact on the growing area as defined in §111.B.1;

3. criteria for opening and closing the defined area;

4. a patrol system to prevent illegal harvesting of shellfish;

5. an alert system for immediately notifying the Louisiana Department of Health and Hospitals, Office of Public Health and the Louisiana Department of Wildlife and Fisheries of an adverse change in the environmental conditions;

6. specified performance factors for the defined conditionally approved area;

7. random sampling schedule to ensure a cross section of all environmental and other factors are examined.

C. A conditionally approved area will be immediately closed to shellfish harvesting when the established criteria in the conditional management plan are not met. The management area will remain closed until:

1. the criteria established in the management plan area fully met;

2. a time period has elapsed to allow the natural depuration of the shellfish;

3. when determined as necessary by the state health officer, bacteriological and/or chemical analysis to verify shellfish growing water and/or shellfish meat quality.

D. If the proposed conditionally approved area is affected by a waste water discharge, the following will be included within the conditional management plan:

1. performance standards which, if not adhered to, represent a pollution threat to the management area;

2. effluent volume at average and peak flow;

3. identification of factors which cause plant failures;

4. an established reporting procedure of discharge failure;

5. an established monthly reporting procedure of discharge parameters;

6. the establishment of an immediate reporting procedure in the event of facility or collection system by-pass.

E. The conditional management plan shall specify the frequency and thoroughness with which the management area will be reviewed and/or reevaluated. Each review and/or reevaluation shall contain the following:

1. review of compliance with the management plan;

2. review of cooperation of all parties involved;

3. review of agreed upon reporting;

4. review of compliance with performance standards;

5. a written report of the review.

F. The purpose of the conditional management plan will be agreed upon by the Louisiana Department of Health and Hospitals and the Louisiana Department of Wildlife and Fisheries.

G. A conditional management plan will not become effective until the order establishing the conditional management area has been signed by:

1. the Louisiana state health officer;

2. the secretary, Louisiana Department of Health and Hospitals; and

3. the secretary, Louisiana Department of Wildlife and Fisheries. Such a statement will be included in all conditional management plans when the plan is being prepared or upon the review/reevaluation of the management plan. In the event the last signature is obtained after the stated effective date of the management plan, the conditional management plan will become effective seven days after the latest signature affixed to the order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1293 (June 2002).

§113. Restricted AreaC Satisfactory Compliance [formerly paragraph 9:002-6]

A. An area may be classified as restricted when a sanitary survey indicates a limited degree of pollution. This option may arise when levels of fecal pollution or poisonous or deleterious substances are low enough that relaying or depuration will make the shellfish safe to market. This item will be satisfied when the following criteria are met in areas designated as restricted.

1. Sanitary surveys of restricted areas are conducted, maintained, and reevaluated in the same manner and frequency as for approved areas.

2. The area is not so contaminated with fecal material, poisonous or deleterious substances that consumption of the shellfish might be hazardous after controlled purification or relaying. Verification of these findings shall be done by a certified laboratory.

3. For restricted areas to be used for harvest of shellfish for controlled purification the bacteriological quality of every sampling station in those portions of the area exposed to fecal contamination during the worst pollution conditions shall meet one of the following standards.

a. The total coliform median or geometric mean MPN of the water does not exceed 700 per 100 ml and not more than 10 percent of the samples exceed an MPN of 2,300 per 100 ml for a 5-tube decimal dilution test (or 3,300 per 100 ml for a 3-tube decimal dilution test).

b. The fecal coliform median or geometric mean MPN of water does not exceed 88 per 100 ml and not more than 10 percent of the samples exceed an MPN of 260 per 100 ml for a 5-tube decimal dilution test (or 300 per 100 ml for a 3-tube decimal dilution test).

4. Shellfish quality specifications are established by the Louisiana state health officer for the use in classifying areas. These specifications are based on the data obtained from surveys, water samples and product samples taken from the potential restricted area. With this information the Louisiana state health officer may evaluate the bacteriological and chemical quality of the shellfish and determine whether the shellfish may be used for relaying or depuration.

5. The Louisiana state health officer with the secretary of the Louisiana Department of Wildlife and Fisheries have effective protocols for assuring that shellfish are not harvested from restricted areas except by special permit and under the effective supervision of the Louisiana Department of Wildlife and Fisheries.

6. All data, criteria, and protocols relating to the operation of a restricted area including survey reports, purification effectiveness studies, classification criteria, harvesting permits, and harvesting control records are maintained in a central file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1294 (June 2002).

§115. Prohibited AreasC Satisfactory Compliance [formerly paragraph 9:002-7]

A. Louisiana State shellfish growing water areas are classified as prohibited if a sanitary survey or marine biotoxin surveillance report indicates that:

1. pollution sources may unpredictably contaminate the shellfish; or

2. the area is contaminated with poisonous or deleterious substances whereby the shellfish may be adulterated; or

3. the area is polluted with fecal waste to such an extent that shellfish may contain excessive filth or be vectors of disease-causing microorganisms; or

4. the area contains shellfish wherein the concentration of paralytic shellfish poison (PSP) equals or exceeds 80 micrograms per 100 gram of edible portion of raw shellfish, or when neurotoxic shellfish poison is found in detectable levels.

B. No shellfish shall be taken from prohibited areas for human food use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1294 (June 2002).

§117. Control of Areas Due to Marine BiotoxinsC Satisfactory Compliance [formerly paragraph 9:002-8]

A. This item will be satisfied when:

1. areas affected by marine biotoxins shall be the subject of an effective control plan developed by the Louisiana state health officer and the secretary of the Louisiana Department of Wildlife and Fisheries. The plans shall define those administrative procedures and resources necessary to:

a. initiate an emergency shellfish sampling and assay program;

b. close areas and embargo shellfish; and

c. prevent harvesting of contaminated species. The Louisiana state health officer and the secretary of the Louisiana Department of Wildlife and Fisheries may designate such affected areas as conditionally approved;

2. during the harvesting season in those areas where shellfish toxins are likely to occur, representative samples of shellfish shall be collected from indicator stations and assayed for the presence of toxins;

3. a quarantine shall be imposed against the taking of shellfish when the concentration of paralytic shellfish poison equals or exceeds 80 micrograms per 100 grams of edible portion of raw shellfish, or when neurotoxic shellfish poison is found in detectable levels. To implement this quarantine, the growing area shall be closed, and the prohibition of harvesting shall be enforced;

4. the quarantine shall remain in effect until such time as the Louisiana state health officer has analytical data to show that the poison content of shellfish involved is below the quarantine level. The determination to reopen an area shall consider whether marine biotoxin levels in the shellfish from adjacent areas are decreasing; and whether environmental factors such as water temperature, upwelling or bottom sediments, and numbers of toxic cysts in the sediment are such that conditions can be expected to be stable. This analysis and determination shall be adequately documented;

5. the central file shall contain all information relating to the levels of poison in the growing areas involving monitoring data, closure notices, evaluation reports, and reopening notices;

6. if heat processing is practiced, a control procedure shall be developed. This procedure shall define the following:

a. toxicity limits for processing;

b. controls for harvesting and transporting the shell stock to processor;

c. special marking for unprocessed shell stock;

d. scheduled processes; and

e. end product controls on the processed shellfish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1294 (June 2002).

§119. Procedures for Receipt of Shellfish Growing Water Samples [formerly paragraph 9:002-9]

A. Samples of shellfish growing waters, properly collected and labeled in accordance with criteria stipulated in the current edition of American Public Health Association (APHA) *Recommended Procedures for the Examination of Sea Water and Shellfish* and appropriate sections in *Official Methods of Analysis* of the Association of Official Analytical Chemists (A.O.A.C.), shall be brought to a certified Louisiana shellfish sanitation laboratory immediately after collected and preferably within 1 hour after collection. When conditions necessitate delay in the transport of samples, the samples shall be kept at a temperature at or below 10EC until bacteriologic examination. In no case shall samples be tested if they have been held for more than 30 hours.

B. The submitter shall bring the samples, which must be clearly identified, directly to the shellfish laboratory. The submitter shall transfer possession of the sample to the laboratory scientist on duty or place the samples in a secured, designated area of the laboratory.

C. The receiving laboratory scientist shall verify the receipt of the samples and record the date and temperature of receipt in an appropriate manner. Analysis should begin immediately after receipt and preferably within one hour after collection. When conditions necessitate delay in the analysis of samples, the samples shall be kept at a temperature at or below 10EC until microbiologic examination. In no case shall samples be tested if they have been held for more than 30 hours.

D. Samples shall be held at a temperature at or below 10EC for a minimum of 30 hours after collection before being discarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1295 (June 2002).

§121. Preparation for Laboratory Analysis of Shellfish Growing Waters [formerly paragraph 9:002-10]

A. Laboratory apparatus used in the analysis of shellfish growing waters shall conform to the criteria stipulated in the current edition of American Public Health Association (APHA) *Recommended Procedures for the Examination of Sea Water and Shellfish* and appropriate sections in *Official Methods of Analysis* of the Association of Official Analytical Chemists (A.O.A.C.).

1. Air incubators used in the preliminary incubation of tubes of test medial shall maintain a uniform and constant temperature of 35E plus/minus .5EC at all times.

2. Covered, circulating water baths used to incubate tubes of test media for the remaining incubation period shall maintain a uniform and constant temperature of 44.5E plus/minus .2EC at all times.

3. Hot air ovens used in the heat sterilization of glassware and related supplies shall be of sufficient size to prevent overcrowding, maintain uniform and adequate sterilizing temperature, and be equipped with suitable thermometers able to accurately register in the range of 160-180E C.

4. Autoclaves used in the sterilization of test media shall be sufficiently large enough to prevent interior crowding, provide uniform temperature within the chambers, including the sterilizing temperature of 121EC, and be equipped with accurate temperature and pressure recording devices. Pressure gauges and properly adjusted safety valves should be connected directly to either the saturated steam power lines or to a suitable steam generator. The autoclave should be capable of reaching the desired temperature within 30 minutes.

5. Electrometric pH meters used in the preparation of test media and reagents shall have an accuracy of plus/minus 0.1 pH unit.

6. Balances used in the preparation of test media and reagents shall provide a sensitivity of at least 0.1g at a load of 150g and be used with standardized weights. When less than 2g of materials is weighed, the analytical balance used must have a sensitivity of 1 mg under a load of 10g.

7. Water deionization units should be fitted with a 0.22 um-pore diameter filter.

B. Laboratory glassware, reagents and medias used in the analysis of shellfish growing waters shall conform to the criteria stipulated in the current edition of the America Public Health Association (APHA) *Recommended Procedures for the Examination of Sea Water and Shellfish* and appropriate sections *Official Methods of Analysis* on the Association of Official Analytical Chemists (A.O.A.C.).

1. Pipets shall be 1.0 ml serological pipets with 0.1 ml graduations and 10.0 ml pipets with .1 ml graduations. Pipets with damaged tips are not to be used. The error calibration shall not exceed 2.5 percent. Pipets that conform to APHA standards as given in "Standard Methods for the Examination of Dairy Products," 14th ed. 1978, American Public Health Association, 1015 18th Street, N.W. Washington, DC 20036 may also be used.

2. Dilution bottles or tubes used in the analysis of shellfish growing waters shall be of borosilicate glass or other material resistant to the solvent action of the water. The bottles shall be fitted with glass or rubber stoppers or polyethylene screw caps equipped with Teflon or equivalent liners that do not produce bacteriostatic compounds on sterilization.

3. Only satisfactorily-tested laboratory pure water from stills or deionization units shall be used in the preparation of culture media and reagents and shall be tested and found free from traces of dissolved metals and bactericidal or inhibitory compounds as described in the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

4. Butterfield's buffered phosphate diluent used in the analysis of shellfish growing waters shall be prepared as follows: Stock solution: dissolve 34.0g of potassium phosphate, monobasic, in 500 ml of laboratory pure water, adjust with 1 N NaOH to a pH of 7.2 and bring to 1000 ml volume with laboratory pure water. Dilute 1.25 ml of stock solution to 1 L with laboratory pure water and dispense into dilution bottles in amounts necessary to achieve the desired quantity within a 2 percent tolerance after sterilization. Autoclave the bottles at 121EC for 15 minutes. Store in a cold, dry place at room temperature.

5. A-1 media is to be prepared from individual components as follows: Dissolve 5g lactose, 20g tryptone, 5g NaCl, and 0.5g salicin in 1 L distilled water. Heat to dissolve ingredients, pipet in l ml Triton-X-100 and adjust pH 6.9 plus/minus .1 with 1 N NaOH solution. For 10 ml sample aliquots, prepare and use double strength medium. Single strength medium should be dispensed in 10 ml amount for 10 ml inocula. Autoclave media for 10 minutes at 121E C. Store in dark at room temperature away from possibility of excessive evaporation and contamination. Use media within seven days.

6. All laboratory glassware used in the analysis of shellfish growing waters must be thoroughly cleaned using a suitable detergent and hot water (160EF), then rinsed in hot water (180EF) to remove all traces of residual detergent, and then rinsed four times with a complete change of water, the final rinse being laboratory pure water. The effectiveness of the rinse should be established by testing the as described in the current edition of *Standard Methods for the Examination of Water and Wastewater*. Glassware should be autoclaved or should be sterilized for not less than 60 minutes at 170EC. If glassware is in metal containers, it must be heated to a temperature of 170EC for not less than two hours. Plasticware may be sterilized with low-temperature ethylene oxide gas. However, precautions should be taken to assure that all of the gas has been removed from containers before using.

7. Bromothymol glue (BTB) indicator solution used in the quality control of glassware shall be prepared by adding 16 ml 0.01 N NaOH to 0.1 g BTB and diluted to 250 ml with laboratory pure water to equal a 0.04 percent solution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1295 (June 2002).

§123. Procedure for the Analysis of Shellfish Growing Waters [formerly paragraph 9:002-11]

A. Analysis of shellfish growing waters for the Louisiana State Shellfish Sanitation Program shall be performed by a laboratory officially designated as part of the Louisiana shellfish sanitation laboratory system. Procedures and methods for analysis of shellfish growing water shall conform to criteria stipulated in the current edition of American Public Health Association (APHA) *Recommended Procedures for the Examination of Sea Water and Shellfish* and appropriate sections in *Official Methods of Analysis*, of the Association of Official Analytical Chemists (A.O.A.C.).

1. Microbiological examinations shall be conducted as follows: Appropriate dilutions shall be made with Butterfield's buffered phosphate diluent. Shake the sample and each successive dilution bottle 25 times vigorously using up and down movements of about 30 cm in seven seconds. Inoculate the water sample directly into tubes containing A-1 medium in suitable decimal dilutions using three or five tubes/dilution and a minimum of three dilutions. Place inoculated tubes into air incubator and incubate three hours at 35E plus/minus .5EC. Transfer tubes to water bath and incubate 21E plus/minus two hours at 44.5E plus/minus .2EC. Maintain the water level above the level of liquid in the inoculated tubes. Examine the inoculated tubes at the end of this period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1296 (June 2002).

§125. Determination of Results, Records and Data Reporting [formerly paragraph 9:002-12]

A. Test result data for use by the Louisiana State Shellfish Sanitation Program shall be generated by an officially designated laboratory of the Louisiana shellfish sanitation laboratory system.

B. Determination of results of microbiological analysis of shellfish growing waters shall conform to criteria stipulated in the current edition of American Public Health Association (APHA) *Recommended Procedures for the Examination of Sea Water and Shellfish* and appropriate sections in *Official Methods of Analysis*, of the Association of Official Analytical Chemists (A.O.A.C.).

1. The presence of gas in the inverted vial or of dissolved gas which can be removed by slight agitation of the test medium test tube shall constitute a positive test. The number of positive tests in each dilution shall be recorded for determination of the Most Probable Number (MPN).

2. The standard Most Probable Number (MPN) tables as found in the appropriate tables in the current edition of American Public Health Association (APHA) *Recommended Procedures for the Examination of Sea Water and Shellfish* and *Official Methods of Analysis*, of the Association of Official Analytical Chemists (A.O.A.C.) shall be used to determine MPN values.

C. All test result data shall be verified and documented and shall be reported by the laboratory as fecal coliform MPN/100 ml sample to the proper authorities.

D. A record of all test result data shall be maintained by the laboratory or remain accessible to the laboratory for a period of five years. Records may be in tabular and/or electronic form and should include date, place and time of sampling, name of person collecting sample, identification of sample, date of receipt of sample and analysis, laboratory person responsible for performing analysis, analytical technique used, and results of analysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1296 (June 2002).

§127. Qualification for Laboratories Conducting Analysis of Shellfish Growing Waters for the Louisiana State Shellfish Sanitation Program [formerly paragraph 9:002-13]

A. Laboratories conducting microbiological analysis of shellfish growing waters for the Louisiana Shellfish Sanitation Program shall be officially designated as part of the Louisiana State shellfish sanitation laboratory system. To be so designated, laboratories shall be evaluated by the shellfish evaluation officer for the State of Louisiana or the FDA evaluation officer, Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch and shall maintain a satisfactory rating.

1. The Central Laboratory in New Orleans shall be evaluated by the FDA evaluation officer, Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch.

B. Evaluations shall be conducted at a minimum of every three years or more frequently if necessary. Loss of satisfactory reevaluation will result in loss of said designation. More frequent evaluations will be required under the following circumstances:

1. a previous marginal or low evaluation rating;
2. notable deviations from acceptable or established methods;
3. major changes in workloads or priorities;
4. a substantial turnover of personnel;
5. at the request of the FDA, Chief, Shellfish Sanitation Branch or the Louisiana Shellfish Sanitation Program control authorities.

C. The laboratory shall meet all requirements as described in this document and be found to be in substantial conformity with the National Shellfish Sanitation (NSSP) as approved by the Louisiana Shellfish Sanitation Program (LSSP).

D. Analysts, supervisory and administrative personnel involved in the generation, verification and reporting of laboratory data for the LSSP shall meet qualifications described in the following section.

E. The laboratory facilities shall meet the following criteria.

1. Work space shall be adequate (200 square ft., 2 and 6 linear feet of bench/analyst) to accommodate peak workloads.
2. Work space shall include sufficient bench top area for processing samples, storage space for media, glassware, and portable equipment, floor space for stationary equipment and instrumentation, and associated areas for cleaning glassware and for sterilizing materials.
3. Facilities shall be clean, air-conditioned, and have adequate lighting at the bench top (100 ft. candles).

F. The laboratory shall demonstrate a conscious effort to safeguard against electrical, fire and accidental chemical spills and to minimize microbiological hazards, facility deficiencies and equipment failures.

G. The laboratory shall have an established quality control program to substantiate the validity of analytical data. The quality control procedures in effect shall conform to the criteria stipulated in the current edition of *Standard Methods for the Examination of Water and Wastewater* and/or APHA *Recommended Procedures for the Examination of Sea Water and Shellfish and Official Methods of Analysis* of the Association of Official Analytical Chemists (A.O.A.C.). Compliance with procedures shall be recorded and documented and records maintained by or be accessible to the laboratory for a period of five years.

H. The following constitute minimal quality assurance procedure requirements for the laboratory.

1. Water deionization units shall be monitored daily continuously with a conductivity meter and analyzed at least annually for trace metals. Cartridges shall be replaced at intervals recommended by the manufacturer or as indicated by analytical results. Units shall be monitored for effectiveness in removing bacterial contamination monthly with heterotrophic plate counts and filters shall be changed when the count exceeds 1,000/ml.
2. The suitability and bacteriological quality of pure water used in the analysis of shellfish growing waters shall be tested annually and shall meet the acceptable limits of water quality as stipulated in the table of requirements for quality of purified water used in microbiology testing, current edition of *Standard Methods for the Examination of Water and Wastewater*.
3. Media dispensing units shall be checked for accuracy of dispensing with a graduated cylinder at the start of each volume change and periodically through extended runs.
4. The performance of hot air ovens shall be tested for performance quarterly with commercially available spore strips or spore. The temperature shall be monitored and recorded with a thermometer accurate to 160E to 180EC range. Heat-indicating tapes should be used to identify supplies and material that have been exposed to sterilization temperatures.
5. The temperature, pressure, and time for each autoclave run shall be recorded. Operating temperature shall be checked weekly with a minimum/maximum thermometer and the autoclave performance shall be tested with spore strips or suspensions monthly. Heat-sensitive tape shall be used to identify supplies and material that have been sterilized.
6. The temperature of air incubators shall be checked and recorded twice daily (morning and afternoon) on the shelf areas in use. If a glass thermometer is used, the bulb and stem shall be submerged in water or glycerin to the stem mark. Ideally, a recording thermometer and an alarm system should be used. Locate incubator where room temperature is in the range of 16EC.
7. Batches of clean glassware shall be spot checked for pH reaction as follows: Add a few drops of 0.04 percent Bromothymol blue or other pH indicator and observe the color reaction. Bromothymol blue may be yellow (acid) to blue-green (neutral) to blue alkaline), in the pH range of 6.5 to 7.3.
8. Glassware and prewashed, presterilized plasticware shall be tested annually and before using a new supply of detergent for inhibitory residues from wetting agents or detergents that may contain bacteriostatic or inhibiting substances according to procedures in the current edition of *Standard Methods for the Examination of Water and Wastewater.*

9. Each new lot of media shall be checked with known positive and negative control cultures for the organisms under test. For media prepared, the date of preparation, type of medium, lot number, sterilization and temperature, final pH and preparing technician shall be recorded.

10. A representative sample from each batch of media, dilution water and buffers and glassware shall be verified for sterility according to procedures in the current edition of *Standard Methods for the Examination of Water and Wastewater*.

11. In laboratories where there is more than one analyst, analysts shall make parallel analyses on at least one positive sample monthly.

12. Balances shall be calibrated monthly using Class S or S-1 reference weights or weights traceable to Class S or S-1 reference weights. If non-reference weights are used they shall be calibrated annually with Class S or S-1 reference weights.

13. Glass/mercury thermometer calibration should be checked quarterly against a reference NBS thermometer or one which meets the requirements of NBS monograph 150.

14. The temperature of refrigerators used to store samples, media, reagents and other laboratory supplies shall be recorded once daily for days in use.

15. Air quality in the laboratory should be monitored weekly with air density plates and bench tops with RODAC plates or the swab method.

16. Electrometric pH meters shall be standardized each use period with pH 7.0 standard buffer.

17. The accurate transfer of test result data from the bench worksheet to the final report and/or electronic information storage and retrieval systems shall be verified and initialed by the analyst.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1297 (June 2002).

§129. Qualification for Personnel Conducting Analysis of Shellfish Growing Waters [formerly paragraph 9:002-14]

A. Laboratory personnel conducting microbiological analysis for LSSP shall be administratively attached to an officially designated laboratory of the shellfish sanitation laboratory system, shall be evaluated by the shellfish evaluation officer for the State of Louisiana for the FDA evaluation officer during an on-site evaluation and shall maintain a satisfactory rating.

1. Analysts in the Central Laboratory in New Orleans shall be evaluated by the FDA evaluation officer, Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch.

B. Laboratory analysts eligible for evaluation shall have qualifications equal to or greater than required for employment in an entry level position as a state laboratory scientist under the Louisiana Civil Service system.

1. Minimum qualifications include a baccalaureate degree with 24 semester hours in a biological science, microbiology, chemistry, nuclear science, physical science or any combination.

2. Any laboratory analyst with three years experience conducting microbiological analysis and who is so employed on the effective date of these regulations shall be exempt from the requirements of Paragraph 1 above.

C. Supervision in the laboratory shall be by a professional laboratory scientist experienced in shellfish sanitation microbiology and with qualifications equal to or greater than required for employment as a state laboratory scientist, first-line supervisor under the Louisiana Civil Service system. If a supervisor is not available, a consultant having the same qualifications may be substituted.

1. Minimum qualifications include a baccalaureate degree with semester hours in a biological science, microbiology, chemistry, nuclear science, physical science or any combination followed by three years of full time professional experience in a laboratory facility performing microbiological, chemical or nuclear science procedures.

2. Any laboratory supervisor so employed on the effective date of these regulations and who has the other qualifications specified in Paragraph 1 above shall be exempt from the requirement of a baccalaureate degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1298 (June 2002).

§131. Qualifications, Requirements for Shellfish Evaluation Officer for the State of Louisiana [formerly Paragraph 9:002-15]

A. The shellfish evaluation officer for the State of Louisiana shall be designated by letter by the Federal Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch. Designation is based upon meeting the requirements of Shellfish Sanitation Interpretation S.S. 35 entitled "Evaluation of Laboratories by State Shellfish Laboratory Evaluation Officers."

1. The individual shall be administratively attached to a state central shellfish sanitation laboratory which has been found by the FDA to be in substantial conformity with the National Shellfish Sanitation Program (NSSP).

2. The individual shall be an experienced analyst and should have supervisory experience.

3. If deemed necessary by an FDA laboratory evaluation officer, the individual shall conduct several laboratory evaluations jointly with FDA Shellfish Sanitation Branch laboratory evaluation officers.

4. During a joint on-site evaluation with an FDA laboratory evaluation officer, the individual shall demonstrate competence in evaluating analysts' performance of the applicable shellfish laboratory test methods in the current edition of the APHA *Recommended Procedures for the Examination of Sea Water and Shellfish and the Official Methods of Analysis* of the Association of Official Analytical Chemists (A.O.A.C). The evaluation will be recorded on the FDA Shellfish Standard Laboratory Evaluation Form.

5. The individual shall submit a written report to all evaluations conducted to the FDA Division of Cooperative Programs, Shellfish Sanitation Branch with a copy to the appropriate FDA regional shellfish specialist. The report should consist of the FDA Shellfish Standard Laboratory Evaluation Form, a summary list of qualified analysts and a narrative discussion for each laboratory evaluated. The narrative discussions shall include the identity of the laboratory, the date of evaluation, name of evaluator, a

precise and accurate description of the conditions which existed during the evaluation, including what recommendations were made to correct deviations necessary to bring the laboratory into substantial conformity with the requirements of NSSP as approved by the Louisiana State Shellfish Sanitation Program and appropriate information on personnel and procedures and conclusions.

B. The evaluation shall be valid for a period of three years and reevaluation will be held triennially. Satisfactory reevaluation is based on the individual satisfying the following criteria.

1. The individual shall continue to be administratively attached to a state central shellfish sanitation laboratory which has been found by FDA to be in conformity with the National Shellfish Sanitation Program (NSSP) requirements.

2. The individual shall demonstrate continued satisfactory competence in evaluating the shellfish laboratory test methods of analysts during a joint laboratory evaluation with an FDA laboratory evaluation officer.

3. The individual shall submit a written report of the joint laboratory evaluation to the FDA Division of Cooperative Programs, Shellfish Sanitation Branch with a copy to the appropriate FDA regional shellfish specialist.

4. The individual shall have all state laboratory evaluations, quality control examinations, and reports up-to-date.

5. The individual shall receive continuing training, as necessary, in laboratory evaluations and analytical procedures.

C. Laboratory evaluation officers who fail to meet the recertification requirements shall lose their certification until it is demonstrated that all necessary requirements, including training are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1298 (June 2002).

§133. Requirements for Laboratory Certification [formerly paragraph 9:002-16]

A. The laboratory and laboratory analysts are required to receive a satisfactory evaluation during an on-site visit by the shellfish evaluation officer for the State of Louisiana or FDA laboratory evaluation officer in order to be certified.

1. The purpose of the evaluation will be to assure the uniform application of standard procedures and methods in the sampling and analytical examination of shellfish growing waters and to determine and assure the adequacy of facilities, equipment and personnel to perform analytical testing necessary to meet the requirements recommended by the National Shellfish Sanitation Program and found to be acceptable by the Louisiana State Shellfish Sanitation Program, administered by the Department of Health and Hospitals, Office of Public Health. Evaluation is not an endorsement of the laboratory facility, its staff the operation as this implies continuing guarantee of performance.

2. A satisfactory rating is achieved by demonstration during an on-site evaluation that the laboratory and laboratory personnel are in compliance with all requirements as listed in the Shellfish Laboratory Evaluation Check List provided by the Federal Department of Health and Human Services, Public Health Service, Food and Drug Administration, Bureau of Food Technology, Shellfish Sanitation Branch. A satisfactory rating indicates that FDA recognizes that the laboratory complies with recommended procedures and capabilities and that the analytical results produced by the laboratory are in support of the Louisiana Shellfish Sanitation Program and are acceptable to FDA.

3. No reference shall be made in any advertising or sales promotion which would indicate or imply that the Louisiana state shellfish evaluation officer or FDA laboratory evaluation officer evaluated this laboratory or approves, endorses or recommends any proprietary materials, services, or publications mentioned herein or which has as its purpose and intent to cause directly or indirectly the advertised materials or services to be used or purchased because of the evaluation.

B. An applicable, currently dated (i.e., the last satisfactory on-site evaluation shall be documented to have been held within the prior three year period) satisfactory FDA Shellfish Standard Laboratory Evaluation Form and narrative report submitted by the appropriate laboratory evaluation officer to the FDA Division of Cooperative Programs, Shellfish Sanitation Branch with a copy to the appropriate FDA regional shellfish specialist and the public health laboratory director shall be on file or available upon request.

1. Said narrative report shall include the identity of the laboratory, the date of evaluation, name of evaluator, information on personnel and procedures and conclusions and shall precisely and accurately describe the conditions which existed during the evaluation, including what recommendations were made to correct deficiencies and proposed timetable for any corrective action necessary to bring the laboratory into substantial conformity with the requirements of NSSP as approved by the Louisiana State Shellfish Sanitation Program.

2. If any deficiencies or recommendations were noted in the narrative report, the laboratory shall demonstrate that the stated deficiencies and/or recommendations have been satisfactorily corrected or addressed within the proposed timetable and that the laboratory is substantially in compliance with the requirements of NSSP as approved by the Louisiana state Sanitation Program.

3. Failure to achieve a satisfactory rating during the on-site evaluation by the appropriate Laboratory Evaluation Officer and/or failure to correct or address deficiencies or recommendations as noted in the narrative report within the stated timetable shall result in loss of satisfactory evaluation.

C. As samples are available, the laboratory shall periodically participate in a split-sample program to test laboratory proficiency and shall receive a grade of satisfactory.

1. Refusal to participate and/or repeated failure to receive a satisfactory grade shall result in loss of satisfactory evaluation.

D. The laboratory shall maintain a list of qualified analysts who have received a satisfactory rating as a result of the evaluation procedures and who are consequently approved to conduct analysis in the laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1299 (June 2002).

§135. Fees for Services
[formerly paragraph 9:002-17]

A. Fees for evaluations, analysis, determination, processing and reporting of results shall be incorporated into the Louisiana State Shellfish Sanitation Program fee and assessed in accordance with rules and regulations controlling their collection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002).

§137. References
[formerly paragraph 9:002-18]

A. Where the "current edition" of the following works is referred to in these regulations, such shall mean:

1. Recommended Procedures for the Examination of Sea Water and Shellfish, fourth edition, American Public Health Association, Inc., 1970;

2. Official Methods of Analysis, of the Association of Official Analytical Chemists, edition 14, §46.017-46.019, 1984;

3. Official Methods of Analysis of the Association of Analytical Chemists, edition 14, Table 46:01 and Table 46:02, 1984;

4. Standard Methods for the Examination of Water and Wastewater, sixteenth edition, 1985, Part 900;

5. Shellfish Sanitation Interpretation S.S. 35 entitled "Evaluation of Laboratories by State Shellfish Laboratory Evaluation Officers" Part III, §B(I), 1985.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002).

§139. Records of Shellfish Purchases and Sales
[formerly paragraph 9:003]

A. Every person, firm or corporation who conducts any wholesale business of buying, selling or shipping shellfish shall keep an accurate daily record which shall show the names and addresses of all persons from whom lots are received, the location of the source of each lot, and the names and addresses of all persons to whom lots are sold or shipped. Such records shall be kept on file for 60 days and shall be open to inspection at any time during business hours by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002).

§141. Transplanting of Shellfish
[formerly paragraph 9:004]

A. No person shall engage in the business of transplanting shellfish from waters not approved for direct market harvesting by the state health officer prior to obtaining a permit for that purpose from the Department of Health and Hospitals, Office of Public Health. Growing waters to be utilized for shellfish transplanting purposes must meet or exceed the Department of Health and Hospitals' criteria for a restricted area classification. Applications shall be completed and submitted with a fee of $100, which shall be paid by cashiers check or money order and filed not less that 14 days prior to the beginning of such proposed transplanting. Transplanting of shellfish shall be permitted only during the first two weeks of each calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002).

§143. Performance Bond Required
formerly paragraph 9:004-1]

A. A $5,000 cash performance bond consisting of a bank cashier's check made payable to the Department of Health and Hospitals shall be submitted with each completed application. In addition to the bond, a permittee, at his own expense shall secure the services of a surveillance officer approved by the Department of Health and Hospitals and the Department of Wildlife and Fisheries for the purpose of monitoring all harvesting, transporting, and bedding of shellfish for transplanting purposes. In order to satisfy the monitoring requirements, all harvesting, transporting and bedding of shellfish for transplanting purposes shall take place in the direct line of sight of the state-approved surveillance officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002).

§145. Permit Required for Transplanting
[formerly paragraph 9:004-2]

A. Permits shall be granted at the discretion of the Department of Health and Hospitals under the following restrictions.

1. No permittee, boat captain or crew member may serve on any vessel subject to this permit who has been cited or found guilty of violations relative to the harvesting of shellfish within three years of the application date; provided, however that said permittee, crew member or boat captain may receive a waiver of this condition with regard to those citations which did not result in a conviction upon the appropriate showing being made to the Department of Wildlife and Fisheries.

2. Shellfish transplanted from restricted waters, as established by the state health officer from sanitary surveys of the area and bacteriological examination of the water, shall remain down in approved waters for the remainder of the permitted month or no less than 15 days. No part of any lease on which shellfish have been transplanted may be utilized for direct market harvesting during the entire active period of the transplant permit.

3. Shellfish harvested for transplanting purposes from restricted waters shall not be laid down within 500 feet of any adjoining lease where shellfish may be taken for sale as food during the active period of the transplant permit.

4. Sacking of shellfish, storage of empty shellfish sacks on board permitted or authorized transplanting vessels and/or the direct marketing of shellfish taken from waters not approved for that purpose by the state health officer shall be strictly prohibited.

5. Culling of shellfish shall be permitted only when container relaying is practiced and written authorization is obtained from the Department of Health and Hospitals.

6. Only two leases in the restricted area and approved bedding area, each pre-approved by the Department of Health and Hospitals, shall be utilized in the transplanting of shellfish.

7. The permittee shall be responsible for notifying the Department of Wildlife and Fisheries prior to leaving port to transplant shellfish and immediately upon returning from permitted trip each day. The Department of Wildlife and Fisheries shall be notified by calling (800) 442-2511.

8. All leases shall be "red flagged" so that they may be easily spotted by both aircraft and boats. "Red flagged" as used in this Paragraph, means that the four outside corners of the lease must be marked with poles with red flags attached.

9. All activities relative to the transplanting of shellfish shall be permitted only during daylight hours with all activities completed no later than 30 minutes after official sunset. Applicants may apply for a written exemption to this requirement when the distance between the restricted area and bedding area is such that compliance is not possible.

10. Both sides of the permitted vessel shall be marked with the permit number in at least 6-inch high letters on a contrasting background so as to be visible from low flying aircraft of from any other vessel in the immediate vicinity.

11. A copy of the complete transplant permit and applicable rules shall be on board each authorized vessel at all times during the active period of the transplant permit.

12. The harvesting of shellfish for transplanting purposes within 150 feet of any sewage discharge point emanating from any camp, home, or other habitable structure shall be prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002).

§147. Surveillance Officer's Daily Trip Report [formerly paragraph 9:004-3]

A. An official Department of Health and Hospitals' "Surveillance Officers Daily Trip Report" must be completed each day by the surveillance officer and mailed to the Department of Health and Hospitals, Seafood Sanitation Unit after each completed day of transplanting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002).

§149. Enforcement Provisions [formerly paragraph 9:004-4]

A. Failure to comply with any of the permitting requirements specified in §§141-147 shall result in the following administrative action.

1. The transplant permit and all transplant permitting privileges shall be immediately suspended by the Department of Health and Hospitals or the Department of Wildlife and Fisheries.

2. All shellfish harvested for transplanting purposes in violation of permitting requirements shall be returned to the original growing waters or destroyed at a permittee's own expense.

3. If said charges are upheld in an administrative hearing, the following additional penalties shall be imposed.

a. Transplant permitting privileges shall be denied for a period of three years.

b. The $5,000 cash bond posted by the permittee shall be forfeited and retained by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002).

Chapter 3. Preparation and Handling of Seafood for Market

§301. Water Storage of Shellfish [formerly paragraph 9:005]

A. The water storage, cleansing, bedding or conditioning of shell stock shall not be permitted or practiced in water with a salt content less than that in which shell fish will naturally grow to maturity, and shall not be permitted or practiced on the following:

1. [Formerly paragraph 9:005-1] artificial bodies of water, unless the entering water has a bacteriological quality at all times at least equal to the U. S. Public Health Service standards for drinking water; or

2. [Formerly paragraph 9:005-2] natural bodies of water which are subject to either constant or intermittent pollution as disclosed by a sanitary survey, or any water in such proximity to dwellings, industrial plants, boats or docks that their cleanliness can be protected only by the strict observance of sanitary regulations by all persons in the vicinity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002).

§303. Construction and Cleanliness of Shellfish Boats [formerly paragraph 9:006]

A. All boats utilized for the harvesting or transporting of shellfish shall be provided with a false deck or bottom to prevent the contamination of shellfish with bilge water. For the purpose of this regulation, bilge water may be defined as any water that collects in the lowest inner part of a boat's hull. Decks, holds or binds used for storage of shellfish shall be washed daily with either potable water, or water drawn from an approved growing area. Unless otherwise exempted in writing by the Department of Health and Hospitals, a suspended awning shall be provided on harvest boats to protect shellfish from direct exposure to sun, birds and other adverse conditions. Small children in diapers, dogs, cats or other forms of wildlife shall not be permitted on board harvesting vessels while shellfish are being fished or transported. Violation of any of the requirements in this Section shall result in one of the following penalties.

1. Shellfish shall be seized and destroyed at violator's expense.

2. Shellfish shall be bedded on a Department of Wildlife and Fisheries managed seed reservation at violator's expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1301 (June 2002).

§305. Sewage Disposal on Shellfish Boats [formerly paragraph 9:007]

A. Owners of all vessels in which men work continuously for more than two hours, which are engaged in the handling of shellfish from the planting or growing grounds, shall provide their vessels with suitable receptacles of adequate size and type having a capacity of at least two gallons for each person on the boat, in which the extract, both solid and liquid, of persons using such boats, shall be received. The contents of such receptacles shall be disposed of either by means of the sewerage system of a municipality, by incineration, or by burial in the ground at points sufficiently removed from the banks of streams or tidal waters to prevent the pollution of the waters thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002).

§307. Sewage Disposal Near Shellfish Areas [formerly paragraph 9:008]

A. The discharge of human waste from any camp, boat or other source into the waters directly over, or adjacent to, areas where the shellfish are being produced for market is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002).

§309. Contamination of Shell-Stock Prohibited [formerly paragraph 9:009]

A. Shell-stock held in wet or dry storage shall be so kept at all times that it will not become contaminated. Shell-stock held in wet storage shall meet the requirements of §301 of this Part. Shell-stock held in dry storage shall be packed in clean containers and stored above the floor, so as to be protected from filth, animal droppings, and other possible contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002).

§311. Permits to Operate Seafood Establishments [formerly paragraph 9:010]

A. No person, firm or corporation shall operate or conduct an establishment for the cleaning, shucking, picking, peeling, or packing of any marine or fresh-water animal food product within the State of Louisiana until it has been inspected and approved by the Louisiana state health officer. Application for such inspection and approval shall be made in writing. After inspection and approval the Louisiana state health officer shall issue to the owner, operator or manager of the establishment, a permit to operate, which shall be serially numbered. Said permit may be revoked for violation of any of the provisions of the Sanitary Code. The serial number of said permit shall appear on every package, can, carton, or other container in which shell-fish are packed for distribution and sale. Other marine or fresh water animal food products shall be satisfactorily identified if the serial number of the permit or the packer's name and address is imprinted, embossed, or lithographed on the seafood container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002).

§313. Plant Construction [formerly paragraph 9:011]

A. Plans for new establishments shall be submitted to the Louisiana state health officer for approval before construction.

B. [Formerly paragraph 9:012] The construction of plants for cleaning, shucking, picking, peeling, packing, or otherwise handling marine or fresh water animal food products, shall meet the requirements listed in §§313(C)-(K).

C. [Formerly paragraph 9:013] Lighting shall be a minimum of 40-foot candles (either natural or artificial) and ventilation (force draft if necessary) shall be provided in all parts of the building used.

D. [Formerly paragraph 9:014] Space used for washing and packing marine or fresh water animal food products shall be effectively separated by flytight walls or partitions from space used for cleaning, shucking, peeling, picking, or otherwise preparing such products for packing, storing, or shipping. Rooms used for the above purpose shall be constructed throughout so as to permit easy and thorough cleaning and, where necessary to ensure such cleaning, shall be of sheet metal, cement or other type of impervious construction.

E. [Formerly paragraph 9:015] Floors shall be constructed of concrete, tile, glazed brick, or other impervious construction to facilitate cleaning. Drainage of all water therefrom shall be complete and rapid.

F. [Formerly paragraph 9:016] Storage bins and storage rooms shall be so constructed as to permit easy, thorough, cleaning and drainage, and shall be located adjacent to the washing and packing room.

G. [Formerly paragraph 9:017] Cleaning, skinning, shucking, picking or peeling benches shall be of concrete, non-toxic and non-corrosive metal, or other materials approved by the state health officer, and shall be cleaned thoroughly at the end of each day's operation. Walls immediately adjacent to such benches shall be of smooth hard material to a height of 3 feet above said benches and so constructed as to be easily and thoroughly cleaned.

1. The establishment shall be provided with an abundant supply of water under pressure from a source approved by the Louisiana state health officer. No cross connections with unapproved water supplies shall be permitted. The requirements of Parts XII (Water Supplies) and XIV (Plumbing) of this Code shall be met.

H. [Formerly paragraph 9:018] Lavatories with hot and cold running water under pressure, delivered through a mixing faucet, liquid or powdered soap in dispensers, paper or individual towels, shall be provided for use of employees. Towels for common use are prohibited. Lavatories shall be so located that employees can readily use them after using the toilet, but they shall not be located in the toilet rooms.

I. [Formerly paragraph 9:019] Sanitary toilets of approved construction and location shall be provided for the use of employees. Toilets shall be considered adequate in

number if one is provided for each 25 employees or fraction thereof. Toilets shall not open directly into rooms used for cleaning, shucking, picking, peeling, packing or storage of food products. Where sewerage facilities are available, water flush toilets connected to the sewerage system shall be provided. No insanitary privy shall be permitted or maintained on the premises of any seafood establishment.

J. [Formerly paragraph 9:020] Refrigeration rooms, coolers or ice boxes for the storage or retention of marine and fresh-water animal food products shall be so constructed, painted or otherwise treated as to provide a smooth, impervious surface for easy and thorough cleaning. Floors of refrigeration rooms or walk-in coolers shall be of concrete, tile, glazed brick or other impervious material with adequate floor drains, or the floor so sloped as to ensure complete and rapid drainage. Walls shall be of concrete, metal, tongue and groove hardwood, glass board or other material approved by the state health officer. Ice boxes shall be metal, fiberglass or plastic lined with seams welded, soldered, or otherwise treated, to give a smooth, impervious, easily cleaned surface.

K. [Formerly paragraph 9:021] Establishments engaged in the cleaning, shucking, picking, peeling or packing of marine or fresh-water animal food products shall be so constructed as to exclude rodents and insects. All outside openings shall be screened. Screen doors shall open outward and, where doors from shipping rooms are open for extended period of time during loading or shipping operations, inside screen doors shall be provided for all openings between the cleaning, picking, shucking, peeling or packing rooms and the shipping rooms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1302 (June 2002).

§315. Seafood Plant Equipment [formerly paragraph 9:022]

A. The minimum equipment of marine and fresh water animal food product plants shall comply with the requirements listed in §§315.B-E of this Part.

B. [Formerly paragraph 9:023] There shall be available a continuous supply of hot water for cleaning purposes, in or about the establishment, while operating. Automatic heaters shall be provided, wherever possible, to ensure a minimum temperature of 170E F.

C. [Formerly paragraph 9:024] Shucking pails, measures, skimmers, colanders, tubs, paddles or other utensils shall be made of noncorrosive, nonrustable, smooth, impervious material, and constructed in such manner as to eliminate grooves, seams and cracks where food particles and slime may collect. All seams and joints shall be well filled with solder and dressed to a smooth surface. Knives or other working tools shall be free from cracks or crevices which would retain food particles and slime, or shall allow taking them apart in order to permit easy and thorough cleaning.

D. [Formerly paragraph 9:025] Shipping containers for shucked shellfish shall be purchased in tightly sealed, dustproof packages and kept therein in a clean, dry place until used. All containers for marine and fresh water animal food products shall be stored and handled so that the inside surfaces will not become contaminated.

E. [Formerly paragraph 9:026] No returnable container shall be used unless it is constructed with straight side walls and a tight fitting cover which is sealed in place after the container is filled; and the whole shall be of noncorrosive, nonrustable, smooth metal of at least 12 gauge and so constructed as to eliminate seams, cracks and grooves that are not well filled with solder dressed to a smooth surface. Returnable containers shall be cleaned immediately after use and shall be cleaned again and treated with a bactericide just prior to packing food material in them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1303 (June 2002).

§317. Seafood Plant Operation [formerly paragraph 9:027]

A. The operation of plants engaged in shucking, cleaning, picking, peeling or packing marine or fresh water animal food products shall meet the requirements listed in §317.B-O.

1. Hazard Analysis. Every dealer shall conduct a hazard analysis to determine the food safety hazards that are reasonably likely to occur for each kind of shellfish product processed by that dealer and to identify the preventive measures that the dealer can apply to control those hazards. Such food safety hazards can be introduced both within and outside the processing plant environment, including food safety hazards that can occur before, during, and after harvest. A food safety hazard that is reasonably likely to occur is one for which a prudent dealer would establish controls because experience, illness data, scientific reports, or other information provide a basis to conclude that there is a reasonable possibility that it will occur in the particular type of shellfish product being processed in the absence of those controls.

2. HACCP Plan. Every dealer shall have and implement a written HACCP plan. A HACCP plan shall be specific to:

a. each location where shellfish products are processed by that dealer; and

b. each kind of shellfish product processed by the dealer. The plan may group kinds of shellfish products together, or group kinds of production methods together, if the food safety hazard, critical control points, critical limits, and procedures required to be identified and performed in 3. are identical for all shellfish products so grouped or for all production methods so grouped.

3. Contents of the HACCP Plan. The HACCP plan shall, at a minimum:

a. list the food safety hazards that are reasonably likely to occur, as identified in accordance with Paragraph 1. and that thus must be controlled for each shellfish product. Consideration should be given to whether any food safety hazards are reasonably likely to occur as a result of the following:

i. natural toxins;

ii. microbiological contamination;

iii. chemical contamination;

iv. pesticides;

v. drug residues;

vi. unapproved use of direct or indirect food or color additives; and

vii. physical hazards;

b. list the critical control points for each of the identified food safety hazards, including as appropriate:

i. critical control points designed to control food safety hazards introduced outside the processing plant environment, including food safety hazards that occur before, during, and after harvest. As an alternative, the dealer may establish other critical control points which the dealer can demonstrate that provides equivalent public health protection. If the dealer can demonstrate through a hazard analysis that the food safety hazard is not reasonably likely to occur, the critical control point is not required with the exception of receiving which shall always be considered as a critical control point;

ii. critical control points designed to control food safety hazards that could be introduced in the processing plant environment. As an alternative, the dealer may establish other critical control points which provide equivalent public health protection. If the dealer can demonstrate to the Authority through a hazard analysis that the food safety hazard is not reasonably like to occur, the critical control point is not required;

c. list the critical limits that must be met at each of the critical control points. As an alternative the dealer may establish other critical limits which the dealer has demonstrated provide equivalent public health protection with the exception of receiving which shall always be considered as a critical control point;

d. list the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits;

e. include any corrective action plans that have been developed in accordance with Subparagraph 6.b. to be followed in response to deviations from critical limits at critical control points;

f. provide for a record keeping system that documents the monitoring of the critical control points. The records shall contain the actual values and observations obtained during monitoring;

g. list the verification procedures, and frequency thereof, that the dealer will use in accordance with Subparagraph 7.a.

4. Signing and Dating the HACCP Plan.

a. The HACCP plan shall be signed and dated, either by the most responsible individual on site at the processing facility or by a higher level official of the dealer. This signature shall signify that the HACCP plan has been accepted for implementation by the dealer.

b. The HACCP plan shall be signed and dated:

i. upon initial acceptance;

ii. upon any modification; and

iii. upon verification of the plan in accordance with Clause 7.a.i.

5. Sanitation. Sanitation controls may be included in the HACCP plan. However, to the extent that they are monitored in accordance with Paragraphs 10, 11, and 12. They need not be included in the HACCP plan, and vice versa.

6. Corrective Actions

a. Whenever a deviation from a critical limit occurs, a dealer shall take corrective action either by:

i. following a corrective action plan that is appropriate for the particular deviation; or

ii. following the procedures in Subparagraph 6.c.

b. Dealers may develop written corrective action plans, which become part of their HACCP plans in accordance with Subparagraph 3.e., by which they predetermine the corrective actions that they will take whenever there is a deviation from a critical limit. A corrective action plan that is appropriate for a particular deviation is one that describes the steps to be taken and assigns responsibility for taking those steps, to ensure that:

i. no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation; and

ii. the cause of the deviation is corrected.

c. When a deviation from a critical limit occurs and the dealer does not have a corrective action plan that is appropriate for that deviation, the dealer shall:

i. segregate and hold the affected product, at least until the requirements of 6.c.ii and iii are met;

ii. perform or obtain a review to determine the acceptability of the affected product for distribution. The review shall be performed by an individual or individuals who have adequate training or experience to perform such a review. Adequate training may or may not include training in accordance with Paragraph 9;

iii. take corrective action, when necessary, with respect to the affected product to ensure that no product to ensure that no product enters commerce that is either injurious to health or is otherwise adulterated as a result of the deviation;

iv. take corrective action, when necessary, to correct the cause of the deviation;

v. perform or obtain timely reassessment by an individual or individuals who have been trained in accordance with Subsection J, to determine whether the HACCP plan needs to be modified to reduce the risk of recurrence of the deviation, and modify the HACCP plan as necessary.

d. All corrective actions taken in accordance with this section shall be fully documented in records that are subject to verification in accordance with 7. And the record keeping requirements of Paragraph 8.

7. Verification.

a. Every processor shall verify that the HACCP plan is adequate to control food safety hazards that are reasonably likely to occur, and that the plan is being effectively implemented. Verification shall include, at a minimum:

i. a reassessment of the adequacy of the HACCP plan whenever any changes occur that could affect the hazard analysis or alter the HACCP plan in any way or at least annually. These changes may include: Raw materials or source of raw materials, product formulation, processing methods or systems, finished product distribution systems, or the intended use or consumers of the finished product.

The reassessment shall be performed by an individual or individuals who have been trained in accordance with Paragraph 9. The HACCP plan shall be modified immediately whenever a reassessment reveals that the plan is no longer adequate to fully meet the requirements of Paragraph 3;

ii. ongoing verification of activities including:

(a) a review of any consumer complaints that have been received by the dealer to determine whether they relate to the performance of critical control points or reveal the existence of unidentified critical control points;

(b) the calibration of process-monitoring instruments; and

(c) At the option of the dealer, the performing of periodic end-product or in-process testing.

iii. A review, including signing and dating, by an individual who has been trained in accordance with Paragraph 9., of the records that document:

(a). The monitoring of critical control points. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that they document values that are within the critical limits. This review shall occur within one week of the day that the records are made;

(b). The taking of corrective actions. The purpose of this review shall be, at a minimum, to ensure that the records are complete and to verify that appropriate corrective actions were taken in accordance with Paragraph 6. This review shall occur within one week of the day that the records are made;

(c). The calibrating of any process monitoring instruments used at critical control points and the performing of any periodic end-product or in-process testing that is part of the dealer's verification activities. The purpose of these reviews shall be, at a minimum, to ensure that the records are complete, and that these activities occurred in accordance with the processor's written procedures. These reviews shall occur within a reasonable time after the records are made.

b. Dealers shall immediately follow the procedures in Paragraph 6. Whenever any verification procedure, including the review of a consumer complaint, reveals the need to take a corrective action.

c. The calibration of process-monitoring instruments, and the performing of any periodic end-product and in-process testing, in accordance with Subclauses 7.a.ii.(b). and (c). shall be documented in records that are subject to the record keeping requirements of Subsection I.

8. Records

a. All records required by Paragraphs 1-12 shall include:

i. the name and location of the dealer;

ii. the date and time of the activity that the record reflects;

iii. the signature or initials of the person performing the operation; and

iv. where appropriate, the identity of the product and the production code, if any. Processing and other information shall be entered on records at the time that it is observed.

b. All records required by Paragraphs 1-12 shall be retained at the processing facility for at least one year after the date they were prepared in the case of refrigerated products and for at least two years after the date they were prepared in the case of frozen products.

c. Records that relate to the general adequacy of equipment or processes being used by a processor, including the results of scientific studies and evaluations, shall be retained at the processing facility for at least two years after their applicability to the product being produced at the facility.

d. If the processing facility is closed for a prolonged period between seasonal operations, or if record storage capacity is limited on a processing vessel or at a remote processing site, the records may be transferred to some other reasonably accessible location at the end of the seasonal operations but shall be immediately returned for official review upon request.

e. All records required by Paragraphs 1-12 and HACCP plans required by Paragraphs 2 and 3 shall be available for official review and copying at reasonable times.

f. The maintenance of records on computers is acceptable, provided that appropriate controls are implemented to ensure the integrity of the electronic data and electronic signatures.

9. Training

a. At a minimum, the following functions shall be performed by an individual who has successfully completed training in the application of HACCP principles to shellfish processing at least equivalent to that received under standardized curriculum recognized as adequate by the FDA or who is otherwise qualified through job experience to perform these functions.

i. Developing a HACCP plan, which could include adapting a model or generic-type HACCP plan that is appropriate for a specific processor, in order to meet the requirements of Paragraph 3.

ii. Reassessing and modifying the HACCP plan in accordance with the corrective action procedures specified in Clause 6.c.v, and the HACCP plan in accordance with the verification activities specified in Clause 7.a.i; and

iii. Performing the record review required by Clause 7.a.iii.

b. Job experience will quality an individual to perform these functions if it has provided knowledge at least equivalent to that provided through the standardized curriculum.

c. The trained individual need not be an employee of the dealer.

10. Sanitation Monitoring. Each dealer shall monitor conditions and practices that are both appropriate to the plant and the food being processed with sufficient frequency. The requirements relate to the following sanitation items:

a. safety of the water that comes into contact with food or food contact surfaces, or is used in the manufacture of ice, hereinafter referred to as: safety of water for processing and ice production;

b. condition and cleanliness of food contact surfaces, including utensils, gloves, and outer garments, and from raw product to cooked product, hereinafter referred to as: Condition and cleanliness of food contact surfaces;

c. prevention of cross contamination from insanitary objects to food, food packaging materials, and other food contact surfaces, including utensils, gloves, and

outer garments, and from raw product to cooked product, hereinafter referred to as: prevention of cross contamination

d. maintenance of hand washing, hand sanitizing and toilet facilities, hereinafter referred to as: maintenance of hand washing, hand sanitizing and toilet facilities;

e. protection of food, food packaging material, and food contact surfaces from adulteration with lubricants, fuel, pesticides, cleaning compounds, sanitizing agents, condensate, and other chemical, physical, and biological contaminants, hereinafter referred to as: protection from adulterants;

f. proper labeling, storage, and use of toxic compounds, hereinafter referred to as: proper labeling storage, use of toxic compounds;

g. control of employee health conditions that could result in the microbiological contamination of food packaging materials, and food contact surfaces, hereinafter referred to as: control of employees with adverse health conditions; and

h. exclusion of pests from the food plant, hereinafter referred to as: Exclusion of pests. While monitoring of those specified conditions and practices that are not appropriate to the plant and the food being processed is not required, compliance with such conditions and practices remains mandatory.

11. Sanitation Monitoring Records. Each dealer shall maintain sanitation control records that, at a minimum, document the monitoring and corrections prescribed by Paragraph 10. These records are subject to the requirements of Paragraph 8.

12. Relationship to HACCP Plan. Sanitation controls may be included in the HACCP plan, required by Paragraph 2. However, to the extend that they are monitored in accordance with Paragraph 10. they need not be included in the HACCP plan, and vice versa.

B. [Formerly paragraph 9:028] Employee health. The requirements of Part I, §117 and Part II, §§501-503.C of this Code shall be met.

C. [Formerly paragraph 9:029] During the operating season, the plant shall be used for no purpose other than the handling of shellfish or other marine or fresh water animal foods. Materials and equipment not used in the processing of seafood shall not be stored within the operating part of the plant. All abandoned equipment shall be removed from the plant and the floors shall be kept clear for thorough cleaning. The unoccupied portion of the storage bins, the shucking benches, work tables and all the floors shall be swept and flushed until they are thoroughly cleaned, at least once every day, at the completion of the day's run, with water from a source approved by the state health officer. Refrigeration rooms or ice boxes shall be washed out and thoroughly cleaned once a week or more often if necessary. At least once a week the cleansing shall include the washing of walls.

D. [Formerly paragraph 9:030] All employees shall wash their hands thoroughly with running water and soap on beginning work and after each visit to the toilet. Signs to this effect shall be posted by the proprietor in conspicuous places in the plant and in each toilet.

1. The outer clothing worn by persons engaged in handling these food products shall be of such material as to be readily cleaned, and shall be kept clean. Persons engaged in cleaning, shucking, peeling, picking or packing marine or fresh water animal food products to be consumed without further cooking or processing shall be required to wear outer garments that are clean at the start of each day's employment. If finger cots or shields for protecting the palm of the hand are worn, they shall be of waterproof, nonabsorbent material, preferably of rubber (when available).

E. [Formerly paragraph 9:031] Spitting and smoking in a marine or fresh water animal food product establishment is strictly prohibited.

F. [Formerly paragraph 9:032] All utensils and tools in use, such as opening knives, shucking pails, measures, skimmers, colanders, tanks, tubs, and paddles, which come in contact with oysters, cooked shrimp or cooked and picked crabs, shall each day be thoroughly scoured until clean, using detergent or an alkali cleanser and then sanitized either:

1. by exposure for at least 15 minutes to a temperature of not less than 170EF, or for not less than five minutes to a temperature of at least 200EF, in a steam cabinet equipped with an indicating thermometer located in the coldest zone;

2. by exposure to a steam jet for at least one minute;

3. by immersion in or exposure to a flow of a chlorine solution of not less than 100 parts of free chlorine per million parts of water for not less than two minutes;

4. by immersion in hot water at a temperature of 170EF or more for not less than two minutes; or

5. by exposure to hot air at a temperature of not less than 180EF for not less than 20 minutes, in a properly designed oven or hot air cabinet equipped with an indicating thermometer located in the coldest zone or other method of eliminating pathogenic bacteria as approved by the state health officer.

G. [Formerly paragraph 9:033] All equipment used in the shucking, picking, packing or other handling of seafoods, including shucking buckets, knives breaking blocks, finger cots and so forth, shall be stored in such a manner as not to become contaminated after cleaning and bactericidal treatment. Equipment in daily use during operating seasons shall not be removed from the plant for storage, but sufficient room or space shall be provided to store equipment that is not being used.

H. [Formerly paragraph 9:034] Shucking, picking, peeling, packing, or other work operations shall be carried out on tables, counters, etc. above floor-level; such operations shall not be performed on the floor. Where marine or fresh water animal food products are stored, adequate protection shall be provided within the storage space to prevent possible contamination from fresh water, wastes, and from foot traffic. Utensils, for handling marine or fresh water animal food products that are to be consumed without further cooking or processing, shall be so placed as to prevent handling of drippings from the food by the workers.

I. [Formerly paragraph 9:035] The "nesting" of empty pails shall not be permitted during the operating season. When not in use, pails shall be inverted on racks or benches provided for this purpose.

J. [Formerly paragraph 9:036] The cooling to a temperature of 45EF or less of shucked shellfish, picked crabs, cooked, peeled shrimp or other seafoods which are to be consumed without further cooking or processing shall be

effected as promptly as possible, and in no case shall the time exceed two hours after shucking, picking or cooking; provided that crabs or similar seafoods, which are picked after cooking, shall be cooled as rapidly as possible after cooking to a temperature of 45EF or less and held at such temperature until ready to be picked, after which the picked material shall again be cooled, as specified above.

K. [Formerly paragraph 9:037] Water for washing any marine or fresh water animal used as a food, or any food products derived from them, shall be from an approved source as defined in Part XII, Water Supplies, of this Code.

L. [Formerly paragraph 9:038] Shells, washings and other wastes shall be disposed of in such manner defined in Part XIII of the State Sanitary Code.

M. [Formerly paragraph 9:039] All persons handling shucked shellfish, picked crabs, cooked, peeled shrimp, or other marine or fresh water animal food to be consumed without further cooking or processing, shall keep their hands scrupulously clean. A solution of at least 50 p.p.m. of free chlorine should be provided in which such persons can frequently rinse their hands and forearms.

N. [Formerly paragraph 9:040] When necessary in the interest of the public health, a duly authorized representative of the state health officer shall attach a tag to any equipment or utensil which is insanitary, or the use of which would be in violation of these regulations. Any equipment or utensil so tagged shall not be used again until made sanitary and approved by the state health officer. Tags so placed shall not be removed by anyone other than a duly authorized representative of the state health officer.

O. [Formerly paragraph 9:041] A single individual shall be designated by the management to supervise the shucking and packing of shellfish, the packing of peeled and cooked shrimp and picked crabs. He shall be responsible for the cleanliness of the shucking, picking or packing rooms and shall see that the requirements with reference to washing of hands after interruption of working operations is carried out by all persons engaged in the establishment. He shall be responsible at the end of each day's operations for the thorough cleansing and sanitizing of all equipment such as pails, knives, breaking blocks, finger cots, aprons, and so forth, and for the cleansing and washing of floors, walls, shucking benches, picking and packing tables, stalls, wheelbarrows and any other equipment used in or about the establishment. Benches, blocks, stalls, tables, and other similar type equipment shall be flushed at the close of each day's operations with a solution containing at least 50 p.p.m. of available chlorine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1303 (June 2002).

§319. Seafood (Except Shell-Stock) Shipping Requirements [formerly paragraph 9:042]

A. The shipping of shucked shellfish, picked crabmeat, cooked, peeled shrimp or other marine or fresh water animal food products to be consumed without further cooking or processing, shall comply with the requirements listed in §§319.B-319.D.

B. [Formerly paragraph 9:043] Such products shall be maintained at a temperature of 45EF or below throughout transit.

C. [Formerly paragraph 9:044] Such products shall be shipped in containers approved by the state health officer and marked with the packer's certificate number preceded by the letters "La." when packed in Louisiana, or by the abbreviation of the state in which packed. The date when such containers are filled shall be indicated on the container by the packer, either in code or by actual date. If the date is in code, a key to the code shall be supplied the state health officer of the state in which the shellfish are packed, and to the surgeon general of the U. S. Public Health Service. Shipping documents shall show the name and address of the consignee, the name and address of the shipper, the name of the state of origin, and the certificate number of the shipper.

D. [Formerly paragraph 9:045] All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at the point of sale with the following wording.

1. There may be a risk associated with consuming raw shellfish as is the case with other raw protein products. If you suffer from chronic illness of the liver, stomach or blood or have other immune disorders, you should eat these products fully cooked.

2. In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

E. [Formerly paragraph 9:045-1] These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the state health officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

F. [Formerly paragraph 9:046] Use of containers bearing the certificate number of another packer shall not be permitted. If shellfish are repacked, records shall be maintained by the repacker which show the packing date, certificate number, and name and address of the original shucker and packer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1307 (June 2002).

§321. Shipping Shell-Stock Requirements [formerly paragraph 9:047]

A. Shellfish in the shell, except bulk shipments made as described in §321.A and B, shall be packed in clean barrels or sacks.

B. [Formerly paragraph 9:048] Shipments of shell-stock in bulk, not sacked or barreled, shall not be made by truck or car except where the shipment is from only one consignor to only one consignee. Each shipment shall be accompanied by a shipping tag as specified in §321.D.

C. [Formerly paragraph 9:049] Bulk shipments of shell-stock by boat may be made in cases where the tongers or dredgers obtain the shellfish directly from growing areas and sell them to various consumers direct without shucking. Where shell-stock is shipped by boat for the shell trade, it shall be labeled as specified in §321.D. If shellfish shipped by boat are intended for processing in shucking houses,

records shall be kept by the boat operator in a book provided for such purposes only, showing the sources and quantity of shellfish, date and local waters where the shellfish were taken, license or certificate number of person or persons from whom the shellfish were obtained, and person or persons to whom sold. These records shall be retained for 12 months.

D. [Formerly paragraph 9:050] Railroad cars and trucks in which shellfish are shipped in sacks shall be kept clean. All cars and trucks shall be subjected to proper inspection to see that they conform to this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1307 (June 2002).

§323. Tags
[formerly paragraph 9:051]

A. In order that information may be available to inspectors and others with reference to the origin of shell-stock oysters, clams and mussels from all areas, all containers holding shell-stock shall be identified by a tag or label, form and substance of which shall be approved by the state health officer, and the secretary of the Department of Wildlife and Fisheries.

B. [Formerly paragraph 9:051-1] The initial tagging of the shell-stock shall be performed by the harvester before the shell-stock are removed from the harvester's boat. In the event that shell-stock are harvested from more than one growing area on a given day, the shell-stock shall be sacked and tagged before leaving from the growing area from which the shell-stock was harvested. The harvester's tags shall contain legible information as follows:

1. a place shall be provided where the dealer's name, address and certification number assigned by the Office of Public Health, Seafood Sanitation Program and the original shell-stock shipper's number if different;

2. the harvesters identification number assigned by the Department of Wildlife and Fisheries;

3. the date of harvesting;

4. the most precise identification of the harvest site or aquiculture location as practicable;

5. type and quantity of shellfish; and

6. the following additional statements or their equivalent as approved by the state authority shall appear on each tag in bold capitalized type.

a. This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days.

b. As is the case with consuming other raw animal protein products, there is a risk associated with consuming raw oysters, clams and mussels. If you suffer from chronic illness of the liver, stomach, or blood or have immune disorders, do not eat these products raw. Retailers please advise customers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002).

§325. Penalties Relative to Shell-Stock Tagging
[formerly paragraph 9:051-2]

A. Shell-stock not tagged in accordance with the aforementioned requirements shall be subject to seizure and destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002).

§327. Refrigeration of Shell-Stock Oysters, Clams and Mussels
[formerly paragraph 9:052]

A. Shell-stock shall be placed under mechanical refrigeration at an air temperature (measured 12 inches from the blower) not to exceed 45EF within the time period prescribed herein; and shall be maintained at or below that temperature through out all levels of commerce. Shell-stock harvested for raw consumption and/or for shucking by a certified dealer during the months November through March shall be subject to the following time to refrigeration requirements:

1. November**C** Shell-stock shall be refrigerated within 24 hours from the time harvesting begins.

2. December through March**C** Shell-stock shall be refrigerated within 36 hours from the time harvesting begins.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002).

§329. Refrigeration Requirements for Shell-Stock Harvested for Raw Consumption During the Months April Through October
[formerly paragraph 9:052-1]

A. Time to refrigeration requirements for shell-stock harvested for raw consumption during the months April through October shall be based on the average monthly growing water temperatures as calculated and announced by the Office of Public Health Molluscan Shellfish Program according to the following schedule:

1. Water Temperature: 65EF to 74EF**C** Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45EF within 14 hours from the time of harvesting begins.

2. Water Temperature: >74E F to 84E F**C** Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45EF within 12 hours from the time harvesting begins.

3. Water Temperature: >84EF**C** Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45EF within 10 hours from the time harvesting begins.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1308 (June 2002).

§331. Refrigeration requirements for Shell-Stock Harvested for Shucking by a Certified Dealer during the Months April through October [formerly paragraph 9:052-2]

A. Time to refrigeration requirements for shell-stock harvested for shucking by a certified dealer during the months April through October shall be as follows.

1. All shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45EF no later than 12 midnight each day.

2. Dealer/harvester tags utilized to identify shell-stock harvested for shucking by a certified dealer shall be stamped with the following wording in neon green letters: "FOR SHUCKING BY A CERTIFIED DEALER."

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002).

§333. General Provisions [formerly paragraph 9:052-3]

A. Shell-stock harvested for delivery to a steam factory for canning and thermal processing shall be landed at the factory within 72 hours from the time harvesting begins. The time harvesting begins and the time of arrival at the factory shall be recorded on the harvester's invoice.

B. If a harvester elects to fish both shell-stock intended for raw consumption and for shucking by a certified dealer on the same day, it shall be his responsibility to properly separate and identify the two types of shell-stock.

C. Except for deliveries made to a shellfish dealer certified by the Office of Public Health for inclusion on the U.S. Food and Drug Administration's Interstate Certified Shellfish shippers List and located less than 30 minutes from dockside, all land-based deliveries of shell stock shall be made aboard mechanically refrigerated trucks with an internal air temperature of 45EF or less as measured 12 inches from the blower. For shipments by air, an internal meat temperature of 45EF or less shall be maintained at all times. To accomplish this it shall be necessary to pre-chill shellstock to an internal temperature of 40EF or less prior to being packed into insulated containers with frozen gel packs. Land-based deliveries of molluscan shell stock to a steam factory for thermal processing and canning shall be exempt from these refrigeration requirements during the months November through May provided that the shellfish are delivered to the cannery in accordance with the requirements cited in Paragraph A of this Section and the Department of Wildlife and Fisheries, Enforcement Division is notified via their toll free telephone number (800/442-2511) prior to making each delivery.

D. When shell-stock are temporarily off-loaded for any reason, storage must be on pallets or on a well graded paved surface, with direct exposure to the sun limited to no more than 30 minutes.

E. A Harvester-Dealer Time/Temperature Log Sheet (see §345) shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the months January through December. Log sheets shall be maintained for a period of one year and made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. Log sheets for the current and previous 15 days harvest shall be kept aboard the harvest vessel for immediate examination. The requirement for a Harvest-Dealer Time/Temperature Log Sheet will not apply to the West Cove Conditional Management Area or the Lower Calcasieu Lake Conditional Management Area which are located in Cameron Parish. Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet as depicted in §345 may be submitted for consideration and approval to the Office of Public Health.

F. Post-Harvest Processing.

1. If a dealer elects to use a process to reduce the levels(s) of one target pathogen or some target pathogens, or all pathogens of public health concern in shellfish, the dealer shall:

a. have a Hazard Analysis Critical Control Point (HCAAP) plan approved by the Authority for the process that ensures that the target pathogen(s) are at safe levels for the at risk population in product that has been subjected to the process:

i. for processes that target *Vibrio vulnificus*, the level of *Vibrio vulnificus* in product that has been subjected to the process shall be non-detectable (<3 MPN/gram), to be determined by use of the *Vibrio vulnificus* FDA approved EIA procedure of Tamplin, et al, as described in Chapter 9 of the FDA Bacteriological Analytical Manual, 7th Edition, 1992;

ii. for processes that target *Vibrio parachaemolyticus*, the level of *Vibrio parachaemolyticus* in product that has been subjected to the process shall be non-detectable (<1 CFU/0.1 gram);

iii. for processes that target other pathogens, the level of those pathogens in product that has been subjected to the process shall be below the appropriate FDA action level, or, in the absence of such a level, below the appropriate level as determined by the ISSC;

iv. the ability of the process to reliably achieve the appropriate reduction in the target pathogen(s) shall be validated by a study approved by the Authority, with the concurrence of FDA;

v. the HACCP plan shall include:

(a) process controls to ensure that the end point criteria are met for every lot; and,

(b) a sampling program to periodically verify that the end point criteria are met;

b. package and label all shellfish in accordance with all requirements of the Model Ordinance. This includes labeling all shellfish which have been subjected to the process but which are not frozen in accordance with applicable shellfish tagging and labeling requirements in Chapter X.05 and X.06 of the National Shellfish Sanitation Program Model Ordinance;

c. keep records in accordance with Chapter X.07 of the National Shellfish Sanitation Program Model Ordinance.

2. A dealer who meets the requirements of this Section may label product that has been subjected to the reduction process as:

a. "processed for added safety", if the process reduces the levels of all pathogens of public health concern to safe levels for the at risk population;

b. "processed to reduce [name of target pathogen(s)] to non-detectable levels", if the process reduces one or more, but not all, pathogens of public health concern to safe levels for the at risk population, and if that level is non-detectable; or

c. "processed to reduce [name of target pathogen(s)] to non-detectable levels for added safety", if the process reduces one or more, but not all, pathogens of public health concern to safe levels for the at risk population, and if that level is non-detectable; or

d. a term that describes the type of process applied (e.g., "pasteurized", "individually quick frozen", "pressure treated") may be substituted for the word "processed" in the options contained in §333.F.2.c.

3. For the purpose of refrigeration, if the end product is dead, the product shall be treated as shucked product. If the end product is live, the product shall be treated as shell-stock.

4. A Harvester-Dealer Oyster Tag, blue in color, shall be used for shell-stock that has undergone a *Post-Harvest Treatment Process*.

5. Certification number of the Post-Harvest treatment facility is required on all Post-Harvest treated tags.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1309 (June 2002).

§335. Penalties Relative to Shell-Stock Refrigeration [formerly paragraph 9:052-4]

A. Shell-stock not produced in accordance with the requirements outlined in §§327-333 shall be deemed adulterated and shall be subject to seizure and destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1310 (June 2002).

§337. Checking on Condition of Molluscan Shellfish in Growing Waters Closed by the State Health Officer [formerly paragraph 9:053]

A. No person shall engage in the business of checking on the condition of molluscan shellfish in growing waters closed by the state health officer prior to obtaining a permit for that purpose from the state health officer. Applications shall be paid by cashier check or money order and filed not less than 14 days prior to the beginning of such proposed checking activities. One-day permits shall be granted only during the first two weeks of each calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1310 (June 2002).

§339. Performance Bond and Security Guard Monitoring Requirements [formerly paragraph 9:053-1]

A. A $1,000 performance bond consisting of a bank cashier's check or property bond made payable to the Department of Health and Hospitals shall be submitted with each completed application. In addition to the bond, a permittee, at his own expense, shall secure the services of either a bonded security guard from an agency licensed by the State of Louisiana, or a commissioned municipal, parish, or state police officer for the purpose of monitoring all checking activities. In order to satisfy the monitoring requirements, all checking of shellfish in closed waters must take place in the direct line of sight of an agent approved by the Department of Health and Hospitals or the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1310 (June 2002).

§341. Permits [formerly paragraph 9:053-2]

A. Permits shall be granted at the discretion of the Department of Health and Hospitals with the following restrictions.

1. No permittee, boat captain or crew member may serve on any vessels subject to this permit who has been cited or found guilty of violations relative to the harvesting of shellfish from closed areas within three years of the application date; provided, however that said permittee, crew member or boat captain may receive a waiver of this condition with regard to those citations which did not result in a conviction upon the appropriate showing being made to the Department of Wildlife and Fisheries.

2. Sacking of shellfish and storage of empty shellfish sacks on board permitted or authorized vessel utilized in the checking of shellfish shall be strictly prohibited. No more than one bushel of shellfish may be on board an authorized vessel at any given time.

3. Culling of shellfish shall be strictly prohibited.

4. Only five leases in the closed growing waters shall be utilized in the checking of shellfish.

5. The permittee shall be responsible for notifying the Department of Wildlife and Fisheries prior to leaving port to check shellfish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling (800) 442-2511.

6. All activities relative to the checking of shellfish in closed growing waters shall be permitted only during daylight hours with all activities completed no later than 30 minutes after official sunset.

7. Only one vessel may be utilized and both side of the permitted vessel shall be marked with the permit number in at least 6-inch high letters on a contrasting background so as to be visible from a low flying aircraft or from any vessel in the immediate vicinity.

8. A copy of the shellfish checking permit and applicable rules shall be on board the authorized vessel at all times on the active day of permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1310 (June 2002).

§343. Permit Enforcement [formerly paragraph 9:053-3]

A. Failure to comply with any of the permitting requirements specified in §§327-333 shall result in the following administrative actions.

1. The shellfish checking permit and all applicable privileges shall be immediately suspended by the Department of Wildlife and Fisheries or the Department of Health and Hospitals.

2. If said charges are upheld in an administrative hearing, the following additional penalties shall be imposed.

a. Shellfish checking and shellfish transplant permitting privileges shall be denied for a period of three years.

b. The $1,000 cash or property bond posted by the permittee shall be forfeited and retained by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1310 (June 2002).

§345. Harvester-Dealer Time/Temperature Log Sheet [formerly Table I]

HARVESTER-DEALER TIME/TEMPERATURE
LOG SHEET

Harvester Information:

BOAT NAME/NUMBER:_____

HARVESTER NAME/ LICENSE NUMBER: _____

HARVESTER SIGNATURE:_____ DATE:_____

Molluscan Shellfish Harvested for Other Than Raw (Half Shell) Consumption:

HARVESTING AREA/LEASE NO.:_____

PRODUCT INTENDED FOR OTHER THAN RAW CONSUMPTION:
CIRCLE ONE:

BEDDING SHUCKING RELAYING OTHER

(EXPLAIN)_____

TIME HARVESTING BEGINS:_____

TIME HARVESTING ENDS: _____

NUMBER OF SACKS OF OYSTERS HARVESTED:_____

Molluscan Shellfish Harvested for Raw (Half Shell) Consumption:

HARVESTING AREA/LEASE NO.:_____

TIME HARVESTING BEGINS:_____

NUMBER OF SACKS OF OYSTERS HARVESTED:_____

Certified Dealer Information:

TEMPERATURE OF COOLER WHEN UNLOADING OYSTERS BEGINS _____

TIME WHEN LAST OYSTER FROM BOAT ARE PLACED IN COOLER: _____

TEMPERATURE OF COOLER WHEN LAST OYSTERS FROM THE BOAT ARE PLACED IN COOLER: _____

ORIGINAL CERTIFIED DEALER SIGNATURE _____
(OR AUTHORIZED REPRESENTATIVE)
DATE _____

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1311 (June 2002).

§347. FDA Laboratory Evaluation Forms [formerly Appendix A]

A. Current FDA Laboratory Evaluation Forms used in on-site inspection in evaluation procedures toward designation as an official laboratory of the Louisiana shellfish sanitation laboratory system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1) and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1311 (June 2002).

Part X. Game Bird and Small Animal Slaughter and Processing Cross Reference

Current LAC Section	Former Sanitary Code Codification
Chapter 1	
§101	10:001
§103	10:002 & 10:003
§105	10:004 & 10:005, 10:008-10:012
§107	10:006
§109	10:007
§111	10:013-10:015
§113	10:016-10:023
§115	10:024-10:027
§117	10:028-1C10:037
§119	10:038
§121	10:039
§123	10:040
§125	10:041
§127	10:042
Chapter 3	
§301	10:043
§303	10:044 & 10:044-1
§305	10:045 & 10:046
§307	10:047

Part X. Game Bird and Small Animal Slaughter and Processing

Chapter 1. Required Permits

§101. Definitions [formerly paragraph 10:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

*Game Bird*Cincludes, but is not limited to, quail, chukars, pheasants, guinea fowl and pigeons.

*Meat Packing Plant*Cany establishment operating to manufacture, process, can or pack any meat product except those prepared from cattle, sheep, swine, goats, equines, chickens and turkeys.

*Offal*Cwaste, especially from a butchered animal, including but not limited to bones, cartilage, fatty tissue and gristle.

*Poultry Processing Plant*Cany establishment operating to slaughter, manufacture, pack or prepare poultry or poultry products for human consumption, but shall not include plants processing chickens, turkeys, ducks and geese.

*Slaughter*Cany establishment operating to slaughter, manufacture, pack or prepare any meat for human consumption, except that it shall not apply to establishments slaughtering cattle, sheep, swine, goats, equines, chickens, turkeys, ducks, and geese.

*Small Animal*Cincludes, but is not limited to, rabbits.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258.B, with more particular provisions found in Chapters 1 and 4 of Title 40. This Part is promulgated in accordance with specific provisions of R.S. 40: 4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1311 (June 2002).

§103. Permits; Regulated and Exempted Facilities [formerly paragraph 10:002]

A. No slaughter house, meat packing plant, poultry processing plant or other establishment operated to slaughter, manufacture, pack or prepare any meat, meat food product, poultry or poultry products for human consumption shall be allowed to operate until the owner, manager or operator has obtained a permit to operate from the state health officer; provided these regulations do not apply to establishments slaughtering cattle, sheep, swine, goats, equines, chickens or turkeys or preparing meats therefrom, and do not apply to retail meat markets.

B. [Formerly paragraph 10:003] The inspection of slaughter houses, meat packing plants and sausage kitchens preparing cattle, sheep, swine, goats, equines, chickens and turkeys is vested in the State Department of Agriculture and Forestry under authority of the State Meat and Poultry Inspection Law, R.S. 40:2271 et. seq. The only services the State Department of Health and Hospitals shall provide such establishments will be approval of their water supplies and waste disposal facilities and registration of meat products in accordance with the provisions of R.S. 40:627, and Parts XII and XIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1312 (June 2002).

§105. Applications for Permits [formerly paragraph 10:004]

A. Each owner or operator of a slaughter house, meat packing plant, or poultry processing plant operated to slaughter, manufacture, pack or prepare for human consumption, any meat or meat products or poultry or poultry products subject to the regulations of this Part, shall make written application on a form prescribed and furnished by the state health officer, with such other information as the state health officer shall require.

B. [Formerly paragraph 10:005] Permits shall be renewed annually by making written application on a form prescribed and furnished by the state health officer, with such other information as the state health officer shall require.

C. [Formerly paragraph 10:008] Permits shall be issued only to the person or persons responsible for the operations of the facility and shall not be transferrable.

D. [Formerly paragraph 10:009] Permits shall not be granted for operations in any building, any part of which is used as living quarters, unless floors, walls and ceilings are without openings that directly or indirectly communicate with any part of the building used as living quarters.

E. [Formerly paragraph 10:010] Permits shall not be granted unless or until the building and premises are in a sanitary condition as determined by the state health officer.

F. [Formerly paragraph 10:011] The permit of any establishment may be revoked for failure to comply with any of the provisions of the regulations in this Part.

G. [Formerly paragraph 10:012] The state health officer shall have access at all times during reasonable working hours to every part of any establishment subject to these regulations, for the purpose of making inspections.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1312 (June 2002).

§107. Labeling Requirements [formerly paragraph 10:006]

A. All carcasses shall be identified as having been prepared in a permitted slaughter house by being labeled with all information required by the State Food, Drug and Cosmetic Law (R.S. 40:601 et seq.) and identified by the permit number of the establishment in which prepared. Any meat or meat product, poultry or poultry product, when offered for sale for human consumption, which is not identified with the permit number of the establishment where slaughtered or prepared, shall be subject to seizure and destruction as provided for by R.S. 40:632 and 635.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1312 (June 2002).

§109. Registration of Meat Products Offered for Sale [formerly paragraph 10:007]

A. Establishments processing meat products from cattle, sheep, swine, goats, equines and poultry for sale principally at retail (but some at wholesale), that are exempt from meat inspection services of the State Department of Agriculture and Forestry, shall operate under a permit issued by their parish health unit in accordance with §§501 thru 503.C of Part XXIII of this Code. Those products sold in package form at wholesale by exempt retailers shall be registered with the Food and Drug Control Unit as required by R.S. 40:627.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1312 (June 2002).

§111. Required Records [formerly paragraph 10:013]

A. Each slaughter house operator shall keep a daily record to show the kind and number of birds or animals slaughtered.

B. [Formerly paragraph 10:014] When slaughtering is done for an individual, or group of individuals other than the slaughter house operator, there shall also be kept a daily record as to the number and kind of animals slaughtered for each individual or group of individuals.

C. [Formerly paragraph 10:015] These records shall be kept on file for one year by the owner or operator of the slaughter house and shall be available for the state health officer's inspection at any time during reasonable working hours.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1312 (June 2002).

§113. Building Requirements [formerly paragraph 10:016]

A. Every slaughter house and meat packing plant shall be maintained in a sanitary condition and in compliance with the requirements of the regulations contained in this Part and those in Parts V (Disease Vector Control), XIII (Sewage Disposal) and XIV (Plumbing) of this Code.

B. [Formerly paragraph 10:017] Plans and specifications for new establishments shall be submitted to the Department of Health and Hospitals, Office of Public Health, Food and Drug Unit for review and approval before construction.

C. [Formerly paragraph 10:018-1] Slaughter and processing plants shall be well lighted, naturally and/or artificially with at least 40-foot candles of light on all working surfaces.

D. [Formerly paragraph 10:018-2] Slaughter and processing plants shall be provided with adequate ventilation or control equipment to minimize odors and vapors (including steam and noxious fumes) in areas where they may contaminate food; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for contaminating food, food-packaging materials, and food-contact surfaces.

E. [Formerly paragraph 10:019] Drainage, sewage disposal, and plumbing systems shall comply with Parts XIII and XIV of this Code. Floor drains shall be provided in the slaughter and packing rooms in accordance with Part XIV.

F. [Formerly paragraph 10:020] Potable water shall be available in all areas of the slaughter house for cleaning and sanitizing utensils and equipment, and for hand washing, as specified in Part XIV of the State Sanitary Code, referencing Chapter 6 of the Louisiana State Plumbing Code (LSPC) as published October 2000. A heating facility capable of producing hot water for these purposes shall be provided on the premises. Water samples to verify microbiological quality and potability shall be collected from each plant at least annually.

G. [Formerly paragraph 10:021] The floors, walls, ceilings, partitions, posts, doors and other parts of all structures shall be smooth and tight, and of such materials, construction and finish as will enable ready and thorough cleaning. The floors shall be constructed of concrete or tile laid in concrete, or of any other material impermeable to water.

H. [Formerly paragraph 10:022] General construction of building shall include:

1. a holding area for animals and fowls;
2. a slaughter, skinning or defeathering room; and
3. a packing, labeling and storage room.

I. [Formerly paragraph 10:023] All openings into the outer air shall be protected against the entrance of flies, insects and vermin. "Fly Chaser" fans and ducts should be provided over frequently used openings to the outside.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1313 (June 2002).

§115. Required Sanitary Facilities [formerly paragraph 10:024]

A. Sanitary facilities and accommodations shall be furnished by every establishment engaged in the slaughter, preparation or packing of meat or poultry product for human consumption.

B. [Formerly paragraph 10:025] Toilet facilities shall be provided and installed in accordance with §407 of the LSPC. Facilities shall be conveniently located and shall be accessible to employees at all times.

C. [Formerly paragraph 10:026] Hand washing lavatories shall be provided and installed in accordance with §407 of the LSPC. Hand washing lavatories shall be accessible to employees at all times. Hand washing lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing. Each hand washing lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. An ample supply of hand cleansing soap or detergent shall be available at each lavatory. An ample supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each hand washing lavatory. The use of common towels is prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand washing facilities.

D. [Formerly paragraph 10:027] A three compartment sink constructed of smooth, impervious non-corrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms or other preparation rooms for washing, rinsing and sanitizing utensils and equipment. Sinks constructed of galvanized steel are not acceptable. Sinks shall be adequate in size and number and shall be large enough to accommodate the largest utensil or movable piece of equipment. Each sink compartment is to be designated and used for a specific purpose as shown in Table 10.1 below:

Table 10.1 Three Compartment Sink Usage

Sink Compartment #1	Sink Compartment #2	Sink Compartment #3
Detergent Wash to remove soil and food residues.	Rinse with potable water to remove detergent solution.	Immersion in hot water or chemical sanitizing solution to destroy harmful microbes not removed by washing process

1. [Formerly a part of paragraph 10:027] Each sink compartment shall be provided with hot and cold running water delivered under pressure through a mixer faucet or mixing valve. Sinks are to be properly installed and shall be trapped and vented. Sinks designated for washing or thawing of food or food ingredients shall be designated for that purpose only and shall not be used for cleaning equipment or utensils.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1313 (June 2002).

§117. Equipment and Utensils [formerly paragraph 10:028-1]

A. Equipment and utensils used for preparing, processing and otherwise handling any meat, meat product or poultry shall be of such material and construction so as to enable ready and thorough cleaning and sanitizing such as will insure strict cleanliness in the preparation and handling of all food products. Trucks and receptacles used for inedible products shall bear some conspicuous and distinct mark and shall not be used for handling edible products.

B. [Formerly paragraph 10:028-2] Equipment and utensils used for preparing, processing and otherwise handling any meat, meat product or poultry shall be cleaned as often as necessary to avoid contamination of food, food ingredients and food-packaging materials. Food contact surfaces of equipment and utensils used in the processing and packaging of foods subject to contamination by harmful microbes shall be washed with a suitable detergent solution, rinsed with potable water and then sanitized in a manner specified as follows:

1. [Formerly paragraph 10:028-2.A] Hot Water immersion. Cleaned equipment and utensils shall be immersed in fresh hot water of 170°F (77°C) or above.

2. [Formerly paragraph 10:028-2.B] Chemical Sanitizers. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times specified in §117.C shall be listed in 21 CFR 178.1010, shall be used in accordance with the EPA approved manufacturer's label use instructions, and shall be used as follows:

a. [Formerly paragraph 10:028-2.B.(1)] A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart.

Minimum Concentration mg/L	Minimum Temperature pH of 10 or less °F (°C)	Minimum Temperature pH of 8 or less °F (°C)
25	120 (49)	120 (49)
50	100 (38)	75 (24)
100	55 (13)	55 (13)

b. [Formerly paragraph 10:028-2.B.(2)] An iodine solution shall have a:

i. minimum temperature of 75°F (24°C).

ii. pH of 5.0 or less, unless the manufacture's use directions included in the labeling specify a higher pH limit of effectiveness, and

iii. concentration between 12.5 mg/L and 25 mg/L.

c. [Formerly paragraph 10:028-2.B.(3)] A quaternary ammonium compound solution shall:

i. have a minimum temperature of 75°F (24°C).

ii. have an effective concentration of not more than 200 mg/L as specified in 21 CFR 178.1010.

iii. Be used only in water with 500 mg/L hardness or less.

d. [Formerly paragraph 10:028-2.B.(4)] Other solutions of the chemicals specified in §117.B.(2)(a)-(c) of this Part may be used if demonstrated to the state health officer to achieve sanitization and approved by the state health officer; or

e. [Formerly paragraph 10:028-2.B.(5)] Other chemical Sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling.

C. [Formerly paragraph 10:028-2.C] Sanitization Exposure Times. Utensils and food-contact surfaces shall be exposed to hot water and chemical compounds for a period of time as specified below.

Method	Minimum Exposure Time
Hot Water Immersion	30 seconds
Chlorine Solutions	10 seconds
Other Chemical Sanitizing Solutions	30 seconds

1. [Formerly paragraph 10:029] Rooms, compartments, places, equipment and utensils used for preparing, storing or otherwise handling any meat, meat products or poultry and all other parts of the establishment shall be kept clean and sanitary.

2. [Formerly paragraph 10:030] Operations and procedures involving the preparation, storing and handling of any meat, meat product or poultry shall be in accordance with clean and sanitary methods as approved by the state health officer.

3. [Formerly paragraph 10:031] Rooms, compartments, places, equipment and utensils used for preparing, storing or otherwise handling any meat, meat products or poultry processed or packed, shall be kept free of steam and vapor to allow for inspections and to insure clean operations. The walls and ceilings of coolers and rooms under refrigeration shall be kept free from moisture so that condensation does not accumulate on walls and ceilings. Fresh meat and poultry shall be stored at 41°F or below.

4. [Formerly paragraph 10:032-1] Butchers and others who dress or handle diseased carcasses or parts shall, before handling or dressing other carcasses or parts, cleanse hands of grease, immerse them in a prescribed disinfectant and rinse them in clean water. Implements used in dressing diseased carcasses should be thoroughly cleaned in boiling water with a prescribed disinfectant, followed by rinsing in clean water.

5. [Formerly paragraph 10:032-2] The employees of the establishment who handle any meat, meat products or poultry shall keep their hands clean and in all cases after visiting the toilet room or urinal shall wash their hands before handling any meat, meat products, poultry or implements used in their preparation. A sign so instructing shall be posted in the toilet or lavatory areas.

6. [Formerly paragraph 10:033] Aprons, frocks and other outer clothing worn by persons who handle any meat, meat products or poultry shall be of material that is readily cleaned and only clean garments shall be worn. At all times during work employees shall wear hair restraints such as hats, caps, nets or a type of restraint approved by the state health officer.

7. [Formerly paragraph 10:034] The vehicle in which any meat, meat products or poultry is transported shall be kept in a clean and sanitary condition. Accumulations of blood, drippings, trimmings or decomposed carcasses are prohibited. Wagons, carts, trucks or other conveyances used in transferring loose meat, meat products or poultry from the slaughter house to other places of storage or final

distribution shall be closed or so covered that the contents shall be kept clean.

8. [Formerly paragraph 10:035] In addition, all vehicles used to transport meat, meat products or poultry shall be equipped with refrigeration units capable of maintaining 41°F or below for refrigerated products and 0°F or below for frozen products to insure their cleanliness.

9. [Formerly paragraph 10:036] When there is an imminent danger to public health, a duly authorized representative of the state health officer shall attach a tag to any equipment or utensil which is insanitary. The use of tagged equipment or utensils will be in violation of these regulations. No equipment or utensils so tagged shall again be used until made sanitary. Such tag so placed shall not be removed by anyone other than the state health officer.

10. [Formerly paragraph 10:037] All operations and storage rooms and departments used for inedible products shall be maintained in clean condition acceptable to the state health officer. The outer premises of their establishment including the dock area where cars, trucks or wagons are loaded, and the driveway's, approaches, yards, pens and alleys shall be properly drained and kept clean, orderly and free of accumulations of refuse, spilled products and materials which may decompose and provide harborage for rodents, insects and vermin. All catch basins on the premises shall be of such construction and location that they shall be kept clean and free from odors.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1314 (June 2002).

§119. Employee Health Provisions [formerly paragraph 10:038]

A. The requirements of Part I, §117 and Part II, §§501-503.C of this Code shall be met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1315 (June 2002).

§121. Dogs or Cats Prohibited on Premises [formerly paragraph 10:039]

A. Dogs or cats shall not be admitted into any establishment where meat or poultry is handled in any way to be prepared for human consumption.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1315 (June 2002).

§123. Offal Prohibited on Premises [formerly paragraph 10:040]

A. Offal shall be properly disposed of in a manner so as not to create nuisances or unsanitary conditions in or around the slaughter and processing plant that would provide a source of contamination. Offal shall be hauled away and properly disposed of daily pursuant to the requirements set forth in Parts XI and XXVII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1315 (June 2002).

§125. Storage of Hides or Pelts on Premises [formerly paragraph 10:041]

A. Hides or pelts shall be treated and stored in a fly-tight room or fly-tight receptacle so as not to create a nuisance or health problem.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1315 (June 2002).

§127. Plant Wastes [formerly paragraph 10:042]

A. All plant wastes shall be disposed of in a manner approved by the state health officer as provided for by Parts XIII and XIV of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1315 (June 2002).

Chapter 3. Nutria Program

§301. Nutria Inspection Program [formerly paragraph 10:043]

A. In order to protect the health and welfare of consumers and to properly manage the nutria inspection program, an initial pilot program will be established and will include the supervision of a limited number of nutria processing facilities. For the initial pilot program, permits to operate will be issued to a maximum of five qualified applicants. Application for permits to process nutria shall be made on a form provided by the Department of Health and Hospitals. However, no application to process nutria will be accepted after the maximum number of permits have been issued or after the closing of the nutria trapping season. The nutria processing pilot program will commence and cease on dates coinciding with the beginning and ending of the nutria trapping season as promulgated by the Wildlife and Fisheries Commission. Permits issued by LDHH will expire at midnight of the last official day of the nutria trapping season. Only nutria taken by licensed trappers will be considered eligible for processing and inspection under the cooperative inspection program. The number of nutria processing plants that will be approved and permitted for nutria processing in future years will be determined each year after the close of the nutria trapping season and after an evaluation of each year's production has been made.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1315 (June 2002).

§303. Nutria for Human Consumption [formerly paragraph 10:044]

A. Persons wanting to process nutria for human consumption must meet certain minimum qualifications in order to be considered for inclusion in the nutria processing pilot program.

1. [Formerly paragraph 10:044-1]Permitted facilities shall:

a. have access to an abundant supply of nutria animals for slaughtering and processing in order to keep each processing facility operating at an acceptable capacity in order to best utilize the personnel and resources of all departments;

b. utilize processing facilities that are designed and constructed to meet the minimum standards of Part X of the State Sanitary Code;

c. establish and adhere to a HACCP quality control plan approved by LDAF that will render safe nutria meat which is free of harmful microorganisms and of sound, wholesome quality;

d. receive and process only those nutria animals that have been taken by trappers who hold a valid license issued by the LDWF;

e. pre-inspect nutria carcasses upon receipt from licensed trappers to verify suitability for submission for inspection. Carcasses that are deemed unsuitable for processing for human consumption shall be clearly marked or otherwise identified so as not to be subject to inspection or otherwise commingled with nutria deemed suitable for human consumption. Nutria carcasses declared not fit for human consumption shall be rejected from inspection and shall be destroyed and disposed of in a manner approved by LDHH and LDAF and shall not be allowed to create a nuisance and/or a source of contamination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1316 (June 2002).

§305. Labeling Requirements [formerly paragraph 10:045]

A. Each package, container, carton, or case of nutria, nutria meat, or nutria meat products shall be labeled in accordance with Section 49:3.0601 of the meat and meat products regulations. Labels and labeling shall be reviewed and approved by the LDAF. All nutria taken, processed, packaged and distributed under this cooperative program shall be labeled and identified as "certified cajun nutria."

B. [Formerly paragraph 10:046] No nutria meat shall be sold in any butcher shop, meat market, grocery store, restaurant or to any wholesale grocer, dealer or distributors unless such nutria meat is clearly identified as having been processed and inspected in an approved processing facility. Nutria meat not clearly identified as having been processed and inspected in an approved processing facility shall be subject to seizure and destruction as provided for by R.S. 40:632 and 635.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1316 (June 2002).

§307. Provisions Applicable to Nutria [formerly paragraph 10:047]

A. The provisions herein constituting Part X of the State Sanitary Code shall apply to the nutria program, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(1)(a), (6), (8) and 40:5.(5), (9). Also see R.S. 40:627.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1316 (June 2002).

Part XI. Animals and Animal Diseases; Rendering of Animals
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Chapter 1	
§101	11:001
§103	11:002
§105	11:003
Chapter 3	
§301	11:004 - 11:008
§303	11:009 & 11:010
§305	11:011 & 11:013 - 11:015
§307	11:012

Part XI. Animals and Animal Diseases; Rendering of Animals

Chapter 1. General

§101. Definitions [formerly paragraph 11:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Animal—all animals, any part of the body of which is used as food for human consumption and, insofar as these regulations relate to sanitation of premises or to spread of any communicable disease dangerous to man, shall also include dogs, donkeys and other similar livestock.

Fowl—all poultry, ducks, geese, turkeys, or game birds used as food for human consumption, and parrots or other birds capable of spreading any disease dangerous to man.

Nuisance—a source of inconvenience, annoyance, vexation; bother.

Offal—waste, especially of a butchered animal.

Rendering Plant—any establishment equipped to cook and make innocuous any animal or fowl dead from any cause, or any offal from a slaughter house, abattoir, or butcher shop.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated with the specific provisions of R.S. 40:4(A)(12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1316 (June 2002).

§103. Inspection of Premises Used to Hold Animals or Fowls [formerly paragraph 11:002]

A. Any premises to be used as a corral, stable, poultry yard, hog pen, aviary, or for the holding of any animals or fowls, shall be open to inspection by the state health officer at any reasonable time.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1317 (June 2002).

§105. Sanitary Disposal of Dead Animals or Fowl [formerly paragraph 11:003]

A. The body of any animal or fowl dead of any disease, killed on account of a diseased condition, or killed by accident, shall be buried, incinerated, rendered into tankage, or otherwise disposed of in such a manner as not to constitute a nuisance or hazard to the public health.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1317 (June 2002).

Chapter 3. Rendering Plants

§301. Required Health Permit for Rendering Plants [formerly paragraph 11:004]

A. No person shall operate a rendering plant without first obtaining a permit to operate from the parish health unit in the parish in which it operates.

B. [Formerly paragraph 11:005] In applying for a permit, the applicant shall submit detailed plans for the rendering plant, showing its location, construction, equipment, water supply, sewage and refuse disposal.

C. [Formerly paragraph 11:006] On receipt of an application, the state health officer shall review the plans submitted to ensure that they comply with sound sanitary engineering principles. If the plans are found satisfactory, a permit to build said facility shall be issued.

1. [Formerly a part of paragraph 11:006] After completion, and during construction as necessary, the state health officer shall inspect the facility. If the inspection reveals that the facility is in compliance with all requirements of this Code, a permit to operate shall be issued. This permit is conditioned on the plant being operated in such a manner so as not to create a nuisance or any condition which might injuriously affect the public health.

D. [Formerly paragraph 11:007] The permit shall be issued to the person responsible for the operation of the rendering plant and is not transferable. If a different person becomes responsible, the plant will not be allowed to operate until a permit for that person has been issued.

E. [Formerly paragraph 11:008] Any permit to operate a rendering plant is subject to revocation if the plant is operating at any time in violation of the provisions of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1317 (June 2002).

§303. Sanitary Hauling Dead Animals or Offal [formerly paragraph 11:009]

A. The hauling of any dead animal, or of offal, shall be done in a truck, or other conveyance having a water tight floor and sides made of an impervious material capable of being washed and scrubbed to eliminate any residues. It shall be provided with a tight covering to prevent entrance by flies. Said conveyance shall be washed at the end of each day=s use, or more often if residues accumulate or odors become offensive. Said washing shall be done on concrete or other impervious surface sloping toward a drain so that none of the wash water escapes the controlled area. Said drain shall be equipped with a strainer and shall be connected to a sanitary sewage treatment system which meets the requirements of Part XIII of this Code.

B. [Former paragraph 11:010] Truck or other conveyance hauling any dead animal or offal shall not stop until it reaches its destination, unless detained by a situation or event not within the control of the driver of the conveyance.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1317 (June 2002).

§305. Prohibited Activities [formerly paragraph 11:011]

A. None of the products of any rendering plant shall be utilized in any food products for human consumption.

B. [Formerly paragraph 11:013] No person shall keep, throw into, or place in any public water, street, or any other place, other than a facility designed for processing or disposing of same, and which is in compliance with all requirements of this Code, any dead, sick, or injured animal or any part thereof.

C. [Formerly paragraph 11:014] No person shall bring, or cause to be brought, into the limits of any municipality any hides, bones, pelts, rags or any other articles that might serve as an attraction to or a breeding place for flies or other vectors of infection, or which may in any way endanger the public health or create a public nuisance.

D. [Formerly paragraph 11:015] No hide, bones, or any other parts of animals not intended as food for human consumption shall be kept in any room, refrigerator, cold storage area, or any other area where meat for human consumption is processed or stored, such as in slaughter houses or meat markets.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1317 (June 2002).

§307. Label and Tagging Requirements [formerly paragraph 11:012]

A. All grease and other products of a rendering plan not utilized in fertilizers but packed for use in, or transportation to, some other locality, shall be branded, marked, tagged or otherwise identified on every package with a conspicuous label, printed in read ink, as follows: AInedible _____ of Dead Animals@, with the name of the product to appear in the space left blank.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1317 (June 2002).

Part XII. Water Supplies
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Chapter 1	
§101	12:001
§103	12:002-1
§105	12:002-2
§107	12:002-3
§109	12:002-4
Chapter 3	
§301	12:002-5
§303	12:002-6
§305	12:002-7
§307	12:003-1
§309	12:003-2
§311	12:003-3
§313	12:003-4
§315	12:003-5
§317	12:004-1
§319	12:004-2
§321	12:005
§323	12:006
§325	12:007
§327	12:008-1 - 12:008-17
§329	12:009-1 - 12:009-10
§331	12:010
§333	12:011-1 - 12:011-5
§335	12:012-1 - 12:012-4
§337	12:013-1 - 12:013-4
§339	12:014-1 & 12:014-2
§341	12:015
§343	12:016-1 & 12:016-2
§345	12:017
§347	12:018
§349	12:019
§351	12:020-1
§353	12:020-2 - 12:020-4
§355	12:021-1
§357	12:021-2
§359	12:021-3
§361	12:021-4
§363	12:021-5
§365	12:021-6
§367	12:021-7
§369	12:022-1 - 12:022-5
§371	12:023-1 - 12:023-4
§373	12:024
§375	12:025
§377	12:026
Chapter 5	
§501	Appendix A 1.1
§503	Appendix A 2.1 - 2.3
§505	Appendix A 3.1 - 3.5
§507	Appendix A 4.1
§509	Appendix A 5.1
Chapter 7	
§701	Appendix B 1.1
§703	Appendix B 2.1
§705	Appendix B 3.1
§707	Appendix B 4.1
§709	Appendix B 5.1
Chapter 9	
§901	Appendix C Preamble
§903	Appendix C Coliform Routine Compliance Monitoring and second to last paragraph of Appendix C Coliform Repeat Monitoring
§905	Appendix C Coliform Repeat Monitoring
§907	Appendix C Coliform Repeat Monitoring (last paragraph)
§909	Appendix C Invalidation of Total Coliform Results
§911	Appendix C Total Coliform MCL
§913	Appendix C Public Notification
Chapter 11 Subchapter A	
§1101	Appendix D 1.01
§1103	Appendix D 1.02
Chapter 11 Subchapter B	
§1105	Appendix D 2.01
§1107	Appendix D 2.02
§1109	Appendix D 2.03
§1111	Appendix D 2.04
§1113	Appendix D 2.05
Chapter 11 Subchapter C	
§1115	Appendix D 3.01
§1117	Appendix D 3.02
Chapter 11 Subchapter D	
§1119	Appendix D 4.01
Chapter 11 Subchapter E	
§1121	Appendix D 5.01
§1123	Appendix D 5.02
Chapter 11 Subchapter F	
§1125	Appendix D 6.01

Part XII. Water Supplies

Chapter 1. General

§101. Definitions
[formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Abandoned Well—a water well that has been permanently discontinued; has had its pumping equipment permanently removed; is in such a state of disrepair that it cannot be used to supply water and/or has the potential for transmitting surface contaminants into the aquifer; poses potential health or safety hazards or the well is in such a condition that it cannot be placed in service.

Auxiliary Intake—any piping connection or other device whereby water may be secured from a source other than that normally used.

Backflow—

a. a flow condition, induced by a differential pressure, that causes the flow of water or other liquid into the distribution pipes of a potable water supply from any source or sources other than its intended source; or

b. the backing up of water through a conduit or channel in the direction opposite to normal flow.

Backflow Preventer—a device for a potable water supply pipe to prevent the backflow of water of questionable quality into the potable water supply system.

Back Siphonage—a form of backflow caused by negative or subatmospheric pressure within a water system.

Boil Notice—an official order authorized by the state health officer to the owner/users of a specific water supply, directing that water from that supply be boiled according to

directions, or otherwise disinfected prior to human consumption.

By-Pass—any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water supply or treatment facility.

Category—a group of parameters for which certification is offered.

Certification Fee—the annual charge assessed laboratories requesting certification from the Department of Health and Hospitals to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water systems.

Committee of Certification—the committee, created by R.S. 40:1141 through 1151, responsible for certification of waterworks operators and sewerage works operators.

Community Water Supply—a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Contaminant—any physical, chemical, biological, or radiological substance or matter in water.

Cross Connection—

a. a physical connection through which a supply of potable water could be contaminated or polluted; or

b. a connection between a supervised potable water supply and an unsupervised supply of unknown potability.

Drain—any pipe which carries waste water or water-borne waste in a building drainage system.

Drainage System—(drainage piping) includes all the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal, but does not include the mains of a public sewer system or a private or public sewage treatment plant.

Ground Water—subsurface water occupying the saturation zone from which wells and springs are fed. In a strict sense the term applies only to water below the water table.

Interconnection—a physical connection between two water supply systems.

Laboratory Certification Manual—the reference book which contains the Department of Health and Hospitals' regulations governing laboratory certification and standards of performance for laboratories conducting drinking water analyses for public water supplies in the state of Louisiana.

Laboratory Certification Program—a program carried out by the Department of Health and Hospitals, Office of Public Health and Office of Licensing and Certification to approve commercially and publicly owned laboratories to perform compliance monitoring of public water supplies in accordance with the National Primary Drinking Water Regulations and Part XII of the State Sanitary Code. The cost of the program will be recouped from the laboratories requesting certification.

Laboratory Requesting Certification—an uncertified laboratory which has submitted an acceptable application and appropriate fee(s) for the category in which it desires certification.

Louisiana Water Well Rules, Regulations, and Standards—the November 1985 Edition, promulgated by the Louisiana Office of Public Works, Department of Transportation and Development, under provisions of state Act 535 of 1972 (R.S. 38:3091 *et seq*.).

Maximum Contaminant Level (MCL)—the highest permissible concentration of a substance allowed in drinking water as established by the U.S. Environmental Protection Agency.

National Primary Drinking Water Regulations—regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300 f, *et seq*., and as published in the July 1, 1999 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

a. Subpart H—Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75);

b. Subpart I—Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (40 CFR 141.130 through 141.135);

c. Subpart M—Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144); and

d. Subpart P—Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175).

National Secondary Drinking Water Regulations—regulations (40 CFR Part 143) promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of P.L. 99-339, the "Safe Drinking Water Act," and as published in the Federal Register of July 19, 1979, pages 42,195 through 42,202 and April 2, 1986, page 11,412.

Noncommunity Water Supply—a public water system that does not meet the criteria for a community water supply and serves at least 25 individuals (combination of residents and transients) at least 60 days out of each year. A non-community water supply is either a "transient non-community water supply" or a "non-transient non-community water supply".

Nontransient Noncommunity Water Supply—a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

Operator—the individual, as determined by the Committee of Certification, in attendance, onsite of a water supply system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

Permit—a written document issued by the state health officer through the Office of Public Health which authorizes construction and operation of a new water supply or a modification of any existing supply.

Potable Water—water having bacteriological, physical, radiological, and chemical qualities that make it safe and suitable for human drinking, cooking and washing uses.

Potable Water Supply—a source of potable water, and the appurtenances that make it available for use.

Private Water Supply—a potable water supply that does not meet the criteria for a public water supply.

Public Water Supply—"public water system".

Public Water System—a system for the provision to the public of water for potable water purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. (A

public water system is either a "community water supply" or a "non-community water supply"). Such term includes:

a. any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and

b. any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

Reservoir—a natural or artificial lake or impoundment for storage of water (either raw or treated) used or proposed to be used for potable purposes.

Sanitary Well Seal—a suitable threaded, flanged, or welded water-tight cap or compression seal installed at the top of the well casing so as to prevent the entrance of contaminated water or other objectionable material into the well.

Service Connection—the pipe from the water main and/or water meter, water supply system or other source of water supply to the building or structure served.

Source of Water Supply—any well, spring, cistern, infiltration gallery, stream, reservoir, pond, or lake from which, by any means, water is taken either temporarily or continuously for potable use.

Surface Water—derived from water sources on the surface of the earth such as streams, ponds, lakes, or reservoirs.

Ten-State Standards—the *Recommended Standards for Water Works* (1982 Edition)* or *Recommended Standards for Sewage Works* (1978 Edition)* promulgated by the Great Lakes and Upper Mississippi River Board of State Sanitary Engineers and any modifications and additions to these Standards which the state health officer may establish in this Part. (*NOTE: Published by: Health Education Service, P. O. Box 7126, Albany, New York 12224)

Transient Non-Community Water Supply—a non-community water supply that does not regularly serve at least 25 of the same persons over six months per year.

Treatment Technique Requirement—a treatment process/standard which has been established in lieu of a maximum contaminant level when, in the state health officer's judgement, it is not economically or technologically feasible to ascertain the level of a contaminant in water intended for potable purposes.

Vacuum Breaker—a device for relieving a vacuum or partial vacuum formed in a pipeline, thereby preventing back siphonage.

Water Well (Well)—an artificial excavation that derives water from the interstices of the rocks or soil which it penetrates.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258 (B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002).

§103. General Requirements for a Potable Water Supply [formerly paragraph 12:002-1]

A. Every potable water supply which is hereafter constructed, or reconstructed, or every existing water supply which the state health officer determines is unsafe, shall be made to comply with the requirements of the Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1320 (June 2002).

§105. Permit Requirements for a Potable Water Supply [formerly paragraph 12:002-2]

A. No public water supply shall be hereafter constructed, operated or modified to the extent that the capacity, hydraulic conditions, functioning of treatment processes, or the quality of finished water is affected, without, and except in accordance with, a permit from the state health officer.

B. No public water supply shall be constructed or modified to the extent mentioned above except in accordance with the plans and specifications for the installation which have been approved, in advance, as a part of a permit issued by the state health officer prior to the start of construction or modification.

C. Detailed plans and specifications for the installation for which a permit is requested shall be submitted by the person having responsible charge of a municipally owned public water supply or by the owner of a privately owned public water supply.

D. The review and approval of plans and specifications submitted for issuance of a permit, will be made in accordance with the "Ten-State Standards" and the *Louisiana Water Well Rules, Regulations, and Standards*, plus any additional requirements of the state health officer as set forth in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6)(7)(17)(19).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1320 (June 2002).

§107. Provision for Grandfather Systems [formerly paragraph 12-002-3]

A. Permits issued, and approvals of plans and specifications granted prior to the effective date of this Code shall remain in effect as they pertain to the design of the supply unless the revision of such is determined necessary by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6)(7)(17)(19).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1320 (June 2002).

§109. Requirements for Sources of a Potable Water Supply [formerly paragraph 12-002-4]

A. Water supplied for potable purposes shall be:

1. obtained from a source free from pollution; or

2. obtained from a source adequately protected by natural agencies from the effects of pollution; or

3. adequately protected by artificial treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1320 (June 2002).

Chapter 3. Water Quality Standards

§301. Mandatory Water Quality Standards for Public Water Systems [formerly paragraph 12:002-5]

A. Each public water supply shall comply with the maximum contaminant levels or treatment technique requirements prescribed in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Chapter 9 of this Part, formerly Appendix C), and the Louisiana Surface Water Treatment Rule (Chapter 11 of this Part, formerly Appendix D). The state health officer, upon determining that a risk to human health may exist, reserves the right to limit exposure to any other contaminant. Further, each public water supply should comply with the National Secondary Drinking Water Regulations. Treatment to remove questionable characteristics shall be approved by the state health officer.

B. Each public water supply shall comply with the monitoring and analytical requirements specified in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Chapter 9 of this Part, formerly Appendix C), and the Louisiana Surface Water Treatment Rule (Chapter 11 of this Part, formerly Appendix D), as applicable.

C. A laboratory certification program has been established to approve commercially and publicly owned laboratories to perform chemistry compliance monitoring for public water supplies. Laboratories seeking certification in any chemistry category for which certification is offered must adhere to the rules and regulations governing laboratory certifications as contained in the Department of Health and Hospitals' *Laboratory Certification Manual* dated September 1989. An annual certification fee will be assessed laboratories seeking certification from the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002).

§303. Variances and/or Exemptions [formerly paragraph 12:002-6]

A. Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the state health officer in accord with Sections 1415 and 1416 of the Safe Drinking Water Act and subpart K (Variances for Small System) of 40 CFR part 142.

B. The owner of the public water supply which receives a variance and/or exemption shall fully and timely comply with all the terms and conditions of any compliance and/or implementation schedule specified by the state health officer in conjunction with the issuance of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002).

§305. Reserved. [formerly paragraph 12:002-7]

§307. Responsibility of Owner [formerly paragraph 12:003-1]

A. It shall be the duty of the Mayor, or the person having responsible charge of a municipally owned water supply, or the legal or natural person owning a public water supply, to take all measures and precautions which are necessary to secure and ensure compliance with this Part of the Code, and such persons shall be held primarily responsible for the execution and compliance with regulations of this Code. A printed copy of this Part of the Code shall be kept permanently posted in the office used by the authority owning or having charge of a public water supply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002).

§309. Plant Supervision and Control [formerly paragraph 12:003-2]

A. All public water supplies shall be under the supervision and control of a duly certified operator as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (R.S. 40:1141-1151).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8), R.S. 40:5 (5)(6), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002).

§311. Records [formerly paragraph 12:003-3]

A. Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of two years on forms approved by the state health officer. Copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002).

§313. Public Notification [formerly paragraph 12:003-4]

A. If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the supplier of water shall notify persons served by the system of the failure in a manner prescribed by the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Chapter 9 of this Part, formerly Appendix C), or the Louisiana Surface Water Treatment Rule (Chapter 11 of this Part, formerly Appendix D), as applicable.

B. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the state health officer within the applicable time limit(s) stipulated by the National Primary Drinking Water Regulations or the Louisiana Surface Water Treatment Rule

(Chapter 11 of this Part, formerly Appendix D) and such data (*e.g.*, turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification.

C. The water supply, within 10 days subsequent to the completion of each public notification shall submit to the state health officer a representative copy of each type of notice distributed, published, posted and/or made available to the persons served by the supply and/or to the news media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002).

§315. Security
[formerly paragraph 12:003-5]

A. All public water supply wells, treatment units, tanks, etc., shall be located inside a fenced area that is capable of being locked; said areas shall be locked when unattended. The fence shall be resistant to climbing and at least 6 feet high.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002).

§317. Reserved.
[formerly paragraph 12:004-1]

§319. Reserved.
[formerly paragraph 12:004-2]

§321. Reporting Changes or NPDWR Violations in Public Water Supplies
[formerly paragraph 12:005]

A. No person owning, or having by law the management control of any public water supply, shall take or cause to be taken for use for potable purposes, water from any auxiliary source other than a source or sources of water approved by the state health officer, or shall make any change whatsoever which may affect the sanitary quality of such water supply, without first having notified the state health officer.

B. Also, any violation of the National Primary Drinking Water Regulations shall be reported to the state health officer within 48 hours after learning of any violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002).

§323. Filtration
[formerly paragraph 12:006]

A. All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used in the filtration of surface waters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002).

§325. Treatment Chemicals
[formerly paragraph 12:007]

A. Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet the guidelines for potable water applications established by the U.S. Environmental Protection Agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002).

§327. Ground Water Supplies
[formerly paragraph 12:008-1]

A. All potable ground water supplies shall comply with the following requirements.

1. [Formerly paragraph 12:008-2 Exclusion of Surface Water From Site] The ground surface within a safe horizontal distance of the source in all directions shall not be subject to flooding (as defined in footnote 4 of §327{A}{2} below) and shall be so graded and drained as to facilitate the rapid removal of surface water. This horizontal distance shall in no case be less than 50 feet for potable water supplies.

2. [Formerly paragraph 12:008-3 Distances to Sources of Contamination] Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination, including but not limited to, privies, cesspools, septic tanks, subsurface tile systems, sewers, drains, barnyards and pits below the ground surface. The horizontal distance from any such possible source of pollution shall be as great as possible, but in no case less than the following minimum distances, except as otherwise approved by the state health officer:

Source	Distance in Feet
Septic tanks	50
Storm or sanitary sewer	50[1]
Cesspools, outdoor privies, oxidation ponds, subsurface absorption fields, pits, mechanical sewage treatment plants, etc.	100[2]
Another water-well	25[3]
Sanitary landfills, feed lots, manure piles, solid waste dumps and similar installations	100
Drainage canal, ditch or stream	50[4]

[1] This distance may be reduced to 30 feet if the sewer is of cast iron with leaded joints or Schedule 40 plastic pipe with water-tight joints.

[2] For a private water well this distance may be reduced to 50 feet.

[3] This minimum distance requirement does not take into consideration the effects of interference from pumping nearby wells in the same aquifer.

[4] Horizontally measured from the water's edge to the well at the highest water level which may have occurred in a 10-year period.

3. [Formerly paragraph 12:008-4 Leakage From Toilets And Sewers] No toilet, sewer, soil pipe or drain shall be located above or where leakage therefrom can reach any water storage basin, reservoir or source of water supply.

4. [Formerly paragraph 12:008-5 Pits Near Water Supply] There shall be no unauthorized pits or unfilled spaces below level of ground surface, any part of which is within 50 feet of such water supply, except properly constructed well, pump, or valve pits as covered under §329.A.4 of this Part.

5. [Formerly paragraph 12:008-6 Satisfactory Earth Formation Above The Water Bearing Stratum] The earth formations above the water-bearing stratum shall be of such character and depth as to exclude contamination of the source of supply by seepage from the surface of the ground.

6. [Formerly paragraph 12:008-7 Minimum Depth of Casings and Curbings] All well and spring basin casings or curbings shall extend a safe distance below the ground surface. The minimum depth of casings or curbings shall not be less than 50 feet in the case of public water supplies and not less than 10 feet in the case of private water supplies.

7. [Formerly paragraph 12:008-8 Height of Casings and Curbings] In wells with pipe casings, the casings shall project at least 12 inches above ground level or the top of the cover or floor, and the cover or floor shall slope away from the well casing or suction pipe in all directions. Dug well linings shall extend at least 12 inches above the ground surface and cover installed thereon. The cover shall be watertight, and its edges shall overlap and extend downward at least 2 inches over the walls or curbings of such wells. In flood-prone areas the top of the casing shall be at least 2 feet above the highest flood level which may have occurred in a 10-year period, but in no case less than 2 feet above the ground surface.

8. [Formerly paragraph 12:008-9 Grouting] The annular space between the well casing and the bore hole shall be sealed with cement-bentonite slurry or neat cement. Community public supply wells shall be cemented to their full depth from the top of the producing aquifer to the ground surface; noncommunity public supply wells shall be cemented from a minimum depth of 50 feet to the ground surface; and private supply wells shall be cemented from a minimum depth of 10 feet to the ground surface.

9. [Formerly paragraph 12:008-10 Cover or Floors] Every dug well, spring, or other structure used as a source of potable water, or for the storage of potable water, shall be provided with a watertight cover. Covers and every pump room floor shall be constructed of concrete or similar impervious material, and shall be elevated above the adjacent ground level and sloped to facilitate the rapid removal of water so as to provide drainage from the cover or floor and prevent contamination of the water supply. Such cover or floor shall be constructed so that there are no copings, parapets, or other features which may prevent proper drainage, or by which water can be held on the cover. Concrete floors or cover slabs shall be of such thickness and so reinforced as to carry the load which may be imposed upon it, but in no case less than 4 inches thick.

10. [Formerly paragraph 12:008-11 Potable Water Well Seals and Covers] Every potable water well shall be provided with a watertight sanitary well seal at the top of the casing or pipe sleeve. For wells with solid pedestal foundations, the well casing shall project at least 1 inch above the level of the foundation, and a seal between the well casing and the opening in the pump base plate shall be used to effectively seal the base plate to the well casing.

11. [Formerly paragraph 12:008-12 Potable Water Well Casing Vents] All potable water well casings shall be vented to atmosphere as provided in §327.A.12 below, with the exception that no vent will be required when single-pipe jet pumps are used.

12. [Formerly paragraph 12:008-13 Potable Water Well Vents] All potable water well vents shall be so constructed and installed as to prevent the entrance of contamination. All vent openings shall be piped water tight to a point not less than 24 inches above the highest flood level which may have occurred in a 10-year period, but in no case less than 24 inches above the ground surface. Such vent openings and extensions thereof shall be not less than one-half inch in diameter, with extension pipe firmly attached thereto. The openings of the vent pipes shall face downward and shall be screened to prevent the entrance of foreign matter.

13. [Formerly paragraph 12:008-14 Manholes] Manholes may be provided on dug wells, reservoirs, tanks, and other similar water supply structures. Every such manhole shall be fitted with a watertight collar or frame having edges which project at least two inches above the level of the surrounding surface, and shall be provided with a solid watertight cover having edges which overlap and project downward at least 2 inches around the outside of the frame. The cover shall be kept locked at all times, except when it is necessary to open the manhole.

14. [Formerly paragraph 12:008-15 Well Construction Standards] All wells constructed to serve a potable water supply shall be constructed in accordance with *Louisiana Water Well Rules, Regulations, and Standards.* Drillers of wells to serve a potable water supply will comply with the requirements for licensing of water well drillers under state Act No. 715 of 1980 (R.S. 38:2226, 38:3098-3098.8) which is administered by the Louisiana Office of Public Works.

15. [Formerly paragraph 12:008-16 Sampling Tap] All potable water supply wells shall be provided with a readily accessible faucet or tap on the well discharge line at the well for the collection of water samples. The faucet or tap shall be of the smooth nozzle type, shall be upstream of the well discharge line check valve and shall terminate in a downward direction.

16. [Formerly paragraph 12:008-17 Disinfection of Wells] All new wells or existing wells on which repair work has been done shall be disinfected before being put into use as prescribed in §353.A of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(6)(8) and R.S. 40:5 (3)(5)(6)(9)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002).

§329. Construction and Installation of Pumps [formerly paragraph 12:009-1]

A. All water pumps shall be so constructed and installed as to prevent contamination of the water supply.

1. [Formerly paragraph 12:009-2 Hand Pump Head and Base] Every hand-operated pump shall have the pump head closed by a stuffing box or other suitable device to exclude contamination from the water chamber. The pump base shall be of solid one-piece recessed type of sufficient diameter and depth to admit the well casing as hereinafter provided. The top of the casing or sleeve of every well, equipped with such a pump, shall project into the base of the pump at least 1 inch above the bottom thereof and shall

extend 12 inches above the level of the platform, well cover, or pump room floor on which the pump rests. The pump shall be fastened to the casing or sleeve. The pumps shall be of the self-priming type.

2. [Formerly paragraph 12:009-3 Power Pump] Where pumps or pump motors are placed directly over the well, the pump or motor shall be supported on a base provided therefor. The well casing shall not be used to support pump or motor. This requirement shall not apply to submersible pumps/motors and single-pipe jet pumps/motors. The pump or motor housing shall have a solid watertight metal base without openings to form a cover for the well, recessed to admit the well casing or pump suction. The well casing or pump suction shall project into the base at least 1 inch above the bottom thereof, and at least 1 inch above the level of the foundation on which the pump rests. The well casing shall project at least 12 inches above ground level or the top of the floor.

3. [Formerly paragraph 12:009-4] Where power pumps are not placed directly over the well, the well casing shall extend at least 12 inches above the floor of the pump house. In flood-prone areas the top of the casing shall extend at least 2 feet above the highest flood level which may have occurred in a 10-year period, but in no case less than 2 feet above the ground surface. The annular space between the well casing and the suction pipe shall be closed by a sanitary well seal to prevent the entrance of contamination.

4. [Formerly paragraph 12:009-5 Well, Pump, Valve, and Pipe Pits] No well head, well casing, pump, or pumping machinery shall be located in any pit, room, or space extending below ground level, or in any room or space above the ground which is walled in or otherwise enclosed so that it does not have drainage by gravity to the surface of the ground, except in accordance with design approved by the state health officer, provided, that this shall not apply to a dug well properly constructed as herein prescribed.

5. [Formerly paragraph 12:009-6 Pump House] All pump houses shall be properly constructed to prevent flooding, and shall be provided with floor drainage.

6. [Formerly paragraph 12:009-7 Lubrication of Pump Bearings] Well pump bearings shall be lubricated with oil of a safe, sanitary quality or potable water.

7. [Formerly paragraph 12:009-8 Priming of Power Pumps] Power pumps requiring priming shall be primed only with potable water.

8. [Formerly paragraph 12:009-9 Priming of Hand Pumps] Hand-operated pumps shall have cylinders submerged so that priming shall not be necessary. No pail and rope, bailer, or chain-bucket systems shall be used.

9. [Formerly paragraph 12:009-10 Airlift Systems] The air compressor and appurtenances for any airlift system or mechanical aerating apparatus used in connection with a potable ground water supply, shall be installed and operated in accordance with plans and specifications that have been approved as part of a permit issued by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1323 (June 2002).

§331. Well Abandonment
[formerly paragraph 12:010]

A. Abandoned water wells and well holes shall be plugged in accordance with the *Louisiana Water Well Rules, Regulations, and Standards.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (3)(5)(6)(9)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1324 (June 2002).

§333. Reservoir Sanitation
[formerly paragraph 12:011-1]

A. The state health officer may designate any water body, or a part of any water body, as a reservoir, where, in its use as a water source for public water supply, the control of other uses of the water body, or designated part of the water body, and its watershed, is necessary to protect public health.

1. [Formerly paragraph 12:011-2] No cesspool, privy or other place for the deposit or storage of human excrement shall be located within 50 feet of the high water mark of any reservoir, stream, brook, or other watercourse flowing into any reservoir, and no place of this character shall be located within 250 feet of the high water mark of any reservoir or watercourse as above mentioned, unless such receptacle is so constructed that no portion of the contents can escape or be washed into the reservoir or watercourse.

2. [Formerly paragraph 12:011-3] No stable, pigpen, chicken house or other structure where the excrement of animals or fowls is allowed to accumulate, shall be located within 50 feet of the high water mark of any reservoir or watercourse as above mentioned, and no structure of this character shall be located within 250 feet of the high water mark of such waters unless provision is made for preventing manure or other polluting materials from flowing or being washed into such waters.

3. [Formerly paragraph 12:011-4] Boating, fishing, water skiing and swimming on any reservoir or watercourse as above mentioned shall be prohibited, or otherwise restricted by the state health officer, when it has been determined that the public served by the public water supply using the reservoir as a water source is exposed to a health hazard, and that such prohibitions or restrictions are therefore necessary. In any case, the aforementioned activities shall be prohibited within 100 feet of the water intake point of the public water supply.

4. [Formerly paragraph 12:011-5 Industrial Wastes] No industrial waste which may cause objectionable changes in the quality of water used as a source of a public water supply shall be discharged into any lake, pond, reservoir, stream, underground water stratum, or into any place from which the waste may flow, or be carried into a source of public water supply. (Note: This was formerly numbered 12:024).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(6)(8)(11) and R.S. 40:5 (3)(5)(6)(9)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1324 (June 2002).

§335. Distribution
[formerly paragraph 12:012-1]

A. All potable water distribution systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service.

B. [Formerly paragraph 12:012-2] All installations of, or repairs to, public water systems or residential and nonresidential plumbing facilities that provide drinking water and which are connected to a public water supply shall be made using lead-free piping, solder and flux. The only exception to this general requirement is that leaded joints necessary for the repair of cast iron pipes may be allowed. For these purposes, lead free, when used with respect to solder and flux, refers to solder and flux containing not more than 0.2 per cent lead. Additionally, when used with respect to pipes and fittings, lead free refers to pipes and fittings containing not more than 8.0 percent lead.

C. [Formerly paragraph 12:012-3] Where pumps are used to draw water from a water supply distribution system or are placed in a system to increase the line pressure, provision must be made to limit the pressure on the suction side of the pump to not less than 15 pounds per square inch gauge. Where the use of automatic pressure cut-offs is not possible, such pumps must draw water from a tank, supplied with water from a water distribution system through an air gap as per Part XIV of this Code.

D. [Formerly paragraph 12:012-4] All public water supplies shall be operated and maintained to provide a minimum positive pressure of 15 pounds per square inch gauge at all service connections at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002).

§337. Storage
[formerly paragraph 12:013-1]

A. All cisterns and storage tanks shall be of watertight construction and made of concrete, steel or other materials approved for this purpose by the state health officer. When located wholly or partly below ground, such storage basins shall be of corrosion resistant materials.

B. [Formerly paragraph 12:013-2] Cisterns used for potable water shall be provided with a rain water cut-off, suitable to deflect the first washings of the roof and prevent contamination of the water. Cisterns shall be tightly covered, and screened with 18-mesh wire screen.

C. [Formerly paragraph 12:013-3 Vent Openings] Any vent, overflow, or water level control gauge provided on tanks or other structures containing water for any potable water supply shall be constructed so as to prevent the entrance of birds, insects, dust or other contaminating material. Openings or vents shall face downward and shall be not less than 2 feet above the floor of a pump room, the roof or cover of a tank, the ground surface or the surface of other water supply structures.

D. [Formerly paragraph 12:013-4 Coatings] Paints or other materials used in the coating of the interior of cisterns, tanks or other containers in which potable water is processed or stored shall be nontoxic to humans and shall be of such composition that the palatability of the water stored or processed shall not be adversely affected. The "Standard for Painting Steel Water Storage Tanks" (AWWA D102-78) published by the American Water Works Association shall be complied with. Determination of acceptability of coatings for potable water applications by the U.S. Environmental Protection Agency may be considered evidence of compliance with this Subsection. (The AWWA Standard can be obtained from the American Water Works Association, 6666 W. Quincy Ave., Denver, Colo. 80235.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002).

§339. Protection of Suction Pipes
[formerly paragraph 12:014-1]

A. All subsurface suction piping, such as that leading from detached wells or reservoirs, shall be protected against the entrance of contamination.

B. [Formerly paragraph 12:014-2] Valve boxes shall be provided for valves on buried suction lines. Every such valve box shall project at least 6 inches above the floor if in a room or building, and at least 12 inches above the ground if not enclosed in a building. The top of the box shall be provided with a cover with overlapping edges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (3)(5)(6)(9)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002).

§341. Separation of Water Mains and Sewer Mains
[formerly paragraph 12:015]

A. Sewer and water mains shall be laid in separate trenches not less than 6 feet apart horizontally, when installed in parallel. Crossing water and sewer mains shall have a minimum vertical separation of 18 inches. In cases where it is not possible to maintain a 6 foot horizontal separation, the state health officer may allow a waiver of this requirement on a case by case basis if supported by data from the design engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(6)(8) and R.S. 40:5 (5)(6)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002).

§343. Cross Connections
[formerly paragraph 12:016-1]

A. There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water may enter a public water supply system.

B. [Formerly paragraph 12:016-2] Water from any potable water supply complying with these requirements may be supplied to any other system containing water of questionable quality only by means of an independent line discharging not less than a distance equal to two times the pipe diameter or two inches, whichever is greater, above the overflow level of storage units open to atmospheric pressure or by other methods approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(7)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002).

§345. Connection With Unsafe Water Sources Forbidden [formerly paragraph 12:017]

A. There shall be no cross-connection, auxiliary intake, bypass, inter-connection or other arrangement, including overhead leakage, whereby water from a source that does not comply with these regulations may be discharged or drawn into any potable water supply which does comply with these requirements. The use of valves, including check or back pressure valves, is not considered protection against return flow, or back-siphonage, or for the prevention of flow of water from an unapproved source into an approved system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(7)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002).

§347. Connections to Public Water Supply [formerly paragraph 12:018]

A. All inhabited premises and buildings located within 300 feet of an approved public water supply shall be connected with such supply, provided that the property owner is legally entitled to make such a connection. The state health officer may grant permission to use water from some other source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002).

§349. Protection During Construction [formerly paragraph 12:019]

A. All potable water supplies which are hereafter constructed, reconstructed, or extensively altered shall be protected to prevent contamination of the source during construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002).

§351. Disinfection of Potable Water Supply Systems [formerly paragraph 12:020-1]

A. Pipes, pumps, and other parts of water supply systems shall be disinfected when deemed necessary by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002).

§353. Disinfection of New Water Supplies [formerly paragraph 12:020-2]

A. Pumps, pipes, wells, tanks and other parts of new systems shall be thoroughly disinfected by the use of chlorine or chlorine compounds before being placed in use. The rate of application of chlorine shall be in such proportion to the rate of water entering the pipe or other appurtenances that the chlorine dose applied to the water shall be at least 50 mg/l. Chlorinated water shall be retained long enough to destroy non-spore-forming bacteria. The period shall be at least three hours and preferably longer, as may be directed. After the chlorine treated water has been retained for the required time, the chlorine residual at pipe extremities and at other representative points shall be at least 5 mg/l. If the residual is less than 5 mg/l, the disinfection procedure shall be repeated until a 5 mg/l residual is obtained, as required above.

B. [Formerly paragraph 12:020-3] Large storage tanks may be disinfected by washing down the interior of the tank with a chlorine solution having at least 200 mg/l available chlorine and then washing the interior of the tank with potable water and wasting the wash water.

C. [Formerly paragraph 12:020-4] Water from new systems, or from new parts of existing systems, shall not be furnished for consumer's use until tests performed by a laboratory which is certified by the state heath officer have shown the new system or new part of the system to be free from contamination by coliform bacteria (following EPA approved procedures prescribed in *Standard Methods for the Examination of Water and Wastewater*, Nineteenth Edition). Samples shall not be collected from the new facilities until such new facilities have been disinfected as prescribed in §353(A) above, and the chlorinated water thoroughly flushed from the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002).

§355. Mandatory Disinfection [formerly paragraph 12:021-1]

A. Routine, continuous disinfection is required of all public water systems other than those under §361.A of this Part of these regulations. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant.

pH Value	Free Chlorine Residual
up to 7.0	0.4 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

1. This table does not apply to systems using chloramines.

B. All new groundwater systems installed after the effective date of these regulations shall provide at least 30 minutes contact time prior to the first customer. It is recommended that all existing systems provide the 30 minutes contact time prior to the first customer. Additions to or extensions of existing systems are exempt from the 30 minutes contact time.

C. Systems which use surface water or ground water which is under the influence of surface water shall meet the requirements of applicable sections of the Louisiana Surface Water Treatment Rule as it pertains to CT and *Giardia* and virus requirements for disinfection.

D. The effective date for all public water supplies serving a population of greater than 500 shall be July 1, 1995.

E. The effective date of mandatory disinfection for all public water supplies serving a population of 500 or less shall be July 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002).

§357. Minimum Disinfection Residuals [formerly paragraph 12:021-2]

A. A minimum disinfectant residual of detectable amount of total chlorine shall be maintained at all points throughout the distribution system at all times for chlorination methods other than chloramines. For very small water systems a residual of 0.2 mg/l free chlorine is generally required to maintain said systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002).

§359. Other Methods of Disinfection [formerly paragraph 12:021-3]

A. Where chlorination is not used as the primary disinfectant, chlorine or chloramines shall be used as the secondary disinfectant to provide the residuals required in §357.A of this Part. Other methods shall be evaluated on a case-by-case basis by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002).

§361. Variances to Mandatory Disinfection [formerly paragraph 12:021-4]

A. A variance may be granted by the state health officer to a public water system, provided the system meets one of the following criteria.

1. If the public water system has not had a bacteriological maximum contaminant level (MCL) violation for the past three years;

2. If the public water system, both existing and future installations, can prove that disinfection would create trihalomethane (THM) levels of 0.10 milligrams per liter or greater. The public water supply should explore alternate means of disinfection prior to requesting a variance. A variance can be granted for such systems, provided the system has the required equipment to verify that a detectable amount of chlorine residual is maintained at all times. For systems under 10,000 population served, said systems shall have 90 days after a TTHM (Total Trihalomethane) exceedance of 0.100 milligrams per liter is determined to request said variance;

3. A variance shall be granted to a public water supply owned by and/or operated by, and/or created as a political subdivision in accordance with Article 6 Section 14 of the Constitution of the State of Louisiana;

4. In reference to (1), (2), and (3) above, on a case-by-case basis, when a bacteriological MCL occurs and an administrative order shall be or has been issued to that particular water system, the said water system shall be subject to the orders of the state health officer to take whatever remedial actions that are deemed necessary to comply with all applicable rules, regulations, standards, and the Louisiana Sanitary Code, including, but not limited to, the Louisiana Total Coliform Rule.

5. [Formerly paragraph 12:021-4.1] Variances must be requested in writing and must be approved prior to the effective date of the mandatory disinfection requirement as prescribed in §355 of this Part except the new conditions that arise in §361.A.2 above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002).

§363. Revocation of Variance [formerly paragraph 12:021-5]

A. A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system must install mandatory continuous disinfection as stated in §355 of this Part within the times specified in a compliance schedule submitted to and approved by the state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation. For systems affected under §361.A.2 of this Part, revocations because of a bacteriological MCL shall be evaluated on a case-by-case basis by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002).

§365. Batch Disinfection [formerly paragraph 12:021-6]

A. The state health officer may allow batch disinfection for emergency purposes. Batch disinfection shall not be considered a method of continuous disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002).

§367. Records [formerly paragraph 12:021-7]

A. Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002).

§369. Water Shall Be Provided [formerly paragraph 12:022-1]

A. It shall be the duty of the owner or manager of any premises occupied as a residence, hotel, lodging house, tenement house, office building, shop, factory, or waiting room or depot of a railroad or other common carrier to provide a safe supply of potable water for human consumption and for sanitary purposes.

B. [Formerly paragraph 12:022-2] In all cases where the owner or owners of the property or premises referred to in this Code shall not reside in the place where the property is situated, or when such property shall belong to an estate, succession or corporation, it shall be the duty of the agent, or

representative of the owners thereof, or the persons who shall have charge of said property for the owners thereof, or who shall collect the rent of such premises, if the same is rented, to provide and furnish such premises with a safe and adequate potable water supply. In case such person shall fail or neglect to supply the same to such premises, within 15 days after due notice, he shall be in violation of the provisions of this Part.

C. [Formerly paragraph 12:022-3] Each public, parochial and private school shall be provided with a potable water supply which is approved as to source, location, and distribution by the state health officer.

D. [Formerly paragraph 12:022-4] It shall be the duty of all employers to supply an adequate, safe, potable water supply for all employees.

E. [Formerly paragraph 12:022-5] Wherever a public water supply is available, no other supply shall be furnished for potable purposes to employees in any factory or industrial plant, or other place of business, unless such other supply is approved by the state health officer. If no public water supply is available, the water for potable purposes shall be of safe, sanitary quality approved by the state health officer. If the water supply for industrial or fire protection purposes is obtained entirely or in part from a source not approved for potable purposes, this supply shall be distributed through an independent piping system having no connection with the system carrying potable water. All faucets or other outlets furnishing water which is not safe for potable purposes shall be conspicuously so marked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(4)(5)(8)(10) and R.S. 40:5 (2)(3)(5)(6)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002).

§371. Public Drinking Fountains [formerly paragraph 12:023-1]

A. All public drinking fountains shall be designed and constructed in accordance with the provisions of the *Louisiana State Plumbing Code (LSPC)* as published October 2000. Drinking fountains and coolers shall be constructed of lead free materials as specified in §335.B of this Part.

B. [Formerly paragraph 12:023-2] Water fountains and coolers shall be so constructed that the ice or other refrigerant used for cooling cannot come in contact with the water.

C. [Formerly paragraph 12:023-3] Where water coolers or supply tanks used for drinking water are not directly connected to the source of supply, arrangements for filling the containers shall be such as to prevent contamination of the water.

D. [Formerly paragraph 12:023-4] The use of a common drinking cup is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(7)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1328 (June 2002).

§373. Potable Water Loading Stations [formerly paragraph 12:024]

A. Portable hoses used for filling water containers shall be provided with a metal disk at the nozzle to prevent contact of nozzle with ground or floors. When not in use, the portable hoses shall be protected from dirt and contamination by storage in a tightly enclosed cabinet and shall have a cap to cover the nozzle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(7)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1328 (June 2002).

§375. Issuance Of Emergency Boil Notices [formerly paragraph 12:025]

A. An Emergency Boil Notice, when it is deemed necessary to protect public health, shall be authorized only by the state health officer. Once implemented, said notice may be rescinded or cancelled only by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8)(13) and R.S. 40:5. (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1328 (June 2002).

§377. Adoption by Reference [formerly paragraph 12:026]

A. The National Primary Drinking Water Regulations, as defined in §101of this Part, are hereby incorporated by reference into this Part of the Sanitary Code and shall have the same force and effect of state law as any other section of this Part just as if they had been fully published herein. Every public water system shall comply with the National Primary Drinking Water Regulations as defined herein. When the National Primary Drinking Water Regulations as defined herein and the state's own rules and/or regulations applicable to public water systems conflict, the state's own rules and/or regulations shall govern [e.g., the Louisiana Total Coliform Rule (Chapter 9 of this Part, formerly Appendix C) provisions shall govern when any of the federal Total Coliform Rule provisions are found to conflict].

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1328 (June 2002).

Chapter 5. Civil Penalty Assessment Rule [formerly Appendix A]

§501. Statement of Purpose [formerly Section 1.1 of Paragraph I of Appendix A]

A. This rule is intended to be a mechanism to secure rapid and full compliance with the requirements of the State Sanitary Code and other applicable laws and regulations relative to public water systems providing safe drinking water. It is not intended as a revenue gathering mechanism, and the Safe Drinking Water Program is not dependent upon any level of penalty revenue to balance its budget. It is based on the principle of reasonable enforcement guidelines to be vigorously implemented. As defined by R.S. 40:5.9, penalties may be assessed only on the basis of non-compliance with corrective orders, rather than on the basis of the mere existence of a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1328 (June 2002).

§503. General Provisions
[formerly Section 2.1 of Paragraph II of Appendix A]

A. Nothing herein shall be construed to prohibit the state health officer from modifying the contents of an administrative order if changes are warranted to ensure compliance with applicable laws and regulations or to allow for the practical ability to comply with the items so ordered. It is incumbent upon the person to whom the administrative order was issued to submit a written request for order modifications when, for instance, it is realized that compliance cannot be achieved within the time constraints specified in the order due to unforeseen problems or delays such as inclement weather conditions. Such requests shall be considered if the request is received by the state health officer not later than five days before the compliance deadline expires. In order to show proof and date of service, the person requesting any order modifications shall do so by at least one of the following methods:

1. use of the United States Postal Service via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested;

2. transmission by facsimile machine will also be accepted; however, the state health officer shall be deemed not to have officially received a facsimile transmission until such time as the requester has received a written acknowledgment, via facsimile or mail, of receipt from the Office of Public Health. Said acknowledgment of receipt shall state the date when the Office of Public Health actually received the transmission and this date, regardless the sender's transmission date, shall be used in the determination of whether or not the time limit stated above was met. It is the responsibility of the sender to ask the Office of Public Health for a written acknowledgment of receipt of any facsimile transmissions which may be sent to the state health officer;

3. use of a private shipping service, such as United Parcel Service, Federal Express, etc. when such a service can provide a written receipt to the sender stating the date of delivery to the state health officer.

B. [Formerly Section 2.2 of Paragraph II of Appendix A] Additionally, nothing herein shall be construed to mandate that the state health officer is required to assess penalties in the event of noncompliance with a provision of an administrative compliance order issued pursuant to LSA - R.S. 40:5.9; however, this rule is intended to delineate the procedure for calculating the monetary amount of the civil penalty assessment after the state health officer has decided to assess and impose penalties for noncompliance.

C. [Formerly Section 2.3 of Paragraph II of Appendix A] When reference is made to a public water system herein, such reference is limited to an individual public water system uniquely identified by its own Public Water System Identification Number (PWS ID No.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1329 (June 2002).

§505. Calculation of Daily Penalties
[formerly Section 3.1 of Paragraph III of Appendix A]

A. R.S. 40:5.9(A) authorizes the state health officer to assess a civil penalty up to $3,000 a day for each day of violation and for each act of violation of a provision of an administrative compliance order.

B. [Formerly Section 3.2 of Paragraph III of Appendix A] For purposes of implementation of R.S. 40:5.9, violation of one or more provisions of an administrative compliance order shall be handled as follows:

1. All violations for a given public water system shall be handled as a package (*i.e.*, the statutory maximum daily penalty of $3000 per day per violation will be handled as a maximum daily penalty of $3000 per day per public water system regardless of the number of individual violations). The daily penalty assessment amount shall be based upon the most serious uncorrected violation. As the level of seriousness classification or the level of culpability associated with the most serious uncorrected violation in the package changes, the daily penalty assessment amount will be recalculated accordingly from that time forward and added to any previously calculated assessment amounts.

2. In lieu of the requirements of §505(B)(1) above, the state health officer, at his sole discretion, is authorized to impose a penalty of no less than $1000 per day per violation for those public water systems serving more than 10,000 individuals [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

C. [Formerly Section 33 of Paragraph III of Appendix A] The maximum daily penalty applicable to a particular public water system in violation of one or more of the provisions of an administrative compliance order shall be determined as follows:

1. When a penalty is calculated pursuant to §505(B)(1) above, the maximum daily penalty shall be set at $1 per service connection per day based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

a. The maximum daily penalty for public water systems having more than 3,000 service connections shall be $3,000 per day.

b. The maximum daily penalty for public water systems having less than 30 service connections shall be $30 per day.

2. When a penalty is calculated pursuant to §505(B)(2) above, the maximum daily penalty shall be set at $1 per service connection per day per violation based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

a. The maximum daily penalty for public water systems having more than 3,000 service connections shall be $3,000 per day per violation.

b. The maximum daily penalty for public water systems having 2500 service connections (i.e., equivalent to 10,000 individuals served) shall be $2500 per day per violation.

D. [Formerly Section 3.4 of Paragraph III of Appendix A] Pursuant to §505.B and C above, the exact level of the daily penalty shall be based on the seriousness of the violation and culpability of the owner and/or operator as follows:

1. Using the maximum daily penalty specified in §505(C) above as the basis for calculation, 50 percent of the maximum daily penalty amount shall be judged on the seriousness of the violation and the other 50 percent shall be judged on the culpability of the owner and/or operator.

2. The decision regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the accompanying culpability of the owner and/or operator shall be made by the state health officer after considering a staff recommendation based upon the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Chapter 7of this Part, formerly Appendix B).

3. When the state health officer utilizes §505(B)(2) above as the basis for penalty calculation, the minimum daily penalty assessment amount shall in no case be less than $1000 per day per violation after the provisions of §505.D.1 and (2) above are applied [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

E. [Formerly Section 3.5 of Paragraph III of Appendix A] The duration of non-compliance with a provision of the administrative compliance order shall be determined as follows:

1. Once an administrative order has become final and not subject to further administrative review, the state health officer shall direct staff to conduct an initial investigation for the purpose of determining compliance/non-compliance with the provision(s) of the administrative order. The initial investigation shall be conducted within five working days after the time limit granted for compliance within the administrative order ends. If upon agency investigation it is found that non-compliance still exists, staff will immediately provide a copy of the investigatory report to the person on-site in responsible charge of the public water system which will serve to notify the person to whom the administrative order was issued that the agency has determined that non-compliance still exists and that daily penalty assessments shall begin to accrue immediately from this date forward until such time as the agency has been notified by the public water system that compliance has been achieved. If a representative of the public water system is not present or reasonably available at the time of the agency's investigation, staff shall, on the same day as the investigation, attempt to contact via telephone or facsimile machine the person to whom the administrative order was issued or such other responsible person in the employ of the public water system in order to provide speedy notification of results which are deemed by agency staff to cause the continuance of daily penalty assessments. In the latter case involving only verbal or electronic communication, agency staff shall, as soon as possible thereafter, transmit a copy of the investigatory report to the person to whom the administrative order was issued by one of the methods of mailing stated in §503.A.1 of this Part.

2. After the agency has conducted the initial investigation, determined that non-compliance with a provision of the administrative order still exists, and has provided a copy of the investigatory report as stated in §505.E.1 above, it then becomes incumbent upon the person to whom the administrative order was issued to notify the agency when compliance has been achieved. In order to show proof and date of service, such notice advising the agency of compliance shall be transmitted to the agency in the same manner as described in §503.A.1, 2, or 3 of this Part. Until such time as the agency has been properly notified of correction, the agency will consider the duration to begin on the date of the initial investigation and will presume that such violation is continuing on a daily basis until such time as the agency has received notification of correction. Once the agency is notified of correction, agency staff shall conduct a follow-up investigation in order to confirm compliance. Such follow-up investigation shall be conducted within 10 working days of agency receipt of the public water system's notice of compliance. If upon agency's follow-up investigation it is found that non-compliance still exists, staff will so advise the public water system in the same manner as done for initial investigations with the exception that the public water system will be advised that previously running daily penalty assessments have and will continue to accrue pending yet additional notification of compliance by the public water system to the agency. When the results of the follow-up investigation confirm that compliance has in fact been achieved, then the date that the agency received notification of compliance from the public water system for the particular provision of the administrative order in question shall be considered the last day of non-compliance for purposes of calculating the duration for non-compliance with this particular provision.

3. The steps described in §505.E.1 or 2 above may continue for an indefinite period of time but shall end once compliance has been confirmed by agency staff unless such violation is found to reoccur while the administrative order is still in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S 40:5 (6) and R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1329 (June 2002).

§507. Payment of Penalty/Ability to Request Mitigation of Penalty and/or Adjudicatory Hearing

A. [Formerly Section 4.1 of Paragraph IV of Appendix A] At the discretion of the state health officer, notice(s) imposing penalty assessments may be issued from time to time subsequent to either initial non-compliance with any provision of the administrative compliance order or subsequent to any continuance or reoccurrence of non-compliance while the administrative compliance order remains effective. Notices of imposition of penalties shall be served by one of the forms of service described in §503.A.1 of this Part or hand-delivered. Within the notice imposing the penalty assessment, the state health officer will inform the owner and/or operator of the public water system of the ability to apply for mitigation of the penalties imposed and for the opportunity for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment. Penalties shall not be imposed upon any person without notice and opportunity for hearing.

B. [Formerly Section 4.2 of Paragraph IV of Appendix A] Once a penalty assessment is imposed, it shall become due and payable 35 days after receipt of notice imposing the

penalty unless a written application for mitigation or a written request for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment is received by the state health officer within 20 days after said notice is served. In order to show proof and date of service, the person applying for mitigation or an adjudicatory hearing shall transmit the written application for mitigation or written request for hearing to the agency in the same manner as described in §503(A)(1), (2), or (3) of this Part.

C. [Formerly Section 4.3 of Paragraph IV of Appendix A] Upon receipt of a written application for mitigation of such penalty, the state health officer may mitigate the penalty, *i.e.*, upon proof that all of the stipulations in the administrative order have now been complied with or upon agreement to and compliance with a Stipulation and Agreed Order setting out the conditions which will mitigate the penalty. The accompanying guidelines referenced in §505(D)(2) of this Part shall also contain guidance for the state health officer when considering the amount of mitigation of the imposed penalty. When the amount of the penalty imposed is from $1,000 up to $5,000, the state health officer shall not mitigate the penalty below $500. When the amount of the penalty imposed is less than $1000, the state health officer shall not mitigate the penalty below one-half of the imposed penalty amount. The penalty shall become due and payable 35 days after mailing of notice setting forth the final disposition of the application for mitigation, unless

1. an application for an adjudicatory hearing to contest the disposition is received within 20 days after the date of mailing the disposition notice; or

2. the state health officer specifies a different payment schedule within the disposition notice.

D. [Formerly Section 4.4 of Paragraph IV of Appendix A] Upon the timely receipt of a written application requesting an adjudicatory hearing, a hearing on the record relative to contesting the imposition of the penalty assessment may be scheduled by the agency. If after consideration of the record it is found that the issuance of the notice imposing the penalty assessment was not proper as supported by and in accordance with the evidence, the administrative law judge shall have the authority to recommend adjustment of the penalty to comply with any items found to be in error or, if justified, withdrawal of the entire penalty. The penalty shall become due and payable 35 days after mailing of notice of the final decision by the agency, unless the final decision by the agency specifies a different payment schedule within the final decision.

E. [Formerly Section 4.5 of Paragraph IV of Appendix A] When a Stipulation and Agreed Order has been proposed by the agency or the administrative law judge, a fixed number of days will be given for response. If the Stipulation and Agreed Order is not signed and returned by the date fixed or if no response is received by the date fixed, this shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated. Alternatively, failure of a public water system to comply with the conditions of a Stipulation and Agreed Order shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1330 (June 2002).

§509. Court Appeals [formerly Section 5.1 of Paragraph V of Appendix A]

A. A person who is aggrieved by a final decision of the agency relative to penalty imposition may petition for judicial review according to the provisions of R.S. 49:964 of the Administrative Procedure Act. Proceedings for review may be instituted by filing a petition in the Nineteenth Judicial District Court, Parish of East Baton Rouge, within 30 days after mailing of notice of the final decision by the agency. Copies of the petition shall be served upon the agency and all parties of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1331 (June 2002).

Chapter 7. Accompanying Guidelines to the Civil Penalty Assessment Rule [formerly Appendix B]

§701. Statement of Purpose [formerly Section 1.1 of Paragraph I of Appendix B]

A. The purpose of these "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Chapter 7 of this Part) are as follows.

1. This rule is intended to provide guidance for Safe Drinking Water Program staff in making recommendations to the state health officer regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the culpability of the owner and/or operator when it has been determined that a public water system has failed to comply with the directives of an administrative order.

2. Additionally, guidance relative to determining mitigated penalty amounts are also contained herein. Such mitigation guidance is applicable irrespective of the method used in the calculation of penalties, i.e., irrespective of whether §505.B.1 or B.2 of the "Civil Penalty Assessment Rule" (Chapter 5 of this Part) was used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1331 (June 2002).

§703. Seriousness of Violation [formerly Section 2.1 of Paragraph II of Appendix B]

A. Pursuant to §505.B and D of the "Civil Penalty Assessment Rule (Chapter 5 of this Part), the following penalty assessment levels shall apply towards the seriousness of the violation (public health risk) for the various classifications of violations described in §707.A of the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Chapter 7 of this Part):

1. Imminent threat (high risk) type violations shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

2. Priority threat (moderate risk) type violations shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

3. Non-imminent threat (low risk) type violations shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1331 (June 2002).

§705. Culpability of the Owner and/or Operator [formerly Section 3.1 of Paragraph III of Appendix B]

A. Pursuant to §505.B and D of the "Civil Penalty Assessment Rule" (Chapter 5 of this Part), the following penalty assessment levels shall apply towards the culpability (the level of blame for the occurrence and/or continuance of a violation including factors such as attitude as well as the nature and extent of the efforts to comply) of the owner and/or operator for the particular violation for which a seriousness penalty is assessed.

1. Culpability determined to be deliberate or intentional (a willful action or lack of action) shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

2. Culpability determined to be recklessness (wanton disregard of the consequences but proceeded with risk in mind) shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

3. Culpability determined to be negligence (failure to prevent the violation due to indifference, lack of reasonable care, lack of diligence, etc.) shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

4. Culpability determined to be non-existent (those cases where the operator and/or owner has acted reasonably, but the violation occurred anyway) shall be assessed at 0 percent of one-half of the maximum daily penalty amount, i.e., $0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1332 (June 2002).

§707. Classification of Violations [formerly Section 4.1 of Paragraph IV of Appendix B]

A. The various types of violations which can occur are classified into three levels of seriousness based upon their public health risk. The three levels of seriousness are defined as follows.

1. *Imminent threat* type violations are defined as those violations considered to be of an acute risk to public health requiring an immediate action or response by the owner and/or operator of a public water system. Imminent threat type violations include, but are not limited to, the following:

a. exceeding maximum contaminant levels for nitrate.

b. exceeding the maximum contaminant level for total coliform when fecal coliform or *E. coli* is present in the water distribution system.

c. occurrence of a water-borne disease outbreak in an unfiltered surface water system or an unfiltered ground water system which is under the direct influence of surface water.

d. any violation specified by the state health officer as posing an acute risk to human health.

e. failure to comply with any remedial action(s) ordered in the context of an emergency order issued by the state health officer, such as but not limited to *Boil Notices*.

f. failure to give public notification of an acute violation (Tier 1C Acute) within the time frames allowed by law or duly adopted rule.

2. *Priority threat* type violations are defined as those violations considered to be of a moderate risk to public health but which could result in an acute risk and therefore require an immediate action or response by the owner and/or operator. Priority threat violations include, but are not limited to, the following:

a. exceeding the maximum contaminant level for total coliform;

b. failure to comply with a treatment technique requirement;

c. failure to comply with a variance or exemption schedule;

d. exceeding the maximum contaminant level for a physical, radiological, or chemical (other than nitrate) contaminant. For the purpose of clarification, a physical contaminant is defined as turbidity, temperature, conductivity, color, taste, or odor;

e. failure to perform compliance monitoring as required for any bacteriological, physical, radiological, or chemical contaminant;

f. failure to utilize either a laboratory certified by the Office of Public Health or an Office of Public Health laboratory which has been certified by EPA for compliance monitoring determination of any bacteriological, physical, radiological, or chemical contaminant in drinking water when such contaminant determination is required by law or duly adopted rule to be analyzed by an EPA or state-certified laboratory;

g. failure to perform proper testing procedures for turbidity, disinfectant residual, temperature, pH, conductivity, alkalinity, calcium, silica, orthophosphate, or any other parameter which is not required to be analyzed in an EPA or state-certified laboratory but the results of which are required to be reported to the state for compliance monitoring determinations;

h. failure to report the results of any test measurement or analysis to the state within the time frame allowed by law or duly adopted rule;

i. failure to comply with any remedial action(s) ordered in the context of a non-emergency order issued by the state health officer;

j. failure to give public notification of a non-acute (Tier 1C Non-Acute) violation within the time frames allowed by law or duly adopted rule.

3. *Non-imminent* threat violations are defined as those violations considered to be of a low risk to public health which do not require an immediate response by the owner and/or operator. These include operational deficiencies, facility deficiencies, and administrative deficiencies. Non-imminent threat type violations include, but are not limited to, the following:

a. failure to give public notification of a monitoring violation, testing procedure violation, variance grant or existence, or exemption grant or existence (Tier 2) within the time frames allowed by law or duly adopted rule;

b. failure to comply with an operational or maintenance requirement;

c. failure to comply with design and construction standards as required by law or duly adopted rule;

d. failure to submit plans and specifications as required by law or duly adopted rule;

e. failure to comply with an operator certification requirement;

f. failure to submit to the state, within the time frames allowed by law or duly adopted rule, a representative copy of each type of public notice distributed, published, posted, and/or made available to the persons served by the system and/or to the news media;

g. failure to maintain records as prescribed by law or duly adopted rule, such as but not limited to, bacteriological and chemical analyses;

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1332 (June 2002).

§709. Mitigation Guidance [formerly Section 5.1 of Paragraph V of Appendix B]

A. Section 507.C of the "Civil Penalty Assessment Rule" (Chapter 5 of this Part) allows the state health officer to mitigate penalties that have been imposed generally either upon proof that all of the provisions in the administrative compliance order have now been complied with or upon compliance with terms of a Stipulation and Agreed Order. The following guidance will be used by the state health officer upon such mitigation proceedings.

1. When considering mitigation of the imposed penalty upon receipt of written application requesting such mitigation, the state health officer shall have the discretion to reduce the imposed penalty beginning at a reduction rate of 0 percent up to no more than 90 percent. The ordinarily expected mitigation reduction rate shall be 50 percent of the assessed penalty for the first 60 days of assessed penalty and an 80 percent reduction rate for penalties assessed beyond day 60. Using this procedure, if the end result of the calculated mitigated penalty amount is less than the minimum mitigation limits specified in §507.C of the "Civil Penalty Assessment Rule" (Chapter 5 of this Part), the minimum mitigation limits specified therein shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9 (A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002).

Chapter 9. Louisiana Total Coliform Rule [formerly Appendix C]

§901. Federal Regulations Adopted by Reference [formerly the preamble paragraph opening Appendix C]

A. The State of Louisiana Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts the United States Environmental Protection Agency (EPA) Federal Total Coliform Regulations as published in the Federal Register, Volume 54, Number 124 Thursday, June 29, 1989. The Louisiana Total Coliform Rule is to be published as Chapter 9 in Part XII of the State Sanitary Code. In order to clarify the state's discretionary decisions allowed by the federal requirements, the following is offered.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002).

§903. Coliform Routine Compliance Monitoring [formerly Coliform Routine Compliance Monitoring of Appendix C]

A. Each public water supply must be monitored in accordance with a written sampling plan prepared by the public water supply (PWS) personnel in conjunction with the parish sanitarian. The sampling plan must be reviewed and approved by OPH District/Regional engineering staff. The sampling plan should include a map or sketch of the system with the points of collection (POC) identified along with the street address and/or sufficient information for an unfamiliar person to find the sampling site.

B. The water supply must provide suitable taps which draw water directly from the mains or the service lines. Such taps provide for samples which are most representative of the quality of water provided without "interference" which may be caused by plumbing problems within residences or other structures. Use of such taps decreases the chance of "bad samples" resulting in a coliform maximum contaminant level (MCL) violation which requires public notification by the public water supply and an administrative enforcement action by the EPA/DHH against the public water supply.

C. Community systems must be routinely monitored in accordance with Table 1.

Table 1			
Population Served	**Minimum Number of Routine Samples per Month**	**Population Served**	**Minimum Number of Routine Samples per Month**
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420
41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

D. Non-Community systems using ground water must routinely monitor once in each calendar quarter during which the system provides water to 1000 or less persons. A non-community system using ground water and serving more than 1000 persons must monitor monthly in accordance with Table 1. Any non-community using any surface water, or using ground water under the direct influence of surface water must monitor in accordance with Table 1.

E. The public water supply must collect samples at regular time intervals throughout the month unless the state staff specifies otherwise or state staff collect the samples.

F. Special purpose samples (investigative samples) shall not be used to determine compliance with the total coliform MCL.

G. Whenever a system that normally collects less than five routine distribution system samples each month receives a positive coliform analysis, it must collect at least five routine distribution system samples the next month regardless of the results of repeat sampling.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002).

§905. Coliform Repeat Compliance Monitoring [formerly Coliform Repeat Monitoring of Appendix C]

A. If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples must be collected by the public water supply within 24 hours of being notified of the positive result. If the state collects and analyzes the samples, repeat samples will be collected by parish health unit staff within 24 hours of official notification. The number of repeat samples collected shall be in accordance with Table 2.

Table 2		
Monitoring and Repeat Sample Frequency after a Total Coliform Positive Routine Sample		
No. Routine Samples/Month	**No. Repeat Samples/ Positive**	**No. Routine Samples Next Month**
1/month or fewer	4	5/month
2/month	3	5/month
3/month	3	5/month
4/month	3	5/month
5/month or greater	3	Table 1

B. At least one repeat sample must be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. The fourth sample must come from a tap within five service connections upstream or within five service connections downstream. The fourth sample may not come from the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one away from the end of the distribution system the requirement to collect at least one repeat sample upstream or downstream of the original sampling site is waived.

C. The repeat samples must be collected on the same day.

D. In a system with a single service connection, four 100ml repeat samples must be collected. Three 100ml samples must be collected in a system if more than one routine sample per month is collected.

E. If coliforms are detected in any repeat sample, the system must collect another set of repeat samples from the same location unless the MCL has already been violated and the state is aware of violation. If short term corrective actions are not successful, the public water supply must install continuous disinfection and implement a routine flushing program as directed by OPH.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1334 (June 2002).

§907. Fecal Coliform/*E. coli* Analysis Required

A. If a routine or repeat sample result is positive for total coliform, the sample must also be analyzed for fecal coliform or *E. coli* immediately.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002).

§909. Invalidation of Total Coliform Results [formerly Invalidation of Total Coliform Results of Appendix C]

A. Analysis results may be invalidated under specified conditions, including.

1. The OPH acknowledges improper analysis occurred or background bacteriological interference was present.

2. The OPH determines the contamination is from an internal plumbing problem, not the distribution system.

3. The OPH concludes, and states in writing, that the result is due to some condition not related to water quality. This written conclusion must be signed by an OPH representative and made available to the public and EPA.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002).

§911. Total Coliform Maximum Contaminant Level [formerly Total Coliform MCL of Appendix C]

A. The maximum contaminant level (MCL) is based on the presence or absence of total coliform rather than on coliform density.

1. If 40 or more distribution system samples are collected per month, no more than 5.0 percent of the monthly samples may be total coliform positive.

NOTE: If collecting more than 40 samples per month, occasional positives may be tolerated, as long as the number each month does not exceed 5.0 percent of the total samples.

2. If less than 40 distribution system samples are collected per month, no more than one sample per month may be total coliform positive.

NOTE: If collecting less than 40 samples per month, the second positive coliform analysis in any month will result in an MCL violation.

3. A violation is considered acute and is subject to more stringent public notification requirements when:

a. A coliform-positive original sample that is also positive for fecal coliform (or *E. coli*) is followed by a positive coliform repeat sample, or

b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for fecal coliform (or *E. coli*).

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5 (3)(5)(6)17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002).

§913. Public Notification [formerly Public Notification of Appendix C]

A. Public notification requirements remain unchanged from the 1989 revisions as specified.

1. If the MCL is exceeded, the supplier of water is required to provide public notice in a daily or weekly newspaper within 14 days. Where newspaper notice is not feasible for a non-community public water supply, continuous posting may be substituted. In addition to newspaper notice, a notice must also be provided to the consumers by direct mail or hand delivery within 45 days.

a. For an acute MCL violation, a notice shall also be furnished by community systems only to radio and television stations serving the area within 72 hours.

b. In larger systems, an MCL violation and public notice may be confined to a portion of the distribution system.

2. In addition, public notification is required within three months if a supplier of water fails to comply with a monitoring and/or reporting requirement.

3. If a replacement sample can not be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5 (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002).

Chapter 11. Surface Water Treatment Rule [formerly Appendix D]

Subchapter A. General Requirements and Definitions [formerly Section 1 of Appendix D]

§1101. General Requirements [formerly Subsection 1.01 of Appendix D]

A. For public water systems using surface water or groundwater under the direct influence of surface water, this Chapter establishes treatment techniques in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, and turbidity.

B. Each supplier using an approved surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this Chapter.

C. Within 90 days from the date of notification by the Department of Health and Hospitals, hereinafter referred to as DHH, that the supplier has a treatment plant and/or a surface water supply that does not meet the requirements of this Part the supplier shall submit for DHH approval a plan and schedule to bring its system into compliance as soon as feasible.

D. If the supplier disagrees with the DHH's notification, then the supplier shall submit reasons and evidence for its disagreement within 30 days from the receipt of the notification unless an extension of time to meet this requirement is requested and granted by the DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002).

§1103. Definitions

[formerly Subsection 1.02 of Appendix D]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follow:

Approved Surface Water—a surface water or groundwater under the direct influence of surface water that has received permit approval from the DHH.

Best Available Technology—for filtration of surface water means conventional treatment which conforms with all of the requirements of this Chapter.

Certified Operator—the individual, as examined by the Committee of Certification as approved by the state health officer, meeting all requirements of state law and regulation and found competent to operate a water supply or sewerage system.

Coagulation—a process using coagulant chemicals and rapid mixing by which colloidal and suspended material are destabilized and agglomerated into settleable and/or filterable flocs.

Conventional Filtration Treatment—a series of treatment processes which includes coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

Diatomaceous Earth Filtration—a process resulting in particulate removal in which a precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is being filtered by passing through the cake on the septum, additional filter medial known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

Deep Bed Filtration—a process for removing particulate matter from water by passage through porous media exceeding 42 inches in total depth. Underdrain gravels are not to be included.

Direct Filtration Treatment—a series of processes including coagulation, flocculation, and filtration but excluding sedimentation.

Disinfectant Contact Time—the time in minutes that it takes for water to move from the point of disinfectant application or a previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration is measured. The point of measurement must be before the first customer. Disinfectant contact time in pipelines is calculated by dividing the internal volume of the pipe by the flow rate through the pipe. Disinfectant contact time with mixing basins and storage reservoirs is determined by tracer studies or an equivalent demonstration to the DHH.

Disinfection—a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

Engineering Report—a water treatment technical report prepared by a qualified engineer.

Filtration—a process for removing particulate matter from water by passage through porous media.

Flocculation—a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable or filterable particles through gentle stirring by hydraulic or mechanical means.

Groundwater Under The Direct Influence Of Surface Water—any water beneath the surface of the ground with significant occurrence of insects or other microorganisms, algae or large diameter pathogens such as *Giardia lamblia*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

HPC (Heterotrophic Plate Count)—heterotrophic plate count analysis (#907) using instrumentation and methods as described in the Sixteenth edition of *Standard Methods for the Examination of Water and Wastewater*.

Legionella—a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires disease.

Multibarrier Treatment—a series of water treatment processes that provide for both removal and inactivation of waterborne pathogens.

NTU (Nephelometric Turbidity Unit)—a measurement of the turbidity of water as determined by the ratio of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and methods described in the Sixteenth edition of *Standard Methods for the Examination of Water and Wastewater*.

Operator—the individual, as determined by the Committee of Certification, in attendance on site of a water supply or sewerage system and whose performance, judgement and direction affects either safety, sanitary quality, or quantity of water distributed or treated, or sewage collected or treated.

Pressure Filter—a pressurized vessel containing properly sized and graded granular media.

Qualified Engineer—any engineer who has been registered under the provisions of the State of Louisiana, Act 568 of 1980 and who holds a current certificate issued by the Louisiana State Board of Registration for Professional Engineers and Land Surveyors, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

Residual Disinfectant Concentration—the concentration of the disinfectant in milligrams per liter (mg/l) in a representative sample of water.

Sedimentation—means a process for removal of settleable solids before filtration by gravity or separation.

Slow Sand Filtration—a process involving passage of raw water through a bed of sand at low velocity (less than 0.10 gallons per minute per square foot) resulting in substantial particulate removal by physical and biological mechanisms.

Supplier, for the purpose of this Chapter, means the owner or operator of a water system for the provision to the public of piped water for human consumption, provided such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

Surface Water—all water open to the atmosphere and subject to surface runoff.

Turbidity Level—the value in NTU obtained by measuring the turbidity of a representative grab sample of water at a specified regular interval of time. If continuous turbidity monitoring is utilized, the turbidity level is the discrete turbidity value at any given time.

Virus—a virus which is infectious to humans by waterborne transmissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1336 (June 2002).

Subchapter B. Treatment Requirements and Performance Standards [formerly Section 2 of Appendix D]

§1105. Treatment Requirements [formerly Subsection 2.01 of Appendix D]

A. Each supplier using surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment that meets the requirements of this Chapter and reliably ensures at least:

1. a total of 99.9 percent (3 Log) reduction of *Giardia* cysts through filtration and disinfection;

2. a total of 99.99 percent (4 Log) reduction of viruses through filtration and disinfection;

3. the total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia* and viruses.

B. Suppliers meeting the requirements of §§1107 and 1111 [formerly Subsections 2.02 and 2.04] of this Subchapter shall be deemed to be in compliance with the minimum reduction requirements specified in §1105.A [formerly Subsection 2.01(A)] above.

C. Section 1109 [formerly Subsection 2.03] presents requirements for non-filtering systems. All suppliers which use surface water as a source must provide filtration. On a case by case basis, systems using groundwater under the direct influence of surface water may not be required to filter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002).

§1107. Filtration [formerly Subsection 2:02 of Appendix D]

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be treated using one of the following filtration technologies unless an alternative process has been approved by the DHH.

1. Conventional filtration treatment
2. Direct filtration treatment
3. Slow sand filtration
4. Diatomaceous earth filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter [formerly Section 4])) and performance standards (§§1107 and 1111 [formerly Subsections 2.02 and 2.04] of this Subchapter). Direct filtration treatment, and diatomaceous earth filtration and shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Subchapter D [formerly Section 4]) and performance standard (§§1107 and 1111[formerly Subsections 2.02 and 2.04]of this Subchapter). Slow sand filtration shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

Table 1
Treatment Methods

Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation	
	Giardia	Viruses	*Giardia*	Viruses
Conventional	2.5	2.0	0.5	2.0
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

C. Additional treatment removal credit for conventional or direct filtration may be allowed at state discretion to a maximum of 3 Log removal of *Giardia* cysts and 3 Log removal of viruses considering:

1. demonstration that the total treatment train achieves:

a. at least 99 percent turbidity removal or filtered water turbidities are consistently less than 0.5 NTU; or

b. a 99.9 percent removal of particles in the size range of 5 to 15 Fm;

2. HPC count in finished water is consistently less than 10/ml;

3. demonstration of removal/inactivation of *Giardia* and viruses;

4. process steps elevating process water above pH 9.0 (not necessarily finished water);

5. filter bed depth in excess of 48 inches;

6. oxidant effect of chemicals feed for alternate purposes (*i.e.*, taste and odor).

D. If DHH allows additional removal credit for the treatment process, minimum disinfection shall still not be less than reported in the above table. Expected minimum removal credits are listed in Table 1, §1107(B) [formerly Subsection 2.02 B] above, with the corresponding remaining disinfection required.

E. [Formerly C] Conventional Filtration or Direct Filtration, shall comply with following performance standards for each treatment plant.

1. The turbidity level of the filtered water shall be equal to or less than 0.5 NTU in 95 percent of the measurements taken each month.

2. For conventional treatment a higher filtered water turbidity, to a maximum of 1.0 NTU in 95 percent of the measurements taken each month, may be allowed at DHH discretion provided the system is achieving previously identified minimum removal and/or inactivation of *Giardia* cysts at the higher turbidity level.

a. Such a determination may based upon an analysis of existing design and operating conditions and/or performance relative to certain water quality characteristics. The design and operating conditions to be reviewed include:

i. [Formerly a] the adequacy of treatment prior to filtration;

ii. [Formerly b] the percent turbidity removal across the treatment train; and

iii. [Formerly c] level of disinfection.

b. Water quality analysis which may also be used to evaluate the treatment effectiveness include particle size counting before and after the filter. Pilot plant challenge studies simulating full scale operation may also be used to demonstrate effective treatment. Depending on the source water quality and system size, DHH will determine the extent of the analysis and whether a pilot plant demonstration is needed. For this demonstration, systems are allowed to include disinfection in the determination of the overall performance by the system.

3. [Formerly C 3] Filtered water turbidity may not exceed 5 NTU at any time.

F. [Formerly D] Slow Sand Filtration shall comply with the following performance standards for each treatment plant.

1. The turbidity level of the filtered water shall be less than or equal to 1.0 NTU in 95 percent of the measurements taken each month. However, filtered water from the treatment plant may exceed 1.0 NTU, provided the filter effluent prior to disinfection does not exceed the maximum contaminant level for total coliforms.

2. The turbidity level of the filtered water does not exceed 5.0 NTU at any time.

G. [Formerly E] Diatomaceous earth filtration shall comply with the following performance standards for each treatment plant:

1. The filtered water turbidity must be less than or equal to 1.0 NTU in 95 percent of the measurements each month.

2. The turbidity level of representative samples of filtered water must at not time exceed 5 NTU.

H. [Formerly F] An alternative to the filtration technologies specified in §1107.A [formerly Subsection 2.02(A)] above may be used provided the supplier demonstrates to the DHH that the alternative technology, 1) provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and 2) meets the turbidity performance standards established in §1107.E [formerly Subsection 2.02 C)] above. The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002).

§1109. Non-Filtering Systems
[formerly Subsection 2.03 of Appendix D]

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using groundwater under the direct influence of surface water. To be considered, non-filtering systems must conform to the criteria of this section. All suppliers using surface water must employ filtration.

B. Source Water Quality to Avoid Filtration

1. To avoid filtration, a system must demonstrate that either the fecal coliform concentration is less than 20/100 ml and/or the total coliform concentration is less than 100/100 ml in the water prior to the point of disinfectant application in 90 percent of the samples taken during the six previous months. Samples shall be taken prior to blending, if employed.

a. f both fecal and total coliform analysis is performed, only the fecal coliform limit must be met, under this condition, both fecal and total coliform results must be reported.

b. Sample analyses methods may be multiple tube fermentation method or membrane filter test as described in the Sixteenth edition of Standard Methods.

c. Minimum Sampling Frequencies

Population	Samples/Week
?500	1
501-3300	2
3301-10,000	3
10,000-25,000	4
> 25,000	5

d. Also, one coliform sample must be taken and analyzed each day the turbidity exceeds 1 NTU prior to disinfection.

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every four hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the instrument is validated at least weekly.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system must demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each month. To demonstrate adequate inactivations,

the system must monitor and record the disinfectant used, disinfectant residual, disinfectant contact time, pH, and water temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system must demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual measurements shall be taken hourly. Continuous monitors are acceptable in place of hourly samples.

b. pH and Temperature must be determined daily for each disinfection sequence prior to the first customer.

2. To avoid filtration, the system must maintain a minimum residual of 0.2 mg/L entering the distribution system and maintain a detectable residual throughout the distribution system. Performance standards shall be as presented in §1111.B and C [formerly Subsection 2.04 (B) and (C)] of this Subchapter.

3. To avoid filtration, the disinfection system must be capable of assuring that the water delivered to the distribution system is continuously disinfected. This requires:

a. Redundant disinfection equipment with auxiliary power and automatic start up and alarm; or

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l.

D.1. Site Specific Conditions To Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems must meet the following criteria to avoid filtration:

a. maintain a watershed control program;

b. conduct a yearly on-site inspection;

c. determine that no waterborne disease outbreaks have occurred;

d. comply with the revised annual total coliform MCL;

e. comply with TTHM Regulations

2. A watershed control program for systems using groundwater under the influence of surface water shall include as a minimum, the requirements of the Wellhead Protection Program, delineated as follows:

a. specify the duties of state agencies, local governmental entities and public water supply systems with respect to the development and implementation of The Program;

b. determine the wellhead protection area (WHPA) for each wellhead as defined in Subsection 1428(e) based on all reasonably available hydrogeologic information, groundwater flow, recharge and discharge and other information the state deems necessary to adequately determine the WHPA;

c. identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

d. describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training and demonstration projects to protect the water supply within WHPAs from such contaminants.

e. present contingency plans for locating and providing alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants;

f. consider all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system; and

g. provide for public participation.

2. On-Site Inspection. An annual on-site inspection is required to evaluate the watershed control program and disinfection facilities. The system shall be reviewed by a qualified engineer for the systems adequacy for producing safe drinking water. The annual on-site inspection shall include as a minimum:

a. review the effectiveness of the watershed control program;

b. review the physical condition and protection of the source intake;

c. review the maintenance program to insure that all disinfection equipment is appropriate and has received regular maintenance and repair to assure a high operating reliability;

d. review improvements and/or additions made to disinfection processes during the previous year to correct deficiencies detected in earlier surveys;

e. review the condition of disinfection equipment;

f. review operating procedures;

g. review data records to assure that all required tests are being conducted and recorded and disinfection is effectively practiced;

h. identify any needed improvements in the equipment, system maintenance and operation, or data collection.

3. Sanitary Survey. In addition to the above requirements, a sanitary survey shall be performed every five years by the utility which uses groundwater under the influence of surface water without filtration. The sanitary survey shall include:

a. review the condition of finished water storage facilities;

b. determine that the distribution system has sufficient pressure throughout the year;

c. verify that distribution system equipment has received regular maintenance;

d. review cross connection prevention program, including annual testing of backflow prevention devices;

e. review routine flushing program for effectiveness;

f. evaluate the corrosion control program and its impact on distribution water quality;

g. review the adequacy of the program for periodic storage reservoir flushing;

h. review practices in repairing water main breaks to assure they include disinfection;

i. review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection;

j. review the operations to assure that any difficulties experienced during the year have been adequately addressed;

k. review staffing to assure adequate numbers of properly trained and/or certified personnel are available;

l. verify that a regular maintenance schedule is followed;

m. audit systems records to verify that they are adequately maintained;

n. review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

4. No Disease Outbreaks. To avoid filtration, a system using groundwater under the influence of surface water must not have been identified as a source of waterborne disease. if such an outbreak has occurred and (in the opinion of DHH) was attributed to a treatment deficiency, the system must install filtration unless the system has upgraded, its treatment to remedy the deficiency to the satisfaction of DHH.

5. Coliform MCL. To avoid filtration, a system must comply with the MCL for Total Coliforms, established in the Total Coliform Rule, for at least 11 out of 12 of the previous month unless DHH determines the failure to meet this requirement was not caused by a deficiency in treatment.

6. Total Trihalomethane (TTHM) Regulations. For a system using groundwater under the influence of surface water to continue using disinfection as the only treatment, the system must comply with current and (eventually) pending TTHM Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1338 (June 2002).

§1111. Disinfection
[formerly Subsection 2.04 of Appendix D]

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in §1105 [formerly Subsection 2.01]of this Subchapter.

B. Disinfection treatment shall comply with the following performance standards.

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l for more than four hours in any 24-hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count (HPC) at concentrations less than 500 colony forming units per milliliter shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case by case basis but shall not be less than those reported in §1107(B) [formerly Subsection 2.02 (B)] of this Subchapter. The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration (C) times the contact times (T) when the basin is in operation. Disinfectant contact time must be determined by tracer studies.

1. The T10 value will be used as the detention time for calculating CTs. T10 is the detention time at which 90 percent of the flow passing through the vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan must identify how the study will be conducted, the tracer used, flow rates, etc. The plan must also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as Levenspiel), or the methodology in the EPA SWTR Guidance Manual.

2. On a case-by-case basis, alternate empirical methods of calculating T10 as outlined in the Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer studies have been conducted and results have been published in the Guidance Manual or the literature.

3. Additional tracer studies may be required by DHH whenever modifications are made which could impact flow distribution, contact time, or disinfectant distribution.

4. CT values utilized in this evaluation shall be those reported in the EPA SWTR Guidance Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002).

§1113. Design Standards
[formerly Subsection 2.05 of Appendix D]

A. All new treatment and disinfection facilities shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40: 5 ((2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002).

Subchapter C. Monitoring Requirements
[formerly Section 3 of Appendix D]

§1115. Filtration
[formerly Subsection 3.01of Appendix D]

A. Each supplier using a surface water or groundwater under the direct influence of surface water source shall monitor the turbidity level of the raw water supply by the taking and analyzing of a daily grab sample. Continuous monitoring may be substituted providing the accuracy of the measurements are validated weekly.

B. To determine compliance with the performance standards specified in §1107 [formerly Subsection 2.02] of Subchapter B of this Chapter, each supplier shall determine the turbidity level of representative samples of the combined filter effluent, prior to clearwell storage, at least once every four hours that the system is in operation.

C. For finished water turbidity, continuous turbidity measurements may be substituted for grab sample monitoring provided the supplier validates the accuracy of the measurements on a weekly basis.

D. Suppliers using slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002).

§1117. Disinfection
[formerly Subsection 3.02 of Appendix D]

A. To determine compliance with disinfection inactivation requirements specified in §1107 [formerly Subsection 2.02] of Subchapter B of this Chapter, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

1. temperature of the disinfected water;
2. pH(s) of the disinfected water if chlorine is used as a disinfectant;
3. the disinfectant contact time(s); and
4. the residual disinfectant concentrations before or at the first customer.

B. To determine compliance with the performance standards specified in §§1107 or 1111 [formerly Subsections 2.02 or 2.04] of Subchapter B of this Chapter, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. The residual disinfectant concentrations must be measured at least at the same points in the distribution system and at the same time that total coliforms are sampled.

C. Suppliers serving fewer than 3300 people may collect and analyze grab samples of disinfectant residual each day in lieu of the continuous monitoring, in accordance with Table 2, provided that any time the residual disinfectant falls below 0.2 mg/l, the supplier shall take a grab sample every four hours until the residual concentration is equal to or greater than 0.2 mg/l.

Table 2	
Disinfectant Residual Sampling	
System Population	Samples/Day
# 500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002).

Subchapter D. Operation
[formerly Section 4 of Appendix D]

§1119. Operating Criteria
[formerly Subsection 4.01 of Appendix D]

A. All treatment plants utilizing surface water or groundwater under the direct influence of surface water shall be operated by operators certified by DHH.

B. Filtration facilities shall be operated in accordance with the following requirements.

1 Conventional and direct filtration plants shall be operated at flow rates not to exceed 3 gallons per minute per square foot (gpm/sq ft) for gravity filters. For pressure filters, if approved by DHH, filtration rates shall not exceed 2 gpm/sq ft.

2. Slow sand filters shall be operated at filtration rates not to exceed 0.10 gallons per minute per square foot. The filter bed shall not be dewatered except for cleaning and maintenance purposes.

3. Diatomaceous earth filters shall be operated at filtration rates not to exceed 1.0 gallon per minute per square foot.

4. In order to obtain approval for higher filtration rates than those specified in this section, a water supplier shall demonstrate to the Department that the filters can achieve an equal degree of performance.

5. Filtration rates shall be increased gradually when placing filters back into service following backwashing or any other interruption in the operation of the filter.

6. Pressure filters shall be physically inspected and evaluated annually for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

C. Disinfection facilities shall be operated in accordance with the following requirements:

1. A supply of chemicals necessary to provide continuous operation of disinfection facilities shall be maintained as a reserve or demonstrated to be available under all conditions and circumstances.

2. An emergency plan shall be developed prior to and implemented in the event of disinfection failure to prevent delivery to the distribution system of any undisinfected or inadequately disinfected water. The plan shall be posted in the treatment plant or other place readily accessible to the plant operator.

3. System redundancy and changeover systems shall be maintained and kept operational at all times to ensure no interruption in disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8), R.S. 40: 5 (2)(3)(5)(6)(17)(20) and R.S. 40: 1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002).

Subchapter E. Reporting
[formerly Section 5 of Appendix D]

§1121. DHH Notification
[formerly Subsection 5.01 of Appendix D]

A. The supplier shall notify DHH within 24 hours by telephone or other equally rapid means whenever:

1. the turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time;
2. more than two consecutive turbidity samples of the combined filter effluent taken every four hours exceed 1.0 NTU;
3. there is a failure to maintain a minimum disinfectant residual of 0.2 mg/l in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l within four hours;
4. an event occurs which may affect the ability of the treatment plant to produce a safe, potable water including but not limited to spills of hazardous materials in the watershed and unit treatment process failures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002).

§1123. Monthly Report
[formerly Subsection 5.02 of Appendix D]

A. Each supplier with a surface water or groundwater under the direct influence of surface water treatment facility shall submit a monthly report on the operation of each facility to the DHH by the tenth day of the following month.

B. The report shall include the following results of turbidity monitoring of the combined filter effluent:

1. all turbidity measurements taken during the month;

2. the number and percent of turbidity measurements taken during the month which are less than or equal to the performance standard specified for each filtration technology in §1107 [formerly Subsection 2.02] of Subchapter B of this Chapter, or as required for an alternative treatment process. The report shall also include the date and value of any turbidity measurements that exceed performance levels specified in §1107 [formerly Subsection 2.02] of Subchapter B of this Chapter;

3. the average daily turbidity level.

C. The report shall include the following disinfection monitoring results:

1. the date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l and when the DHH was notified of the occurrence;

2. the following information on samples taken from the distribution system:

a. the number of samples where the disinfectant residual is measured;

b. the number of samples where only the heterotrophic plate count (HPC) is measured;

c. the number of measurements with no detectable disinfectant residual and no HPC is measured;

d. the number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter;

e. the number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. The report shall include a written explanation of the cause of any violation of performance standards specified in §§1107 [formerly Subsection 2.02], 1109 [formerly Subsection 2.03], or 1111[formerly Subsection 2.04] of Subchapter B of this Chapter and operating criteria specified in Subchapter D of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002).

Subchapter F. Public Notification
[formerly Section 4 of Appendix D]

§1125. Consumer Notification
[formerly Subsection 6.01 of Appendix D]

A. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §1105 [formerly Subsection 2.01] of Subchapter B of this Chapter or performance standards specified in §§1107 [formerly Subsection 2.02], 1109 [formerly Subsection 2.03] and 1111[formerly Subsection 2.04]of Subchapter B of this Chapter. The notification shall be give in a manner approved by the DHH, and shall include the following mandatory language.

1. "The La. Department of Health and Hospitals (DHH) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. DHH has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet DHH requirements is associated with little to none of this risk and should be considered safe."

B. The supplier shall notify persons served by the system whenever there is a failure to comply with monitoring requirements specified in Subchapter C [formerly Section 3] of this Chapter, the notification shall be given in the manner approved by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002).

Part XIII. Sewage Disposal
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XIII	**Chapter XIII**
Chapter 1	
§101	13:001
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§301	13:002
§303	13:003
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§501	13:006
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§715	Appendix A:1.1 - A:1.22
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§721	Appendix A:4.1 - A:4.10
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§725	Appendix A:6.1 - A:6.12
§727	Appendix A:7.1 - A:7.3

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Title 51
PUBLIC HEALTHCSANITARY CODE
Part XIII. Sewage Disposal
Chapter 1. General
[formerly Chapter 13 Sub-Part A]
§101. Definitions
[formerly paragraph 13:001]

A. As used in this Part, the terms defined in this Chapter supplement any definitions which may be set forth in law and shall have the following meanings and/or applications, unless the context or use thereof clearly indicates otherwise, or more explicit definitions and/or applications are referenced. Terms not defined or referenced herein shall have the meanings as defined in the other Parts of the Sanitary Code of the State of Louisiana. In any instance where a term defined herein is also defined in one or more other Parts of this Code, the definition contained in this Part shall be given preference as it pertains to sewage disposal.

Commercial Treatment Facility (designed in accordance with §503)**C**any treatment facility which is required by the state health officer whenever the use of an individual sewerage system is unfeasible or not authorized.

*Community Sewerage System***C**any sewerage system which serves multiple connections and consists of a collection and/or pumping/transport system and treatment facility.

*Conventional Septic Tank System***C**a septic tank system which consists of a septic tank(s) followed by a subsurface absorption field.

Facility or *Facilities***C**any or all of the apparatus and appurtenances associated with a sanitary sewage treatment system, element, or process.

*Gravelless Pipe***C**a proprietary device which may be used in lieu of conventional subsurface absorption field materials when approved by the state health officer.

*Individual Mechanical Plant***C**a treatment facility which provides primary and secondary treatment of sanitary sewage by use of aerobic bacterial action which is sustained by mechanical means.

*Individual Sewerage System***C**any system of piping (excluding the building drain), and/or collection and/or transport system which serves one or more connections, and/or pumping facility, and treatment facility, all located on the property where the sanitary sewage originates; and which utilizes the individual sewerage system technology which is set forth in Chapter 7 Subchapter B of this Part, or a commercial treatment facility which is specifically authorized for use by the state health officer.

*Limited Use Sewerage System***C**a sewerage system which may be authorized by the state health officer for installation or use for a structure or dwelling which is occupied less than four days in a week, and the use of which generates less than 100 GPD of sanitary sewage.

*Manufacturer***C**a person who engages in the business or practice of constructing individual mechanical sewerage treatment systems, and who is responsible for having the system evaluated in compliance with §725(D)of this Part.

*Person***C**any natural person, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

*Premises***C**any structure or dwelling of any construction whatsoever in which a person may live, work, or congregate.

*Sanitary Sewage***C**any and all human waste and/or domestic waste, the disposal of which requires a sewerage system approved or authorized by the state health officer. Sanitary sewage may include its conveying liquid and/or any other liquid or solid material which may be present therein.

*Secondary Treatment Standard***C**a sewage effluent water quality standard which prescribes a maximum 30-day average concentration of biochemical oxygen demand (5-day basis) of 30 milligrams per liter (mg/l), and a maximum daily concentration of biochemical oxygen demand (5-day basis) of 45 mg/l. The 30-day average concentration is an arithmetic mean of the values for all effluent samples collected in the sampling period. The analyses to be performed for the purpose of determining compliance with these effluent limitations and standards shall be in accordance with the Eighteenth edition of the "Standard Methods for the Examination of Water and Wastewater", available from the American Public Health Association 1015 Eighteenth Street NW, Washington, D.C. 20036, except where otherwise specified.

*Septic Tank System***C**an individual sewerage system which consists of a septic tank(s) followed by a process which treats and disposes of the septic tank effluent.

*Sewerage System***C**any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Subdivision for the purpose of these regulations**C**

1. the division, or the process or results thereof, of any land into two or more lots, tracts, parcels, or plots, any one of which has an area of less than 3 acres, or

2. the re-subdivision of land heretofore divided into lots, tracts, sites or parcels; provided, however, that minimum lot size restrictions presented in §511(B) shall not apply to:

a. a subdivision legally established and recorded prior to July 28, 1967; or

b. a small parcel of land sold to or exchanged between adjoining property owners, provided that such a sale or exchange does not create additional lots.

3. Note: For the purpose of these regulations, the requirements for wetlands might be more stringent.

Sub-Manufacturer—a person or entity authorized by a licensed manufacturer to construct, or assemble individual sewerage systems, or any portion thereof.

Trailer Coach—any of the various forms of structures which are equipped, or capable of being equipped, with wheels, including, but not limited to, travel trailers, truck coaches or campers, mobile homes, trailers, and/or tent campers, whether capable of moving under its own power or not, and where a person or persons may live, work, or congregate.

Trailer Park—any lot, tract, parcel or plot of land upon which more than one trailer coach is or may be located, and where trailer coach spaces are rented or leased.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1343 (June 2002).

Chapter 3. General Requirements for Sewerage Disposal [formerly Chapter 13 Sub-Part B]

§301. Plumbing Fixtures [formerly paragraph 13:002]

A. All premises shall be provided with plumbing fixtures as prescribed in Part XIV of this Code. Such plumbing fixtures shall be connected to a community sewerage system whenever feasible or to an individual sewerage system which is specifically approved for the premises by the state health officer after it is determined that connection to a community sewerage system is unfeasible and that the installation and operation of an individual sewerage system is not likely to create a nuisance or a public health hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1344 (June 2002).

§303. Responsible Parties [formerly paragraph 13:003]

A. A person who owns, operates, manages, or otherwise controls any premises, shall provide for sewage disposal in a manner which is in compliance with this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1344 (June 2002).

§305. Discharges [formerly paragraph 13:004-1]

A. A person shall not directly or indirectly discharge, or allow to be discharged, the contents or effluent from any plumbing fixtures, vault, privy, portable toilet, or septic tank, into any road, street, gutter, ditch, water course, body of water, or onto the surface of the ground.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1344 (June 2002).

§307. Installation [formerly paragraph 13:004-2]

A. No component part of a sewerage system shall be installed wherever contamination of a ground water supply may occur. The location of any sewerage facility shall not conflict with the placement requirements for a water well which are set forth in Part XII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1344 (June 2002).

§309. Previous Permits [formerly paragraph 13:005]

A. Any permits issued, or approval of plans and specifications granted prior to the effective date of the 1998 revisions of this Part shall remain in effect as it relates to the design of the sewerage system, unless the state health officer determines there exists a need for revision of such permits or approvals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1344 (June 2002).

Chapter 5. Community Sewerage Systems [formerly Chapter 13 Sub-Part C]

§501. Permits [formerly paragraph 13:006]

A. A person shall not construct or operate a community sewerage system, or make a modification of an existing system which changes the system's capacity, effluent quality, point of discharge, hydraulic or contaminant loadings, or operation of the component units of the system without having first obtained a permit from the state health officer. No community sewerage system shall be constructed, or modified to the extent mentioned above, except in accordance with plans and specifications for installation which have been approved as a part of a permit issued by the state health officer prior to the start of construction or modification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1344 (June 2002).

§503. Plans [formerly paragraph 13:007]

A. Detailed plans and specifications for the construction or modification of a community sewerage system for which a permit is requested shall be submitted by the person who is the owner, his legal agent or who has responsible charge of the facilities. The review and approval of plans and specifications submitted for issuance of a permit will be made in accordance with the design standards presented in "Recommended Standards for Sewage Works", 1990 Edition, promulgated by the Great Lakes and Upper Mississippi River Board of State Sanitary Engineers and available from Health Education Service, P. O. Box 7126, Albany, New York 12224. Proposals which deviate significantly from the standards must be submitted to the state health officer with supporting documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1344 (June 2002).

§505. Operation and Maintenance
[formerly paragraph 13:008-1]

A. All component facilities of a community sewerage system shall, at all times, be maintained in the same configuration as permitted, in working order and operated efficiently to minimize upsets, discharges of excessive pollutants, bypassing of discharges from the system, and health hazards and nuisances. Operator staffing and training, laboratory and process controls, maintenance during normal periods of equipment downtime, backup equipment, and spare parts shall be provided as needed to maintain continuous compliance with the effluent limitations and standards established for the facility by the state health officer and to avoid any bypass or any overflow from the system.

B. [Formerly paragraph 13:008-2] Community sewerage systems shall be operated and maintained so as to consistently produce effluent water quality meeting the minimum requirements of the Secondary Treatment Standard. Additional effluent standards may be established by the state health officer as needed based upon downstream uses of receiving waters.

C. [Formerly paragraph 13:008-3] The bypass of any raw or partially treated sewage from a community sewerage system is prohibited, except where unavoidable to prevent a potential threat to Public Health and Safety or severe property damage, and where no feasible alternatives to bypass exist. The use of alternatives to bypassing, such as auxiliary treatment facilities, retention of untreated wastes, maintenance during normal periods of equipment downtime, or installation of adequate backup equipment shall be utilized to the maximum extent feasible to avoid bypassing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1345 (June 2002).

§507. Records
[formerly paragraph 13:009]

A. By request, copies of reports and suitable daily analyses and records of daily operations shall be submitted monthly to the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1345 (June 2002).

§509. Land Application
[formerly paragraph 13:010]

A. No sewage sludge, or sewage treatment effluent shall be applied to land for treatment, disposal, irrigation or other purposes without a permit from the state health officer. The Louisiana Department of Environmental Quality should also be contacted regarding other approvals or permits required by that agency for land application projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1345 (June 2002).

§511. General Requirements
[formerly paragraph 13:011-1]

A. Connections To Community Sewerage Systems. Where an established community sewerage system (either public or private) is available, and there is ample water supply, all plumbing fixtures within any structure shall be connected to such community sewerage system. Determination by the state health officer of the availability of a community sewerage system shall take into consideration, among other aspects, the separation (both horizontal and vertical) of the structure in question and the sewer main or lateral, political or geographic or legally created boundaries, and the available capacity of the sewer system.

B. [Formerly paragraph 13:011-2] Community Sewerage System Required. Community sewerage systems shall be provided for all new subdivisions and developments where lots are sold or leased. The developer/owner shall be responsible for the provision of adequate sewage treatment and disposal. The use of individual sewerage systems in lieu of a community sewerage system may be authorized and will be considered under the following circumstances.

1. In subdivisions comprised of less than 125 lots, when the developer submits a comprehensive drainage plan as well as a proposal for restrictive covenants which detail requirements for perpetual maintenance of drainage. This requirement shall apply for all new subdivisions and developments.

2. When the total anticipated design flow to the sewerage system does not exceed 1,500 gpd, and where no food service is involved as per §1301(A)(2).

3. On large lots, where an area of 1 acre or more is involved, having a minimum frontage of 125 feet.

4. The installation would be located on a lot, plot or site which has a minimum area of 22,500 square feet, and a minimum frontage of 125 feet.

5. For subdivisions when each and all lots have a minimum area of at least 22,500 square feet and a minimum frontage of 125 feet, except that the 125 foot frontage requirement may be waived for up to 15 percent of the total number of lots in the development if

a. minimum frontage on each lot in question is not less than 60 feet, and;

b. the width of each lot in question is at least 125 feet.

6. For parishes in which the parish governing authority has enacted and enforces a formal sewage permitting system (requiring approval of individual sewage disposal systems by the state health officer prior to issuance of any parish permits) and when the lots or sites in question meet any of the following criteria:

a. minimum area of 22,500 square feet and a minimum frontage of 80 feet;

b. minimum area of 16,000 square feet and a minimum frontage of 80 feet where an approved individual mechanical plant is to be utilized;

c. minimum area of 12,000 square feet and a minimum frontage of 60 feet where an approved individual mechanical plant is utilized and is followed by 50 feet of modified absorption field (see Chapter 7 Subchapter B, §731).

7. Where lots of "record" (i.e., lots created by formal subdivision prior to July 28, 1967) are combined (in accord with the definition of a subdivision) to create a new, larger, single lot, and no re-subdivision of the property is involved. On July 20, 2002 and thereafter, in

no case shall the newly created lots have less than 50 feet of frontage or be less than 5000 square feet in area.

8. For single lots or sites, regardless of size, remaining in substantially developed previously established subdivisions, when, in the opinion of the state health officer, a hazard to the public health will not result.

9. For single lots or sites, regardless of size, when the installation of an individual sewerage system is proposed in order to renovate or replace a pre-existing sewerage system. Such installation may be allowed when, in the opinion of the state health officer, a public health hazard or nuisance will not result. This provision shall apply to the renovation or replacement of pre-existing systems only and shall not be utilized to circumvent other requirements, particularly those relative to minimum lot size for new residences and subdivision development, of this Code.

C. [Formerly paragraph 13:011-3] Effective October 20, 2000, this rule applies to new individual sewerage system installations, upgrades and/or modifications to existing systems required as a result of an investigation by the Office of Public Health (OPH) into an allegation that a violation of Part XIII of the Louisiana Sanitary Code has occurred or is occurring, and has the potential for causing harm or creating a nuisance to the general public (R.S. 40:1154). Such individual sewerage systems with a capacity up to and including 1,500 gpd, that produce treated effluent, and which, by design, do not significantly reduce the amount of off-site effluent, shall be followed by an effluent reduction system constructed as described in Chapter 7 Subchapter B, §731 of this Part.

D. [Formerly paragraph 13:011-4] The state health officer may consider for approval, on an individual basis, proposals for developments that are of a unique nature, such as a development over water, or irregular configuration, where individual sewage disposal is proposed, where the development, by its very nature (e.g., where commonly or jointly owned property is involved), is clearly not addressed by the current considerations of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6), R.S. 40:5(9)(20), and R.S. 40:1154(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1345 (June 2002).

Chapter 7. Individual Sewerage Systems [formerly Chapter 13 Sub-Part D]

Subchapter A. General Requirements

§701. Permits [formerly paragraph 13:012-1]

A. A person shall not install, cause to be installed, alter subsequent to installation, or operate an individual sewerage system of any kind without first having obtained a permit from the state health officer. No person shall install, cause to be installed, or alter subsequent to installation an individual sewerage system of any kind except in accordance with the plans and specifications for the installation which have been approved as a part of a permit issued by the state health officer. Such permits shall be issued in a two-stage process in accordance with §§701.B and 701.C.

B. [Formerly paragraph 13:012-2] Upon receipt of a request for such permit, and approval of plans and specifications for the proposed individual sewerage system (which shall accompany any such request for permit), a temporary permit, authorizing the installation of said system, may be issued. Any such temporary permit shall be in writing and shall not be issued until, with respect to the property and its surroundings, the state health officer has determined that connection to a community-type sewerage system is not feasible, and that the condition of the soil, drainage patterns, the lot size/dimensions, and other related factors are such that the construction and use of properly designed individual sewerage facilities are not likely to create a nuisance or public health hazard.

C. [Formerly paragraph 13:012-3] A final permit approving the installation, shall be issued only upon verification that the individual sewerage system has been installed in compliance with this Code. The verification of such installation shall be determined by means of an on-site inspection conducted by a representative of the state health officer and/or in the form of a completed "Certification by Installer" form submitted to the State Health Officer by the licensed installer. The installer shall notify the appropriate local Parish Health Unit prior to the installation of an individual sewerage system. The sanitarian shall not issue final approval for this system unless he/she has received a completed and signed certification by installer form. The certification by installer shall be submitted to the state health officer within 15 days after completion of the installation. A final permit shall be issued and provided to the owner/occupant of the premises to be served by the individual sewerage system.

D. [Formerly paragraph 13:012-4] If a consumer currently owns, is contemplating purchasing and having installed, or is an installer of Individual Mechanical Sewage Treatment Plants, that consumer should be made aware that:

1. it has become apparent that the electrical components of Individual Mechanical Sewage Treatment Plants which require connection to a source of electricity may not be properly connected to that electrical source in some cases. Specifically, mechanical sewage treatment plants, using electrical power may require a properly installed Ground Fault Current Interrupter (GFCI);

2. the Office of Public Health has specific statutory authority and mandates to protect the public health from the improper treatment and disposal of sewage. This office will offer the public consultation with regard to the appropriate sewage treatment system that should be used in a specific application, considering system design for properly treating sewage, sizing for the number of people using the system, location of the system, and other health considerations, as necessary. However, the Office of Public Health does NOT have the authority to inspect or approve electrical connections, are NOT qualified in the area of such electrical connections and will not assume responsibility for such electrical safety considerations;

3. accordingly, proper electrical connections must be made to the air pump/blower and/or any other electrical components that are integral parts of an Individual Mechanical Sewage Treatment Plant, and that a qualified electrician should perform or examine the installation(s) for appropriate wiring and installation, as well as the connection to the Ground Fault Current Interrupter.

E. [Formerly paragraph 13012-5] Permits for the installation of individual sewerage systems shall not be issued for lots within a formal subdivision unless an

official recorded plat/property survey has been filed with and subsequently approved for use of individual sewerage systems by the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1346 (June 2002).

§703. Plans
[formerly paragraph 13:013-1]

A. The review and approval of plans and specifications for the proposed individual sewerage system shall be made in accordance with the "Regulations Controlling the Design and Construction of Individual Sewage Systems" (See Chapter 7 Subchapter B).

B. [Formerly paragraph 13:013-2] Individual sewerage systems, other than conventional septic tank systems, *i.e.*, septic tanks followed by a subsurface disposal system, including those facilities built in conflict with the State of Louisiana Sanitary Code, shall comply with all provisions of the Louisiana Department of Environmental Quality Wastewater Discharge Permit. The Louisiana Department of Environmental Quality should be contacted for information regarding wastewater discharge permits. The state health officer may establish other limitations or standards, as needed, in consideration of the water quality of affected surface water bodies and groundwaters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1347 (June 2002).

§705. Installation of Individual Sewerage Systems
[formerly paragraph 13:014-1]

A. A person who wishes to engage in the business of installing or providing maintenance of individual sewerage systems shall obtain, in accordance with the procedures set forth in §737 of this Part, a license for such activity prior to making any such installations or providing maintenance. Such a license shall not be required, however, for an individual wishing to install an individual sewerage system, other than an individual mechanical plant, for his own private, personal use. Individual mechanical plants shall be installed and maintenance provided by licensed individual sewerage system installers and/or maintenance providers only.

B. [Formerly paragraph 13:014-2] A person installing or providing maintenance of an individual sewerage system and the person who is the owner of the premises shall be responsible for compliance with ''701 and 703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1347 (June 2002).

§707. Maintenance and Operation
[formerly paragraph 13:015]

A. Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this Code and in order to avoid creating or contributing to a nuisance or a public health hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1347 (June 2002).

§709. Septic Tank Systems
[formerly paragraph 13:016]

A. Where a community-type sewerage system is not available, a septic tank system may be used provided that the requirements of §§511.B, 701, 703.A, and 705 are complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1347 (June 2002).

§711. Individual Mechanical Plants
[formerly 13:017-1]

A. An individual mechanical plant may be used where a community-type system is not available, and where the state health officer determines that a conventional septic tank system (septic tank - absorption field) would not be expected to function properly, and where the requirements of §§511.B, 701, 703.B, and 705 are complied with.

B. [Formerly paragraph 13:017-2] Permits, per the requirements of §701, for the installation of individual mechanical plants, shall not be issued except and unless the manufacturer of the mechanical plant has received a manufacturers license in accordance with the requirements of §735.A, and has received appropriate certification from DHH/OPH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1347 (June 2002).

§713. Other Individual Sewerage Systems
[formerly paragraph 13:018-1]

A. Where a person proposes innovative processes or design features other than those described in Chapter 7 Subchapter B of this Part, a limited number of experimental or developmental installations may be approved where: either failure of the installation or insignificant benefits to performance and cost is not expected, based on current engineering data and literature. The total number of such installations shall not exceed three throughout the State and shall be approved under the following conditions:

B. [Formerly paragraph 13:018-2] Each installation shall be installed only in accordance with plans and specifications and testing procedures which have been specifically approved for each installation as a part of a permit issued by the state health officer prior to the installation.

C. [Formerly paragraph 13:018-3] The permit for each installation shall be for a period of one year and may be renewed under the provisions of §713.

D. [Formerly paragraph 13:018-4] Should an innovative process fail, the owner of the premises and the person proposing the innovative process shall upgrade or replace the installation to bring it into compliance with the applicable provisions of this Part.

E. [Formerly paragraph 13:018-5] After the experimental or developmental use of an installation is completed, the permit issued under this Section may be revised to remove the restrictions cited in Subsections 713.B and 713.C if the State Health Officer determines that the available data show that continued use of the

installation will not result in non-compliance with applicable provisions of this Chapter. Such a revision of a permit issued under §713 shall apply only to the individual installation approved under that permit, and should not be construed as being an approval of the system design for other existing or future installations.

F. [Formerly paragraph 13:018-6] Proprietary Devices. Proprietary devices are all devices designed to reduce, process, and treat all or a select portion of wastewater generated within the individual home. This includes water recycle and reuse devices, water conservation devices, composting units, and other devices intended to reduce the volume of waste generated or water consumed. The approval of a proposal to utilize a proprietary device may only be granted by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1347 (June 2002).

Subchapter B. Design and Construction Regulations [formerly Chapter 13 Appendix A]

§715. Septic Tanks [formerly Section I of Appendix A]

A. [Formerly paragraph A:1.1 of Appendix A] A septic tank is a watertight tank made of steel, concrete or other approved materials in which the settleable solids of sewage settle out and are largely changed into liquids or gases by bacterial decomposition. The remaining residue in the tank is a heavy, black semi-liquid sludge which must be removed from the tank periodically. Although the completely digested sludge contains relatively few disease germs, in cleaning the tank it is impossible to remove the digested sludge without removing some undigested material. Therefore, it is particularly important that the removed sludge be disposed of in a safe manner. There are commercial service companies that will contract for septic tank cleaning and sludge disposal. Such commercial services are controlled by a permit system in accordance with §901 of this Part.

B. [Formerly paragraph A:1.2 of Appendix A] Multiple compartment septic tanks or single chamber septic tanks in series provide more effective treatment than single chamber tanks of the same total capacity; therefore, the use of multiple compartment tanks or single tanks in series is encouraged. However, single chamber septic tanks are acceptable.

C. [Formerly paragraph A:1.3 of Appendix A] The velocity of flow through the tanks must be such that maximum solids and scum retention is achieved. Vertical cylindrical tanks must have horizontal (inlet-to-outlet) separation of at least 24 inches.

1. Tees or baffles must be used at the inlet. The outlet must be designed so as to preclude floating solids from escaping from the tank. The inlet tee or baffle diverts the incoming sewage toward the bottom of the tank without disturbing the scum which forms on the surface of the liquid, and the outlet prevents the surface scum from flowing out of the tank.

D. [Formerly paragraph A:1.4 of Appendix A] The minimum total septic tank liquid capacity required is 2 **2** times the estimated average daily design flow. Sewage loading criteria for determining the average daily design flow and organic loading are contained in Chapter 15 of this Part. One-bedroom residences may, however, utilize a 500 gallon tank. NOTE: The minimum allowable total septic tank volume for all applications is 500 gallons.

E. [Formerly paragraph A:1.5 of Appendix A] The distance between the inlet and outlet openings in the tank wall, measured horizontally, shall be not less than 24 inches. The distance between the inlet and outlet shall exceed the width of rectangular and oval-shaped tanks.

F. [Formerly paragraph A:1.6 of Appendix A] The tank shall operate with a liquid depth between a minimum of 30 inches and a maximum of 72 inches measured vertically from the invert of the outlet (overflow level) to the bottom of the tank. Recent septic tank studies have indicated the shallower tank to be more efficient and is therefore preferred.

G. [Formerly paragraph A:1.7 of Appendix A] For tanks having straight vertical sides, the dimension between the top of the tank and the liquid level shall not be less than 15 percent of the liquid depth. In horizontal cylindrical tanks, the volume of the air space above the liquid shall not be less than 15 percent of the liquid capacity. In the latter case, this condition is met if the liquid depth (distance from outlet invert to bottom of tank) is at least 79 percent of the diameter of the tank.

H. [Formerly paragraph A:1.8 of Appendix A] A single tank may be divided into two or more compartments by means of internal partitions. Each compartment shall conform to the dimensions limitations for complete tanks and shall have a liquid capacity of at least 250 gallons. The total liquid capacity shall conform to the requirements for single chamber tanks. No tanks shall have more than three compartments.

I. [Formerly paragraph A:1.9 of Appendix A] The tank shall be constructed of materials which are corrosion resistant and provide a watertight permanent structure. The cover of the tank shall be designed for a dead load of not less than 150 pounds per square foot. Concrete covers must be reinforced with steel and must be not less than 4 inches thick. Metal septic tanks shall comply with the requirements of §715.O. Tanks of other materials such as fiberglass will be reviewed for acceptance on an individual basis. They will be required to comply generally with the basic applicable standards for metal septic tanks.

J. [Formerly paragraph A:1.10 of Appendix A] Access to the septic tank for cleaning and inspection shall be provided by a removable cover or manhole. Both inlet and outlet devices as well as each compartment in multiple compartment tanks must be accessible. Manholes, when used shall be at least 20 inches square or 24 inches in diameter and provided with covers which can be sealed watertight. Septic tanks with removable covers must be provided with an 8-inch inspection hole over the inlet and the outlet.

K. [Formerly paragraph A:1.11 of Appendix A] Either tees or baffles shall be provided at the inlet of the tank and shall extend upward at least 6 inches above the liquid level of the tank. The inlet tee or baffle shall extend downward to at least six inches below the liquid level, but it shall not extend below the level of the lower end of the outlet tee or baffle. At least 2 inches of open space shall be provided above the baffle or tee to provide ventilation to the tank through the building plumbing system.

L. [Formerly paragraph A:1.12 of Appendix A] On the outlet side the tee or baffle shall extend downward to a

distance below the water surface equal to 40 percent of the liquid depth of tanks with vertical sides and 35 percent of liquid depth of tanks of other shapes as measured to the nearest inch. If a tee or baffle is used in the outlet the upper end shall extend 6 inches above the liquid level.

M. [Formerly paragraph A:1.13 of Appendix A] Inlet and outlet fittings (tees or ells) must be of cast iron, schedule 40 PVC or ABS plastic or other approved material.

N. [Formerly paragraph A:1.14 of Appendix A] The invert of the inlet shall be located at least 2 inches above the invert of the outlet.

O. [Formerly paragraph A:1.15 of Appendix A] Metal septic tanks shall be prefabricated of a minimum of 14 gauge commercial grade steel. Corrosion protection shall, at a minimum, consist of a hot-dipped asphalt coating of at least 0.025-inch thickness properly applied to all surfaces of the new, clean, bare metal.

P. [Formerly paragraph A:1.16 of Appendix A] The location of a septic tank shall comply with minimum distance requirements from water wells, water lines, etc. as contained in Part XII, of this Code.

Q. [Formerly paragraph A:1.17 of Appendix A] The use of septic tanks in series is encouraged. The first tank shall have at least a 500-gallon liquid capacity and all subsequent tanks shall have at least 300-gallon liquid capacities. The total capacity of all tanks in series must comply with the capacities for septic tanks as prescribed in §715.D.

R. [Formerly paragraph A:1.18 of Appendix A] Piping from the house to the septic tank must be such that the waste flow does not disturb the retention of scum and sludge in the tank. To attain this, the inlet piping from the house must have a minimum diameter of 4 inches and be laid on a slope of at least one-eighth inch per foot. The slope for the last 10 feet of line preceding the septic tank must not exceed one-fourth inch per foot. All plastic piping, excluding perforated pipe, must be a minimum of SDR 35 sewer and drainage pipe or equivalent.

S. [Formerly paragraph A:1.19 of Appendix A] Backfill around septic tanks must be made in thin layers thoroughly tamped in a manner that will not produce undue strain on the tank. Sufficient soil cover can be provided over the top of the septic tank to permit grass growth. However, no other obstruction to access (*i.e.*, concrete slabs, buildings, etc.) shall be allowed.

T. [Formerly paragraph A:1.20 of Appendix A] Septic tanks should be inspected every six years and pumped at least every eight years by a licensed sewage hauler.

U. [Formerly paragraph A:1.21 of Appendix A] Untreated or uncoated metal septic tanks shall not be used.

V. [Formerly paragraph A:1.22 of Appendix A] Abandoned septic tanks (tanks no longer in active use) shall be pumped out by a licensed sewage hauler, then removed or the cover discarded and the tank filled with soil to natural grade. The contents of the abandoned tank shall not be placed into a newly installed individual sewerage system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1348 (June 2002).

§717. Septic Tank Effluent
[formerly Section II of Appendix A]

A. [Formerly paragraph A:2.1 of Appendix A] There is a common belief that sewage after treatment in a septic tank is pure water, or very nearly so. This is false. The effluent or liquid flowing from the tank is still foul and dangerous. The septic tank cannot be depended upon to remove disease germs. The discharge of the effluent from septic tanks into street gutters, surface ditches, or streams is prohibited.

B. [Formerly paragraph A:2.2 of Appendix A] The treatment level of a septic tank is referred to as primary treatment.

C. [Formerly paragraph A:2.3 of Appendix A] The preferred method of treatment for septic tank effluents is accomplished through the use of soil absorption trenches. Small oxidation ponds or sand filter beds may be used in lieu of absorption trenches only where soil and drainage conditions or available space prevent the use of absorption trenches. The level of treatment of these units is referred to as secondary treatment.

D. [Formerly paragraph A:2.4 of Appendix A] The use of absorption trenches, oxidation ponds and filter beds for the treatment of septic tank effluents is discussed in detail in the following paragraphs of these standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1349 (June 2002).

§719. Absorption Trenches
[formerly Section III of Appendix A]

A. [Formerly paragraph A:3.1 of Appendix A] Where soil conditions are satisfactory and sufficient land is available, septic tank effluent shall be disposed of in absorption trenches. This consists of a system of covered gravel (or other approved aggregate) -filled trenches into which the septic tank effluent is applied so as to permit the liquid to seep into the soil. By action of microorganisms in the soil, the organic matter is converted into mineral compounds.

B. [Formerly paragraph A.3.2 of Appendix A] A number of variables determine whether an absorption trench is feasible, including: soil porosity (permeability), ground water table, available space, and the rate at which septic tank effluent enters the soil (percolation rate). In general three conditions should be met.

1. The soil percolation rate must be within the acceptable range.

2. The maximum elevation of the ground water table should be at least 2 feet below the bottom of the proposed trench system.

3. Clay formations or other impervious strata should be at a depth greater than four feet below the bottom of the trenches.

C. [Formerly paragraph A.3.3 of Appendix A] Unless these conditions are satisfied, the site is unsuitable for a subsurface sewage disposal system, and an alternative method must be utilized.

D. [Formerly paragraph A.3.4 of Appendix A] The acceptability of soil for an absorption trench system and the required size of such a system is currently based upon the "Percolation Test" described below.

1. Three or more tests must be made in separate test holes spaced uniformly over the proposed absorption field site.

2. Dig or bore a hole, with horizontal dimensions of from 4 to 12 inches and vertical sides to the depth of the

proposed absorption trench. In order to save time, labor, and volume of water required per test, the holes may be bored with a 4-inch auger.

3. Carefully scratch the bottom and sides of the hole with a knife blade or sharp-pointed instrument in order to remove any smeared soil surfaces and to provide a natural soil interface into which water may percolate. Remove all loose material from the hole.

4. To conduct the test, fill the hole with clear water. This pre-wetting procedure should normally be accomplished on the day prior to the percolation rate measurement. This procedure is to insure that the soil is given ample opportunity to swell and to approach the operating condition of the wet season of the year. Thus, the test should give comparable results in the same soil whether made in a dry or in a wet season.

5. With the exception of sandy soils, percolation rate measurements shall be made on the day following the procedure described under §719.D.4 above. Add water until the liquid depth is at least 6 inches, but not more than 12 inches from a fixed reference point. Measure the drop in water level over a 60-minute period. This drop is used to calculate the percolation rate. Figure 1 shows methods of percolation rate measurement. If the drop in liquid depth in the first 30 minutes is less than 1 inch, it is unnecessary to continue the test for the full 60-minute period.

6. The distance the water falls in 60 minutes in each of the three test holes is recorded. The average drop for the three holes is used to determine the total length of absorption trench from Table 1 below.

Table 1 Absorption Trench Length Requirements for Individual Residences	
Average Water Level Drop in 60 minutes (in inches)	**Length (in Feet) of Absorption Trenches Required per Bedroom***
More than 12	72
2	83
11	87
10	91
9	96
8	100
7	104
6	110
5	117
4	127
3	142
Less than 3	Not acceptable for absorption field

NOTE: A minimum of 160 linear feet of field line shall be provided.
* -or per 150 gpd of design flow for non-residential applications.

E. [Formerly paragraph A:3.5 of Appendix A] Many different designs may be used in laying out an absorption trench system. The choice will depend on the size and shape of the available disposal area, the capacity required and the topography of the area.

F. [Formerly paragraph A:3.6 of Appendix A] The septic tank effluent is applied to the absorption field through a system of level bottomed trenches. Conventional field lines are laid on a slope of 2 to 3 inches per 100 feet. Gravelless pipe and other distribution chambers must be laid as close as possible to a slope of 1 inch per 100 feet. A distribution box may be required for equal distribution of the effluent. Figure 2 and 3 show a typical layout of a conventional absorption trench system for flat and sloping areas.

G. [Formerly paragraph A:3.7of Appendix A] To provide the minimum required backfill depth and earth cover, the depth of the absorption trenches must be a minimum of 18 inches. Additional depth may be needed for contour adjustment for extra backfill under the distribution line or for other design purposes. However, the total depth must not exceed 24 inches.

H. [Formerly paragraph A:3.8 of Appendix A] Careful construction is important in obtaining a satisfactory soil absorption system. Figure 4 shows details for absorption trench construction.

I. [Formerly paragraph A:3.9 of Appendix A] Individual trenches shall not be greater than 100 feet in length and not less than 18 inches in width. The center line distance between individual trenches shall be at least 6 feet. In addition, the absorption trenches shall be located at least 10 feet from any dwelling or property line.

J. [Formerly paragraph A:3.10 of Appendix A] The location of the absorption trenches shall comply with minimum distance requirements from water wells, water lines, etc., as contained in Part XII of this Code.

K. [Formerly paragraph A:3.11 of Appendix A] In every case, at least two trenches shall be used.

L. [Formerly paragraph A:3.12 of Appendix A] Trench bottoms must be level to promote even distribution, thereby minimizing premature failure of a portion of the trench. During excavation, attention must be given to the protection of the soil. Care must be taken to prevent sealing of the surface on the bottom and sides of the trench. Trenches should not be excavated when the soil is wet enough to smear or compact easily. All smeared or compacted surfaces must be raked to a depth of 1 inch and loose material removed before the backfill is placed in the trench.

M. [Formerly paragraph A:3.13 of Appendix A] Conventional field lines shall consist of perforated non-metallic pipe meeting one of the following standards.

PVC sewer pipe and fittings (Thin wall), ASTM D2729-93
Smooth wall polyethylene (PE) pipe, ASTM F810-93, for use in waste disposal absorption fields;
SRP pipe and fittings, ASTM D2852-93.

1. In every case, the minimum acceptable diameter is 4 inches. Although the trench bottom is level, conventional field pipes must be laid on a slope of between 2 to 3 inches per 100 feet to provide even distribution of the liquid throughout the trench.

N. [Formerly paragraph A:3.14 of Appendix A] Where conventional field pipe is used, it must be surrounded by clean graded gravel or rock, broken, hard-burned clay brick or similar material. The bed material may range in size from one-half inch to 2.5 inches. The gravel must extend from at least 2 inches above the top of the pipe to at least 6 inches below the bottom of the pipe. The top of the stone should be covered with either untreated building paper, or similar pervious material to prevent the gravel from becoming clogged by the earth backfill (See Figure 4).

O. [Formerly paragraph A:3.15 of Appendix A] Where gravelless pipe or distribution chambers are used, the fill must be porous soil or sand which allows the passage of

water in all directions with a 6-inch layer below the pipe and filled 4 to 6 inches above grade and spread 3 to 4 feet on either side of the trench. Only gravelless pipe or other distribution chambers specifically approved for use in Louisiana by the state health officer may be used. The total length of gravelless distribution products required is the same as for conventional absorption trenches.

P. [Formerly paragraph A:3.16 of Appendix A] For an absorption trench to work properly, it must have access to air, generally through the soil interstices of the backfill. Therefore, the absorption trench should be backfilled with 4 to 12 inches of pervious soil, hand-tamped and then overfilled with about 4 to 6 inches of earth. Care should be taken to avoid compacting of the backfill.

Q. [Formerly paragraph A:3.17 of Appendix A] All of the above listed requirements, with the exception of the protection of water supplies, are aimed at preventing absorption trench clogging and premature failure. In addition, the septic tank should be inspected every six years after installation and pumped, as necessary, to prevent solid overflow to the soil absorption system and subsequent clogging and failure.

R. [Formerly paragraph A:3.18 of Appendix A] Absorption trenches shall not be located:

1. beneath driveways, parking or other paved areas;
2. in areas that may be subjected to passage or parking of heavy equipment or vehicles, or storage of materials;
3. beneath buildings or other structures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1349 (June 2002).

§721. Oxidation Ponds
[formerly Section IV of Appendix A]

A. [Formerly paragraph A:4.1 of Appendix A] An oxidation pond is a shallow pond designed specifically to treat sewage by natural purification processes under the influence of air and sunlight. The stabilization process consists largely of the interactions of bacteria and algae. Bacteria digest and oxidize the constituents of sewage and render it harmless and odor free. Algae utilize carbon dioxide and other substances resulting from bacterial action and through photosynthesis produce the oxygen needed to sustain the bacteria in the treatment process. During the detention period, the objectionable characteristics of the sewage largely disappear.

B. [Formerly paragraph A:4.2 of Appendix A] The minimum surface area of an oxidation pond must be no less than 400 square feet with a 4 to 5 foot average liquid depth and vertical side walls. This minimum size pond is adequate for design flows of up to 400 gallons/day (gpd). For design flows in excess of 400 gpd, the pond area must be increased to provide sufficient volume (at the 4 foot depth) to hold 30 days worth of flow (a 30-day retention period). For wastes with high BOD loadings, special consideration for increasing pond size must be given.

C. [Formerly paragraph A:4.3 of Appendix A] Figure 5 shows a typical layout for a septic tank-oxidation pond system. The actual layout of any pond system will be governed to a great extent by the topography of the particular location. However, an oxidation pond must be located so as to comply with the minimum distance requirements from water wells, lines, etc., as contained in Part XII of this Code. It is also desirable for aesthetic reasons to locate it as far as possible, but at least 50 feet from any dwelling and no less than 20 feet from the property line to water's edge at normal operating line.

D. [Formerly paragraph A:4.4 of Appendix A] As mentioned, the use of the minimum surface area of 400 square feet requires that an oxidation pond be furnished with vertical side walls so that an adequate volume for treatment is provided. Figure 6 shows a type of construction utilizing treated timber which under normal soil conditions is acceptable for the vertical side walls of a 20 foot by 20 foot oxidation pond with a 5 foot average water depth. Figure 7 shows a similar type of construction utilizing concrete blocks. Either of these designs requires very little maintenance.

E. [Formerly paragraph A:4.5 of Appendix A] Vertical side walls must be of cypress or treated timbers or concrete blocks and so constructed as to provide a permanent structure.

F. [Formerly paragraph A:4.6 of Appendix A] Although not encouraged, a pond may be constructed with sloping sides and earthen levees. Such a design is shown in Figure 8. The design requires a minimum surface area of 625 square feet with a 5 foot liquid depth at the center in order to achieve the required volume. The cost of this design is less than that of the vertical wall ponds referred to above, but more space is needed and routine maintenance requirements such as levee mowing are greater. The slope of the natural earth side walls must not be shallower than one-to-one (45-degree angle). (See Figure 8.)

G. [Formerly paragraph A:4.7 of Appendix A] A septic tank must precede the oxidation pond and must comply with the septic tank requirements presented in these regulations.

H. [Formerly paragraph A:4.8 of Appendix A] The pipe from the septic tank to the pond as well as the outfall pipe from the pond must be at least 4 inches in diameter and placed at a minimum slope of 2 inches per 100 feet. The inlet must extend 4 to six 6 horizontally into the pond and be directed downward at least 1-1/2 to 2 feet below the liquid surface level. The outlet must extend 4 to 6 feet horizontally into the pond and consist of a tee with the invert set at the operating water level of the pond. One leg of tee must be open and extend above the water level, while the down leg is extended 1-1/2 to 2 feet below the water level. The invert of the pond outlet must be lower than the pond inlet invert. (See Figure 8.) Additionally the invert of the pond inlet must be at least 2 inches lower than the invert of the septic tank outlet.

I. [Formerly paragraph A:4.9 of Appendix A] The pond shall be enclosed by a suitable non-climbable fence to keep out children, pets and livestock. An open type fence (woven wire) is preferable because it will not restrict sunlight and air which are necessary for the treatment. The fence shall be at least 5 feet in height and be provided with a locked gate.

J. [Formerly paragraph A:4.10 of Appendix A] Abandoned oxidation ponds (ponds no longer in active use) shall be dewatered, allowed to dry and then filled with soil to natural grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1351 (June 2002).

§723. Sand Filter
[formerly Section V of Appendix A]

A. [Formerly paragraph A:5.1 of Appendix A] Another alternative for the secondary treatment of septic tank effluent is a deep-type sand filter bed. Treatment in a sand filter bed is accomplished by the action of microorganisms in a sand bed in which the suspended solids of the septic tank effluent have been trapped by filtration. It is important that the sand bed remain aerobic throughout the treatment process. This is accomplished by exposing the sand surface to the air as much as possible on a continuous basis. Of course, the best way this can be done is to place no cover whatsoever over the sand bed. Since this is not aesthetically desirable for homes, a coarse gravel cover of clean, washed gravel, not to exceed 6 inches in depth over the bed is permitted. No other cover is acceptable. A filter bed system is shown in Figure 9.

B. [Formerly paragraph A:5.2 of Appendix A] The sand filter bed is constructed by placing perforated pipe near the bottom of a rectangular area of the required size in a layer of gravel covered by a layer of coarse sand 24 inches deep. On top of this are placed distribution lines (perforated pipe) likewise encased in a layer of gravel. (See Figure 10). The septic tank effluent is distributed speedily in the gravel cover spreading over the top of the sand seeping slowly and vertically through the sand to the bottom layer of gravel to be carried away in the under drain line.

C. [Formerly paragraph A:5.3 of Appendix A] Sand filter beds are to be constructed with a minimum width of 12 feet and a minimum length of 25 feet. This minimum size filter bed is adequately sized for design flows of up to 400 gpd. For greater design flows, the required length shall be increased by 8 feet for each additional 150 gpd or portion thereof.

D. [Formerly paragraph A:5.4 of Appendix A] The bed must be drained completely. This may require the bed to be raised above natural ground level.

E. [Formerly paragraph A:5.5 of Appendix A] To prevent sand infiltration into the underdrain, a layer of graded gravel must be placed over the underdrain line and the entire bottom of the filter bed. All gravel must be clean and washed.

F. [Formerly paragraph A:5.6 of Appendix A] Filter sand shall conform to the following standard specifications.

U.S. Sieve Size	Tyler Screen Size	% Passing (By Weight)
Number 4	Number 4	95-100
	Number 14	60-80
Number 16	Number 28	5-20
Number 50	Number 48	0-5
Number 100	Number 100	0

G. [Formerly paragraph A:5.7 of Appendix A] At least two distribution lines must be provided and they must be sloped 2 inches to 3 inches per 100 feet. The lines must be 4-inch diameter, 20-inch long farm tile, 2 feet to 3-feet lengths of vitrified clay bell-and-spigot sewer pipe laid with open joints, or perforated nonmetallic pipe meeting one of the standards cited in §719(M). The ends of the distribution lines must be half-closed. (See Figure 10).

H. [Formerly paragraph A:5.8 of Appendix A] Underdrain pipe materials are the same as those for the distribution pipe, however, the slope must be no less than 4 inches per 100 feet.

I. [Formerly paragraph A:5.9 of Appendix A] The filter bed must be appropriately protected from surface runoff water.

J. [Formerly paragraph A:5.10 of Appendix A] The filter bed must be located no less than 10 feet from the property line.

K. [Formerly paragraph A:5.11 of Appendix A] The location of the filter bed shall comply with minimum distance requirements from water wells, water lines, etc., as contained in Part XII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1352 (June 2002).

§725. Mechanical Waste Water Treatment Plants
[formerly Section VI of Appendix A]

A. [Formerly paragraph A:6.1 of Appendix A] Mechanical wastewater treatment plants are small plants capable of providing primary and secondary treatment of sanitary sewage. All are considered to be aerobic treatment units.

B. [Formerly paragraph A:6.2 of Appendix A] An individual mechanical plant will be permitted where individual sewerage systems would currently be permitted under prevailing rules as set forth in this Part of the State Sanitary Code. Sewage loading criteria for determining the average daily design flow and organic loading are contained in Chapter 15 of this Part.

C. [Formerly paragraph A:6.3 of Appendix A] An individual mechanical plant will be permitted in lieu of a conventional septic tank system (septic tank/absorption field) only in accordance with the provisions of §511(B) of this Code, and where a conventional septic tank system could not be permitted.

D. [Formerly paragraph A:6.4 of Appendix A] Permitted individual mechanical plants shall strictly comply with National Sanitation Foundation International Standard, NSF 40-1996 for Residential Wastewater Treatment Systems (Class I Systems) as revised May 1996 and published by NSF International, P.O. Box 130140, Ann Arbor, Michigan 48113-0140 USA, and as has been approved by the American National Standards Institute, 11 West 42nd Street, New York, New York 10036 as standard ANSI/NSF 40-1996, revised May 28, 1996.

E. [Formerly paragraph A:6.5 of Appendix A] All individual mechanical plants currently approved for installation in Louisiana as of the effective date of these regulations shall not be required to meet the requirements of §725.D until March 1, 2001. Until March 1, 2001, plants shall continue to comply with the standards under which they were approved. Effective March 1, 2001, all plants shall comply with the standard as stated in §725.D.

F. [Formerly paragraph A:6.6 of Appendix A] In addition to evidence of strict compliance with NSF

International Standard NSF 40-1996 (Class I Systems), and ANSI/NSF 40-1996 (Class I Systems), as are specified in §725(D) of this Code, the following Department of Health and Hospitals/Office of Public Health (DHH/OPH) requirements shall also apply:

1. Testing/Evaluation (General)

a. All certifications of individual mechanical plants shall be conducted by an American National Standards Institute (ANSI) accredited certification program testing/evaluation facility authorized for such purpose(s). Verification of such certification shall be provided to DHH/OPH, subject to acceptance by DHH/OPH of such verification, as prerequisite to consideration of any individual mechanical (residential) plant for permitting in Louisiana.

b. Evidence of acceptance by DHH/OPH of an ANSI accredited testing/evaluation facility, for purpose of testing/evaluation of individual mechanical (residential) plant(s) for permitting in Louisiana shall be demonstrated upon execution of an appropriate Memorandum of Understanding (MOU), or other, similar contractual instrument, subject to terms and conditions as may be imposed by DHH/OPH**C**said MOU to be between DHH/OPH and the testing/evaluation facility.

c. Successful completion of testing/evaluation of an individual mechanical (residential) plant in accordance with applicable provisions of this Code, having been properly tested/evaluated and certified by an appropriate facility, shall serve to allow the DHH/OPH authorization of an individual mechanical (residential) plant for permitting purposes in Louisiana for a period not to exceed seven years from the date of such DHH/OPH authorization, or until such time as an appropriate revision to the prevailing testing/evaluation standard for such purposes may become revised. Such authorization of an individual mechanical (residential) plant for permitting purposes in Louisiana shall be in the form of a written license by DHH/OPH to a manufacturer of such individual mechanical (residential) plant(s), subject to compliance with applicable provisions of this Code - such license to be valid for the specified period, annually renewable, and suspendable/revocable by DHH/OPH in accordance with license revocation procedures as specified in §735(F).

2. Licensing

a. In addition to evidence of compliance of an individual mechanical (residential) plant having been properly tested/evaluated and certified by an appropriate facility, certain additional requirements shall serve as a basis for licensing by DHH/OPH of such individual mechanical (residential) plant in Louisiana. These additional requirements shall apply, as appropriate, to the manufacturer and/or manufacturer representative, agent, sub-manufacturer or other associated entity, as appropriate, involved in the manufacture, marketing, sale, installation and/or maintenance of such (any) individual mechanical (residential) plant(s) in Louisiana. Further, with respect to the testing/evaluation facility which may have certified the individual mechanical plants being in compliance with the testing/evaluation standard contained herein, certain additional requirements, for licensing purposes, shall apply.

b. These additional requirements are specified as follows:

i. Testing/Evaluation Facility Responsibilities:

(a). In addition to providing testing/evaluation services with respect to individual mechanical (residential) plants scheduled for manufacture, marketing, sale, installation and maintenance in Louisiana, the testing/evaluation facility shall also serve to provide oversight liaison services both to the manufacturer of the individual mechanical (residential) plant, as well as to DHH/ OPH. However, DHH/OPH communication with the testing facility will be at the OPH Program Manager level, or higher. While it is recognized that the testing/evaluation facility may exercise its fiduciary right to exact such fees or other reimbursement costs as appropriate from a manufacturer (client), under no circumstances may the testing/evaluation facility exact such fees or other reimbursement costs from DHH/OPH in order to compensate for any of these regulatory requirements. Accordingly, the following requirements shall be included in the MOU:

(b). It shall be required that all individual mechanical (residential) plant manufacturers will be inspected annually by the testing/evaluation facility having certified the related individual mechanical (residential) plant and that DHH/OPH shall be, upon request, furnished with copies of all reports of such inspections, which shall include at a minimum the verification (or reverification) of all "forms" used in the manufacture (or sub-manufacture) of individual mechanical (residential) plants.

(c). It shall be required that a representative number, up to 4 but in, no case more than 10 percent, of all manufacturers authorized sub-manufacturers of individual mechanical (residential) plants will be inspected annually by the testing/evaluation facility having certified the related individual mechanical (residential) plant and that a report shall be retained by the testing/evaluation facility and shall, upon request by DHH/OPH, make such information available to DHH/OPH, which shall include at a minimum the verification of service records for all related individual mechanical (residential) plant installations and availability of stand-by parts.

(d). It shall be required that a representative number of installations in Louisiana, but in no case less than 10, of all individual mechanical (residential) plants manufactured by manufacturers and their respective sub-manufacturers will be inspected annually by the testing/evaluation facility having certified the related individual mechanical (residential) plant and that a report shall be retained by the testing/evaluation facility and shall, upon request by DHH/OPH, make such information available to DHH/OPH, which shall include at a minimum the verification (or re-verification) that individual mechanical (residential) plants and their respective installation(s) are in conformity with the plans and specifications as are reflected in the testing/evaluation report which was approved for the related individual mechanical (residential) plant.

(e). It shall be required that copies of all inspection/audit reports conducted by a testing/evaluation facility with regard to a client-related manufacturer (or sub-manufacturer) of individual mechanical (residential) plants will be retained by the testing/evaluation facility and shall, upon request by DHH/OPH, make such

information available to DHH/OPH upon completion of said report(s).

(f). It shall be required that copies of all reports of non-compliance and/or reports of complaint(s) investigations by a testing/ evaluation facility with respect to a client-related manufacturer (or sub-manufacturer) of individual mechanical (residential) plant(s) will be retained by the testing/evaluation facility and shall, upon request by DHH/OPH, make such information available to DHH/OPH upon completion of said report(s).

(g). It shall be required that any modification(s) to an individual mechanical (residential) plant, once certified by an ANSI accredited testing/evaluation facility, shall be subject to re-evaluation by the testing/evaluation facility and that written acceptance of the change by the ANSI accredited testing/ evaluation facility shall be received by the manufacturer prior to incorporating the change; this information also to be transmitted to DHH/OPH.

(h). In the event that the original testing/evaluation facility no longer conducts testings/evaluations and certifications of individual mechanical (residential) plants for a specific manufacturer, it will be the responsibility of the testing/evaluation facility to insure an orderly transfer of the documentation supporting certification to the manufacturer for transmittal to another ANSI accredited testing/evaluation facility at the manufacturers choice.

ii. Manufacturer/Sub-Manufacturer Responsibilities:

(a). In addition to other, related requirements of this Code as pertain to the manufacture, marketing, sale, installation and maintenance of individual mechanical (residential) plant(s) in Louisiana, the manufacturer (or sub-manufacturer, or installer, as appropriate) of an individual mechanical plant shall also be responsible for insuring compliance with the following:

(b). It shall be required that the manufacturer/sub-manufacturer shall annually inspect at least 10 percent of its authorized installers in Louisiana of certified individual mechanical (residential) plants (products) and shall provide written reports of such inspections, which shall minimally address certain matters specified by DHH/OPH, both to the testing/evaluation facility of record as well as to DHH/OPH.

(c). It shall be required that the manufacturer/sub-manufacturer(s) installers of individual mechanical (residential) plant(s) must maintain a current list of all sales/installations of individual mechanical (residential) plants and shall, upon request by DHH/OPH, make such information (*i.e.*, name, address of purchaser, date of sale, etc.) available to DHH/OPH.

(d). It shall be required that manufacturers/sub-manufacturers/installers, as appropriate must provide a minimum two-year service policy to the purchaser of each individual mechanical (residential) plant purchased/ installed at no additional cost, with verification provided to DHH/OPH and the purchaser, of such service policy provision. The initial policy shall contain provisions for four inspection/service visits (scheduled once every six months over the 2-year period) during which electrical, mechanical, and other applicable components are inspected, adjusted, and serviced. The initial service policy shall also contain provisions for an effluent quality inspection consisting of a visual assessment of color, turbidity, and scum overflow, and an olfactory assessment for odor.

(e). It shall be required that the manufacturers/sub-manufacturers/installers, as appropriate must make available (subject to the purchaser's right of refusal) an extended service/maintenance agreement with terms comparable to those in the initial service policy, in writing.

(f). The manufacturer/sub-manufacturer shall insure that the individual mechanical (residential) plant and its component parts are properly and easily identified.

(g). The manufacturer/sub-manufacturer shall secure such license(s) as may be required by other, applicable provisions of this Code for purpose(s) of manufacture, marketing, sale, installation and/or maintenance of individual mechanical (residential) plant(s) in Louisiana - such license(s) requirement(s) to include, at a minimum as condition of licensure, the verifiable imposition of such insurance, bonding and related requirements as may become stipulated by DHH/OPH for purpose(s) of such related business activities conduct in Louisiana.

(h). Manufacturers shall specifically authorize the ANSI accredited testing/evaluation facility to release to DHH/OPH all of the documentation outlined in terms (I)(a) through (h) above.

3. Certification

a. Licensing will be based on a two phase Certification process, as follows.

i. Initial Certification. Consisting of evidence of successful completion of the herein prescribed testing of an individual mechanical (residential) plant, by the appropriate ANSI accredited testing/evaluation facility conjunctive with an actual onsite physical inspection and audit of all plant manufacturer (company) and sub-manufacturer facilities and production locations by the appropriate ANSI accredited testing facility.

ii. Continuing Certification. Consisting of evidence of an annual re-certification, re-inspection and re-audit by the ANSI accredited testing/evaluation facility of all plant manufacturers (company) and sub-manufacturer facilities and production locations, as well as an evaluation of a representative number (no less than four) of all manufacturers authorized distributors and plants (units/models) sold and installed, with report(s) of such evidence available to DHH/OPH upon request.

G. [Formerly paragraph A:6.7 of Appendix A] Persons proposing to sell individual mechanical plants for installation in Louisiana shall submit an evaluation report indicating compliance with ANSI/NSF Standard Number 40 and obtain approval from the Department of Health and Hospitals, Office of Public Health, P.O. Box 60630, New Orleans, Louisiana 70160, prior to selling/installing plants in the state. The compliance evaluation report shall be prepared by an ANSI certified testing laboratory as required in §725(D), and shall include positive identification of all owners, officers, agents, stockholders, contractors, sub-contractors, as may be in any manner or by any means associated with the entity seeking a permit.

1. [Formerly paragraph A.6.7-1 of Appendix A] Upon approval of an evaluation report by the Department of Health and Hospitals, Office of Public Health, the subject individual mechanical plant may be permitted for use in Louisiana. The Office of Public Health will maintain a list of licensed Manufacturers and respective individual mechanical plants permitted for sale/installation in the state.

2. [Formerly paragraph A:6.7-2 of Appendix A] Any alteration or modification of an individual mechanical plant without the certification of the ANSI certified testing laboratory and subsequent approval of DHH-OPH shall constitute a violation of this section and shall be grounds for suspension/revocation of any permit or license held by each person responsible for such changes, alterations or modifications.

H. [Formerly paragraph A:6.8 of Appendix A] Licenses shall remain valid subject to the following.

1. No person involved with the testing facility either directly or indirectly, may become an owner, partner, or stockholder of any company holding any license to manufacture, submanufacture, install or maintain individual mechanical treatment plants in Louisiana within two years of the approval date of said plant by the Office of Public Health.

2. Should a change of ownership occur, the manufacturer license for such plant shall be rescinded.

3. The licensed Manufacturer shall submit to the Office of Public Health, not later than January 31 of each year, proof that they have secured general liability insurance in an amount of not less than $1,000,000.

4. The licensed Manufacturer shall be responsible for assuring that their mechanical plants are sold only to licensed submanufacturers and installers in order to prevent the installation of their plants by unauthorized persons.

I. [Formerly paragraph A:6.9 of Appendix A] Persons appealing the denial of their application under the Administrative Procedure Act shall post a cost bond prior to the scheduling of such hearing. The plaintiff shall forfeit the cost bond to the state when said appeal is denied by the hearing officer. The hearing officer is to determine the amount of the cost bond, on a per diem basis. The costs shall include room rental, hearing officer fees, court reporter fees, and transcript costs.

J. [Formerly paragraph A:6.10 of Appendix A] Individual mechanical plants and all components must be installed in compliance with the minimum separation requirements for water wells and appurtenances as required in Part XII of this Code.

K. [Formerly paragraph A:6.11 of Appendix A] Individual mechanical plants should be installed at least 10 feet from the property line.

L. [Formerly paragraph A:6.12 of Appendix A] Determination of compliance with NSF Standard Number 40 requirements and/or additional related requirements provided for in this Subchapter shall be the responsibility and sole authority of the state health officer acting through the Office of Public Health.

M. [Formerly Part B paragraph A:6.11 of Appendix A] Warranty/Maintenance/Service Provisions

1. The "Individual Mechanical Plant Initial Warranty Inspection/Service Report" must be submitted to the state health officer after each warranty/maintenance inspection is completed by the maintenance provider, and will become part of the permanent record for each system. A maintenance contract shall be offered to the owner after the initial two-year service contract expires in accordance with National Sanitation Foundation Standard Number 40 relating to Residential Wastewater Treatment Systems, adopted by the Board of Trustees of the National Sanitation Foundation (NSF), Ann Arbor, Michigan, as revised May 1996. The maintenance provider shall notify the state health officer whenever an extended service contract has been negotiated.

2. [Formerly paragraph A:6.12 of Appendix A] The owner is responsible for perpetual maintenance of the sewerage system and components thereof. Proof of perpetual maintenance of the system shall be provided in the form of an extended service contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1352 (June 2002).

§727. Sanitary Pit Privy [formerly Section VII of Appendix A]

A. [Formerly paragraph A:7.1 of Appendix A] Where a dwelling is not served with water under pressure, water carriage waste systems as covered herein can not be used. In these cases, a pit privy or other non water-borne system is required for excreta disposal.

B. [Formerly paragraph A:7.2 of Appendix A] Pit privies, when used, shall be located so that they will not pollute domestic, private, or public water supplies. To accomplish this, they must be located on the downgrade from water wells and water supply lines and in accordance with the minimum distance requirements as contained in Part XII of this Code. Pit privies must be located at least 4 feet from any fence, ditch or building to give room for a proper earth mound. They must be housed as separate units and must be located at least 10 feet from the property line.

C. [Formerly paragraph A:7.3 of Appendix A] Details of the construction and maintenance of approved pit privies may be obtained by referring to a pamphlet entitled "Louisiana Type Sanitary Pit Privy" which is available through the Department of Health and Hospitals, Office of Public Health, P.O. Box 60630, New Orleans, Louisiana 70160.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1355 (June 2002).

§729. Pumping Stations [formerly Section VIII of Appendix A]

A. [Formerly paragraph A:8.1 of Appendix A] When the elevation of a site prevents the use of gravity flow to convey liquid from one location to another, a pumping station (Figure 22), consisting of a holding tank, pump(s), piping, electrical controls, and other equipment as necessary, must be provided.

B. [Formerly paragraph A:8.2 of Appendix A] Many manufacturers build pumps, and in some cases complete pump stations, for the special purpose of handling wastewater, either raw, partially treated, or treated. Such specially built pump stations may be used, provided all other code requirements are met.

C. [Formerly paragraph A:8.3 of Appendix A] Pumps utilized in pump stations must be suitable for the specific application proposed. Pumps must be provided with impellers and casings constructed of corrosion resistant materials.

D. [Formerly paragraph A:8.4 of Appendix A] Pumps shall be provided to accommodate required elevation and

hydraulic heads and peak flow rates, and be cycled in a manner not to be unduly disruptive to any downstream system.

E. [Formerly paragraph A:8.5 of Appendix A] The pump station holding tank must be constructed of materials suitable for septic tank use in accordance with §715.I and O of this Subchapter. Additionally, molded fiberglass, reinforced polyester (FRP) resin tanks having a minimum wall thickness of 1/4" are also acceptable.

F. [Formerly paragraph A:8.6 of Appendix A] Holding tanks shall be constructed and installed with suitable foundations to prevent settling due to soil conditions or floating of the tank due to high water table elevations.

G. [Formerly paragraph A:8.7 of Appendix A] Pump station holding tanks shall be constructed and installed so as to be watertight. All wall seams, seams between walls and tank floor, and openings such as for pipes and wiring shall be sealed watertight. Additionally, all holding tank covers and access openings shall be attached in watertight manner by gaskets or grooves and should be sufficiently above the ground, but in no case less than 3 inches above ground, to prevent the entrance of surface runoff water.

H. [Formerly paragraph A:8.8 of Appendix A] The holding tank shall have a minimum diameter or dimension of 24 inches. The cover shall be equipped with an access opening of sufficient size to allow for pump maintenance and removal, but in no case less than 12 inches in diameter or dimension.

I. [Formerly paragraph A:8.9 of Appendix A] Pumps shall be installed in such a manner as to allow for removal and/or maintenance of the pump without necessitating entry into the holding tank by maintenance personnel. Pumps shall be provided with suitable means of quick, convenient disconnection from discharge piping and electrical wiring. Provisions must be made for lifting the pump from the holding tank with minimal exposure to the liquid in the tank.

J. [Formerly paragraph A:8.10 of Appendix A] Suitable level control devices for use in the harsh, corrosive environment encountered, shall be provided to control pump operation. The level controls shall provide for the following functions: "pump off," "pump on," and "high water alarm."

1. [Formerly paragraph A:8.10-2 of Appendix A] All materials utilized within the holding tank, whether above or below water level, shall be constructed of materials resistant to corrosion from the hostile operating environment of the tank.

2. [Formerly paragraph A:8.10-3 of Appendix A] An audible and visual "high water alarm" shall be provided and shall be located in a conspicuous location. A reset button should be provided for the audible signal in a convenient location so that relief can be easily obtained.

3. [Formerly paragraph A:8.10-4 of Appendix A] The "pump off" level shall be set at the minimum elevation as recommended by the specific pump's manufacturer.

4. [Formerly paragraph A:8.10-5 of Appendix A] The "pump on" level shall be set at elevation to provide a minimum working volume of 10 percent of the average daily design flow of the treatment system.

5. [Formerly paragraph A:8.10-6 of Appendix A] The "high water alarm" level shall be set so as to provide for a net storage volume between the "pump on" level and the "high water alarm level" of 10 percent of the average daily design flow of the treatment system.

6. [Formerly paragraph A:8.10-7 of Appendix A] A reserve volume may be provided between the "high water level" and the invert of the inlet pipe to the holding tank, if so desired.

K. [Formerly paragraph A:8.11-1 of Appendix A] All electrical wiring and controls must be appropriate for the applications for which they are used and meet prevailing electrical codes. Due consideration for the exposure to a harsh environment and the need for watertight connections and conduit must be accounted for in all electrical work.

1. [Formerly paragraph A:8.11-2 of Appendix A] Electrical connections to the main panel in the house must be made according to prevailing electrical codes.

2. [Formerly paragraph A:8.11-3 of Appendix A] The pump must be wired for automatic level control with a manual override located at the control panel.

L. [Formerly paragraph A:8.12 of Appendix A] Raw sewage pumps and piping must accommodate the passage of 2-inch solids.

M. [Formerly paragraph A:8.13 of Appendix A] Suction and discharge piping for sewage effluent pumps must conform to the pump manufacturer's recommendations. However, piping should not be less than 1.25 inches in diameter and be capable of withstanding a pressure of 75 psi.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1355 (June 2002).

§731. Effluent Reduction System Requirements for Treated Wastewater [formerly Section IX of Appendix A]

A. [Formerly paragraph A:9.1 of Appendix A] Disinfectants. Where effluent discharges are required to be disinfected, and chlorine is used as the disinfectant, a chlorine contact chamber is required. Calcium hypochlorite, labeled for wastewater disinfection, shall be added in sufficient concentrations to maintain a minimum residual of 0.5 ppm total chlorine in the effluent. In order to achieve the required chlorine contact time, a baffled chlorine contact chamber (Figure 11, Figure 12, Figure 13) designed to meet the needs for each system with the specified liquid holding capacity shall be used as follows:

Disinfectant Chamber Minimum Liquid Capacity	
Treatment Capacity of Sewerage System	**Contact Chamber Liquid Capacity**
500 GPD or less	30 gallons
501 - 750 GPD	45 gallons
751 - 1000 GPD	60 gallons
1001 - 1500 GPD	90 gallons

1. Any other disinfectant proposed for use should provide an equivalent level of disinfection.

B. [Formerly paragraph A:9.2 of Appendix A] Pumping Stations. Pumping station, when required, must be constructed of approved materials, and must comply with the applicable provisions of this Code.

C. [Formerly paragraph A:9.3 of Appendix A] Effluent Reduction Systems. Individual sewage systems, with a capacity up to and including 1500 gpd, that produce a treated, off-site effluent, shall include an effluent reducer as part of the overall system (Figure 14).

D. [Formerly paragraph A:9.4 of Appendix A] Special situations may arise where an individual on-site wastewater treatment system is allowed as per §511.B of this Code, but it is physically impossible to install the required size of the effluent reduction system or the effluent reduction system itself due to lot size or when a limited use sewerage system is installed in a marsh/swamp area or located over water. The size of the effluent reduction system can be reduced to the maximum amount the lot can accommodate or the installation waived with the authorization of the Sanitarian Parish Manager. Written notification of such authorization must be submitted to the Sanitarian Regional Director and a copy attached to the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47).

E. [Formerly paragraph A:9.5 of Appendix A] All effluent reduction systems shall be installed by a licensed installer. Existing field lines can not be used as the effluent reduction system.

F. [Formerly paragraph A:9.6 of Appendix A] The size of the effluent reduction system installed has to correspond with the recommended size of the sewerage system. For example if a 750 GPD plant is required on the "Application For Permit For Installation of On-Site Wastewater Disposal System" (LHS-47), the applicant may install a 1000 GPD plant, however the size of the effluent reduction system only has to correspond to the minimum size required for a 750 GPD plant.

G. [Formerly paragraph A:9.7 of Appendix A] The sample port for a sewerage system must be installed immediately downstream of the system and in accordance with the appropriate edition and section of NSF Standard 40, as currently promulgated, as well as the applicable provisions of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6), R.S. 40:5(9)(20), and R.S. 40:1154(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1356 (June 2002).

§733. Effluent Reduction Options [formerly Section IX of Appendix A]

A. [Formerly paragraph A:9.8-1 of Appendix A] Effluent Reduction Field. This system is installed downstream of a mechanical treatment plant or other sewage treatment system listed in Chapter 7 Subchapter B of this Code that produces an effluent, but does not by design significantly reduce that effluent. The effluent reduction field is essentially a soil absorption field as described in §719 of this Subchapter, but with modification as noted in this Section. Figure 15 has a diagram with specifications and cross-sections of the Effluent Reduction Field.

1. [Formerly paragraph A:9.8-2 of Appendix A] If there is not sufficient grade to install the sewerage system and the Effluent Reduction Field with gravity flow to the discharge point, then a pump station in compliance with applicable provision of this Code must be installed.

2. [Formerly paragraph A:9.8-3 of Appendix A] The force of the pumped effluent must be reduced by use of a distribution box, "Tee", or similar appurtenance.

3. [Formerly paragraph A:9.8-4 of Appendix A] The Effluent Reduction Field trenches shall be at least 18 inches wide and between 16 to 24 inches in depth.

4. [Formerly paragraph A:9.8-5 of Appendix A] The bottom of the Effluent Reduction Field must be level.

5. [Formerly paragraph A:9.8-6 of Appendix A] The fill or cover material shall be of porous soil or sand which allows the passage of water in all directions, with sod started on top. Fill should be at least 4 to 6 inches above grade and spread at least 3 to 4 feet on either side of the trench.

6. [Formerly paragraph A:9.8-7 of Appendix A] The Effluent Reduction Field (ERF) must be installed a minimum of 10 feet from any property line. In addition the ERF field location shall comply with the minimum distance requirements from water wells and suction lines, water pressure lines etc., as contained in Parts XII and XIV of this Code.

7. [Formerly paragraph A:9.8-8 of Appendix A] The minimum length of the Effluent Reduction Field shall be determined by the treatment capacity of the Sewerage System.

Treatment Capacity of Sewerage System	Minimum Total Length Per Field
500 GPD or less	100 FT
501 - 750 GPD	150 FT
751 - 1000 GPD	200 FT
1001 - 1500 GPD	300 FT

8. [Formerly paragraph A:9.8-9 of Appendix A] If more than one absorption trench is used to provide the minimum required length of the effluent reduction field, the distance between individual trenches must be at least 6 feet with one discharge pipe provided.

9. [Formerly paragraph A:9.8-10 of Appendix A] The pipe from the end of the Effluent Reduction Field to the discharge point must be solid.

10. [Formerly paragraph A:9.8-11 of Appendix A] A backwater valve must be provided at the end of the effluent reduction field whenever the discharge line is less than 12 inches above the ditch flow-line.

11. [Formerly paragraph A:9.8-12 of Appendix A] Each individual trench must not be greater than 100 feet in length. Clam or oyster shells may be substituted for gravel in the Effluent Reduction Field. If used, gravel must be clean, graded and 1/2-inch to 2 1/2 inches in diameter. Other media may be considered for use if determined to have acceptable characteristics and properties. Although it may not be noted in the attached figures, the end of the discharge line must have a 1/2 diameter PVC end cap over the lower half of the endpipe, causing longer retention of the effluent and providing greater opportunity for absorption. If the end of the discharge line is more than two inches lower than the absorption line, other provisions must be made to cause the effluent to be retained in the reduction field.

12. [Formerly paragraph A:9.8-13 of Appendix A] Gravelless pipe or other distribution chambers may be used in lieu of conventional soil absorption pipe. If gravelless pipe is used, the fill must be porous soil or sand which allows the passage of water in all directions, with a 6-inch layer below the pipe and filled 4 to 6 inches above grade and spread 3 to 4 feet on either side of the trench.

B. [Formerly A:9.9-1 of Appendix A] Rock-Plant Filter - All rock plant filters must be a minimum of 5 feet wide to a maximum of 10 feet wide.

1. [Formerly paragraph A:9.9-2 of Appendix A] The square footage will be determined by the treatment capacity of the Sewerage System as follows.

Treatment Capacity of Sewerage System	Rock Plant Filter Size
500 GPD or less	150 square feet
501 - 750 GPD	225 square feet
751 - 1000 GPD	300 square feet
1001 - 1500 GPD	450 square feet

a. Refer to Figure 16 for a schematic and cross section of a rock plant filter with a sewerage system installation.

2. [Formerly paragraph A:9.9-3 of Appendix A] The rock plant filter (RPF) must be installed a minimum of 10 feet from any property line. In addition, the RPF location shall comply with the minimum distance requirements from water wells and suction lines, water pressure lines, etc., as contained in Parts XII and XIV of this Code.

3. [Formerly paragraph A:9.9-4 of Appendix A] If there is not sufficient grade to install the sewerage system and the Rock Plant Filter with gravity flow to the discharge point, then a pumping station in compliance with applicable provisions of this Part must be installed.

4. [Formerly paragraph A:9.9-5 of Appendix A] In order to prevent backflow, a backwater valve is required whenever the discharge line is less than 12 inches above the ditch flow-line.

5. [Formerly paragraph A:9.9-6 of Appendix A] Only a standard shape bed may be installed with a minimum width of 5 feet and of such length as to provide the required square footage.

6. [Formerly paragraph A:9.9-7 of Appendix A] Plans for any other configuration must be submitted for review and approval to the Sanitarian Regional Director.

7. [Formerly paragraph A:9.9-8 of Appendix A] A liner will be required when the ground water level is within 24 inches of the bottom of the trench.

8. [Formerly paragraph A:9.9-9 of Appendix A] The polyethylene liner may be of more than one layer provided a total thickness of 16 mil is achieved.

9. [Formerly paragraph A:9.9-10 of Appendix A] When a liner is not required, the use of landscape fabric is highly recommended to prevent weed intrusion.

10. [Formerly paragraph A:9.9-11 of Appendix A] The bottom of the bed must be level and be no deeper than 14 inches.

11. [Formerly paragraph A:9.9-12 of Appendix A] A depth of approximately 10 to 12 inches is best.

12. [Formerly paragraph A:9.9-13 of Appendix A] Gravel must be 2-3 inches in diameter and laid to a depth of 12 inches.

13. [Formerly paragraph A:9.9-14 of Appendix A] An 8-inch water level must be maintained. Gravel should fill the filter bed to above surface grade to prevent erosion.

14. [Formerly paragraph A:9.9-15 of Appendix A] The minimum 4-inch perforated inlet pipe must be located no closer than 4 inches from the bottom of the bed and supported by a footing of noncorrosive material, such as concrete or treated timber.

15. [Formerly paragraph A:9.9-16 of Appendix A] The inlet should extend no more than 2 feet into the rock plant bed and must be provided with a "Tee" (with ends capped) extending the width of the bed to within 1 foot of the side walls.

16. [Formerly paragraph A:9.9-17 of Appendix A] The outlet pipe shall also be set in a footing of noncorrosive material (concrete or treated timber) on the bottom of the bed with the same "Tee" and configuration. The outlet must be elbowed up and out (Figure 17).

17. [Formerly paragraph A:9.9-18 of Appendix A] Do not allow plants to grow within 3 feet of the inlet and outlet of the bed.

18. [Formerly paragraph A:9.9-19 of Appendix A] A levee support system around the perimeter of the filter should be constructed to exclude surface water. The use of landscape timbers for this purpose is acceptable. Other materials, such as concrete, can also be used.

C. [Formerly paragraph A:9.10-1 of Appendix A] Spray Irrigation. The spray irrigation system (Figure 18) uses an electric pump that distributes the effluent to the yard through sprinkler heads. It is highly recommended for spray irrigation effluent to be chlorinated in a contact chamber, sized according to §731(A), following the treatment unit and preceding discharge. At a predetermined level, a float switch activates a pump that forces the effluent through piping to pop-up or elevated rotating type sprinkler heads. Evaporation and soil infiltration of the dispersed effluent should prevent any run-off from occurring.

1. [Formerly paragraph A:9.10-2 of Appendix A] A pump station system must be sized according to use and comply with the applicable provisions of this Part.

2. [Formerly paragraph A:9.10-3 of Appendix A] The pressure pump must be a minimum of one-half horse power capable of producing a minimum flow of 12 gallons per minute and maintaining 25 pounds per square inch at all sprinkler heads.

3. [Formerly paragraph A:9.10-4 of Appendix A] The pump will be activated by a high/low water switch through an automatic on/off switch. The pump must be deactivated through a low-volume cut off switch.

4. [Formerly paragraph A:9.10-5 of Appendix A] A time cycle device may be used to allow for specific sprinkling times (e.g., nighttime, afternoon). The pump chamber must be of adequate liquid capacity to allow sufficient storage to accommodate the desired time settings.

5. [Formerly paragraph A:9.10-6 of Appendix A] A minimum of three 4-inch type sprinkler heads coded for wastewater effluent, spaced a minimum of 40 feet apart are required.

6. [Formerly paragraph A:9.10-7 of Appendix A] The spray irrigation sprinklers shall comply with American Society of Agricultural Engineers (ASAE) Standard S 398.1 (Procedure for Sprinkler Testing and Performance Reporting).

7. [Formerly paragraph A:9.10-8 of Appendix A] The slope of the land shall be such as to facilitate drainage away from any water well or well suction lines. The edge of the spray and its drainage must be a minimum of 50 feet from any private water well and its associated suction lines and 10 feet from any property line. The edge of the spray and its drainage shall be a minimum 100 foot from public any water supply well and its associated suction lines, if any. In addition, the edge of the spray and its drainage shall be a minimum of 25 feet from any potable water (pressure) lines. As contained in Parts XII and XIV of this Code.

8. [Formerly paragraph A:9.10-9 of Appendix A] Exceptions due to lot size, topography or other constraints may be authorized by the Sanitarian Parish Manager with written notification of such authorization to the Sanitarian Regional Director and a copy attached to the LHS-47.

D. [Formerly paragraph A:9.11-1 of Appendix A] Overland Flow. When the size of the property is 3 acres or more, an overland flow may be utilized (Figure 19).

1. [Formerly A:9.11-2 of Appendix A] The discharge through perforated pipe must be distributed in such a manner as to confine the effluent on the property owned by the generator.

2. [Formerly A:9.11-3 of Appendix A] The location of the overland discharge must have a permanent vegetative cover.

3. [Formerly A:9.11-4 of Appendix A] The slope of the land shall be such as to facilitate drainage away from any water well or well suction lines. The discharge point and the field of flow shall be a minimum of 50 feet from any private water well and its associated suction lines. The discharge point and the field of flow shall be a minimum 100 foot from public water supply wells and its associated suction lines, if any. In addition, the discharge point and the field of flow shall be a minimum of 25 feet from any potable water (pressure) lines. As contained in Parts XII and XIV of this Code.

4. [Formerly A:9.11-5 of Appendix A] A header should be used at the end of the discharge line to help disperse the effluent and to discourage channelization. The point of discharge must be such that there is at least a 200 foot flow of effluent over the property of the generator.

5. [Formerly A:9.11-6 of Appendix A] Construction of the system should be such that it is not closer than 20 feet from the property line.

E. [Formerly A:9.12 of Appendix A] Mound System Or Subsurface Drip Disposal (Figure 20; Figure 21). Either can be considered by DHH-OPH on a case to case basis. Plans and specifications must be submitted to DHH-OPH Engineering Services in consultation with the Sanitarian Regional Director for review and approval prior to construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1357 (June 2002).

Subchapter C. Licensing Procedures For Installers and Manufacturers of Individual Sewerage Systems [formerly Chapter 13 Sub-Part F]

§735. General Procedures [formerly paragraph 13:022-1]

A. Manufacturer License. A person who wishes to engage in the business or practice of constructing an Individual Mechanical Sewerage Treatment System, and who is responsible for having the system evaluated in compliance with §725.D of this Part, shall first obtain a license for each approved tested design of plant manufactured, from the state health officer.

B. [Formerly paragraph 13:022-2] Installer License. A person who wishes to perform installations or maintenance of individual sewerage systems shall first obtain the appropriate type of Individual Sewerage Installer License. Two types of licenses are offered:

1. A basic license for installation and maintenance of facilities other than individual mechanical plants, and;

2. A combination license which allows the installation and maintenance of individual mechanical plants as well. A combination license may be obtained only in conjunction with a basic license, and is considered to be a separate license.

C. [Formerly paragraph 13:022-3] Sub-Manufacturer License. A person or entity authorized by a licensed manufacturer to construct, or assemble individual sewerage systems, or any portion thereof, prior to offering such systems for installation in Louisiana, is required to obtain an Individual Sewerage System Sub-Manufacturer License.

D. [Formerly paragraph 13:022-4] Application. Applications for an Individual Sewerage System Installer and/or Maintenance Provider License, as well as for Individual Sewerage System Sub-Manufacturer License, may be obtained from the nearest Parish Health Unit. Applications, including any required endorsements or certifications, must be submitted to the Sanitarian Program Administrator-Individual Sewage, Sanitarian Services Section, Office of Public Health. All licenses shall be issued by this office upon successful fulfillment of all application requirements and completion of any required examination(s), and shall be valid throughout the entire state.

E. [Formerly paragraph 13:022-5] Renewal. All licenses expire on January 31 of each year. Applications for renewal including all required endorsements must be received no later than December 1 of each year in order to insure timely renewal. The renewal of a license will be withheld from any applicant who has not complied with the requirements of this Part.

F. [Formerly paragraph 13:022-6] Suspension or Revocation of License. In addition to other remedies provided for by law, a license may be suspended upon determination by the state health officer of non-compliance with the requirements of this Code. In the event of suspension, notice shall be given to the licensee having committed said violation(s) that his license has been suspended pending an Administrative Hearing in the matter to determine whether sufficient grounds for revocation exist.

F. [Formerly paragraph 13:022-7] Reinstatement of License. Upon revocation of a license, an installer, maintenance provider, manufacturer, or submanufacturer shall not be eligible for any license for a minimum period of two years from the date of revocation for cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1359 (June 2002).

§737. Installer/Maintenance Provider Qualifications [formerly paragraph 13:023-1]

A. For a basic license, the applicant shall submit, along with the license application and evidence of successful completion of an examination, an affidavit certifying that he has obtained, read, and understands the provisions of this Part of the Sanitary Code, including Chapter 7 Subchapter B of this Part, and the requirements for minimum distance to sources of contamination in Part XII and will make installations and/or provide maintenance in compliance therewith. Copies of a standard affidavit form and request for examination form may be obtained from any parish health unit.

B. For a combination license, the applicant shall submit, along with the license application and evidence of successful completion of an examination, an endorsement from the licensed manufacturer for the brand of plant he wishes to install and/or maintain, specifying that the applicant is qualified to install and/or maintain said plants, in compliance with the requirements of this Code. Applications will not be processed unless accompanied by the required endorsement.

C. All persons seeking to apply for a new license or renewal, must at their own expense, attend and successfully complete, a training course approved by the Sanitarian Services Section of the Office of Public Health, Department of Health and Hospitals as a prerequisite for licensure. This course will be offered at least once annually.

D. All licensees must successfully repeat this training course every five years.

E. A listing of training course dates, times and locations shall be maintained in the various regional offices by the Sanitarian Regional Directors.

F. In the event an approved training course is not available within 60 days, the Sanitarian Services Section may issue a temporary license provided the applicant meets all of the other requirements cited in this section and successfully completes an examination administered by the Sanitarian Regional Director. This temporary license shall terminate upon failure to attend the next available approved training course. Applicants who fail to attend the required training course shall not be issued another temporary license, but may reapply for a license upon successful completion of the required training course.

G. Applicants for an Installer/Maintenance Provider License shall submit, along with the license application, proof that they have secured, for at least the duration of the license, general liability insurance in an amount of no less than $100,000/$300,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1359 (June 2002).

§739. Sub-Manufacturer Qualifications
[formerly paragraph 13:023-2]

A. Applicants for a Sub-Manufacturer License shall submit, along with the license application, an endorsement from the manufacturer(s) for the brand(s) of plant(s) he wishes to construct, certifying that he is qualified to construct said plant(s) properly and in accordance with the requirements of this Code. Applications will not be processed unless accompanied by the required endorsement(s).

B. Applicants for a Sub-Manufacturer License shall submit, along with the license application, proof that they have secured, for at least the duration of the license, general liability insurance in an amount of no less than $100,000/$300,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1360 (June 2002).

§741. Manufacturer Qualifications
[formerly paragraph 13:023-3]

A. All licensed manufacturers must be in compliance with the requirements of §725.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1360 (June 2002).

Chapter 9. Sewage Hauling

§901. General Requirements
[formerly paragraph 13:019-1]

A. A person shall not engage in the business or practice of hauling the contents of septic tanks, cesspools, vaults, or similar facilities without first obtaining a license from the State Health Officer. Applications for a license to haul sewage may be obtained from the nearest parish health unit. Applications must be sent to the Sanitarian Program Administrator–Individual Sewage, Sanitarian Services Section. All licenses shall be issued by this office and shall be valid throughout the state.

B. [Formerly paragraph 13:019-2] All licenses expire on June 30 of each new year. Applications for renewal must be received no later than May 1of each year in order to insure timely renewal. Initial applications received between July 1 and March 30 will receive a license for that fiscal year (July 1 through June 30); those initial applications received after March 30 will receive a license for the remainder of that fiscal year in addition to the next fiscal year.

C. [Formerly paragraph 13:019-3] Upon determination by the state health officer of substantial non-compliance with the requirements of this Code with respect to the hauling and/or disposing of the contents of septic tanks, cesspools, vaults, or similar facilities, (not including grease traps), written notice, in compliance with LRS 49:961, shall be given to the licensee having made said violations that he shall, within 15 working days, present to the notifying office any and all evidence to show compliance with the requirements for retention of the license. In the absence of such evidence, the licensee shall be further notified that his license has been temporarily suspended pending a hearing in the matter to consider whether sufficient grounds for revocation of the license exist. The licensee shall be notified, in writing, of the date of the hearing within seven working days from the date of the Notice of Suspension. The date for such hearing shall be within 45 working days of the Notice of Suspension.

D. [Formerly paragraph 13:019-4] Upon revocation of a license, a hauler shall not be eligible to reapply for the same license for a period of two years from the date of revocation for cause.

E. [Formerly paragraph 13:019-5] Disposal of the contents of septic tanks, cesspools, vaults, or similar facilities shall be made in accordance with the arrangements, approved in the permit, for disposal at an approved sewage treatment facility. As a prerequisite to obtaining a license, evidence for such arrangements, including copies of any agreements with cooperating sewage treatment facilities, shall be submitted. The disposal of the contents of septic tanks, cesspools, vaults, or similar facilities into ditches, canals, rivers, lakes, pits, or other surface water courses is prohibited.

F. [Formerly paragraph 13:019-6] No person shall convey or cause to be conveyed through the streets, roads, or public waterways any contents from a septic tank, vault, cesspool, or privy, except in tight enclosed containers, so as not to be offensive to smell or injurious to health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1360 (June 2002).

Chapter 11. Non-Waterborne Systems

§1101. General Requirements [formerly paragraph 13:020-1]

A. Non-waterborne systems, such as a pit toilet (or privy), vault, pail, or chemical toilet, incinerator toilet or composting toilet may be used when the state health officer determines that it is impractical or undesirable, i.e., such as water under pressure is not available, either to connect to an existing community-type sewerage system as specified in §511.A or to construct or install a conventional septic tank system or individual mechanical plant and when in the opinion of the State Health Officer a non-waterborne system will function without creating a health hazard or nuisance.

B. [Formerly paragraph 13:020-2] Non-waterborne systems shall be located a safe distance from any well, spring or other source of water supply and, if possible, upon ground at a lower elevation. Such distances shall conform to the requirements of Part XII of this Code. In soil types or geological formations where sources of water supplies may be polluted, the state health officer may require the use of chemical toilets or concrete vaults in lieu of pit toilets.

C. [Formerly paragraph 13:020-3] Non-waterborne systems shall be properly maintained and operated. The following shall be considered defects in maintenance and operation of such installations:

1. evidence of caving around the edges of the pit;
2. signs of overflow or other evidence that the pit, vault, or pail is full;
3. evidence of light entering the pit except through the seat when the seat cover is raised;
4. seat cover not in place;
5. broken, perforated, or unscreened vent pipes;
6. uncleanliness of any kind in the toilet building.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1361 (June 2002).

Chapter 13. Special Applications [formerly Chapter 13 Sub-Part E]

§1301. General Requirements [formerly paragraph 13:021]

A. A number of unique or special situations pose certain problems with respect to sewage disposal. These atypical cases are dealt with as follows.

1. Apartment complexes, condominium complexes, hotels, motels, and other such complexes shall be connected to a community sewerage system. A commercial treatment facility shall be provided when no existing community sewerage system capable of accepting the additional loading exists.

2. Single commercial structures, where less than 1,500 gpd total flow is expected, and where the connection to a community sewerage system to serve other loading sources as well is not required, may utilize either an individual or commercial sewerage system, provided minimum lot size requirements for the use of individual sewerage systems are met.

a. a commercial treatment facility shall be installed for business establishments where the preparation of food and/or drink is the primary business activity.

3. Treatment facilities for very small trailer parks which contain five trailer spaces or less shall be sized at 400 gallons per day per trailer space.

4. Where a community sewerage system is not available, structures occupied three days per week or less, and located in a marsh/swamp area or over water, may utilize a limited use sewerage system comprised of the following:

a. a septic tank system consisting of three septic tanks in series (or an acceptable three-cell or three-compartment tank) followed by an automatic chlorination device/system. The first cell shall have a minimum liquid capacity of 500 gallons. The second and third cells shall each have a minimum liquid capacity of 250 gallons. Each of the three septic tanks (or each compartment of a three-cell tank) shall meet all design, material and construction requirements for septic tanks as described in §715 of this Part. In addition to the construction and material requirements in Chapter 7 Subchapter B, the following restrictions/exceptions shall also apply:

i. metal tanks shall not be used;

ii. the tank(s) shall be demonstrated to be water-tight;

iii. fiberglass tanks shall be adequately coated to prevent deterioration by ultraviolet light;

iv. where multiple-compartment single tanks are used, only one access opening, of 6-inch minimum diameter, per cell shall be required; and

v. tanks set below the normal high-water level, shall be anchored or otherwise secured against movement.

vi. the chlorination system shall be provided with a contact chamber of a minimum of 100 gallons, and shall be equipped with an automatic cutoff to prevent flow from the third septic tank/chamber if the chlorine supply is exhausted. Also, the effluent line from the chlorine contact tank shall be protected against entrance of small animals or other pests by use of a corrosion-resistant flap-type gate, screen, or other means approved by the state health officer.

5. Vessels. Vessels which are permanently moored shall be connected to an approved sewerage system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1361 (June 2002).

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Chapter 15. Sewage Loading Criteria
[formerly Chapter 13 Appendix B]

'1501. General Requirements

A. See Note (a)

Place	Loading	Daily Average Flow Gallons Per Day	Daily Average BOD_5 Pounds Per Day	Design Basis
Apartments		250	.425	one bedroom
		300	.52	two bedroom
		400	.68	three bedroom
Assembly	Note (b)	2	.0034	per seat
Bowling Alleys (no food service)	Note (b)	75	.13	per lane
Churches	Note (b)	5	.0088	per sanctuary seat
Churches (with permitted kitchens)	Note (c)	10	.017	per sanctuary seat
Country Clubs		50	.085	per member
Dance Halls	Note (b)	2	.0034	per person
Drive-In Theaters		5	.0085	per car space
Factories (no showers)		20	.051	per employee
Factories (with showers)		35	.06	per employee

Place	Loading	Daily Average Flow Gallons Per Day	Daily Average BOD_5 Pounds Per Day	Design Basis
Food Service Operations				
Ordinary Restaurant (not 24 hour)		35	.12	per seat
24-hour Restaurant		50	.17	per seat
Banquet Rooms		5	.017	per seat
Restaurant Along Freeway		100	.33	per seat
Curb Service (drive-in)		50	.17	per car space
Bar, Cocktail Lounges, Taverns				
(no food service or very little food service)		25	.084	per seat
(with regular food service)		35	.12	per seat
Video Poker Machine		100	.20	per machine
Fast Food Restaurants		40	.13	per seat

Place	Loading	Daily Average Flow Gallons Per Day	Daily Average BOD_5 Pounds Per Day	Design Basis
Hotel/Motel Food Service		45	.17	per room
Homes/ Mobile Homes in Subdivisions		400	.68	per dwelling
Individual Homes/Mobile Homes (where individual sewage technology is utilized. For each additional bedroom add 100 gpd)		250	.425	one bedroom
		300	.51	two bedrooms

		400	.68	three bedrooms
Hospitals (no resident personnel)	Note (c)	200	.51	per bed
Institutions (residents)	Note (c)	100	.25	per person
Municipalities		100	.17	per person

Place	Loading	Daily Average Flow Gallons Per Day	Daily Average BOD_5 Pounds Per Day	Design Basis
Mobile Home Parks				
up to 5 trailer spaces		400	.68	per mobile home space
6 trailer spaces or more		300	.51	per mobile home space
Motels	Note (b)	100	.12	per unit
Nursing and Rest Homes	Note (c)	100	.25	per patient
		100	.17	per resident employee
Office Buildings		20	.051	per employee
Recreational Vehicle Dumping Stations				Consult OPH
Recreational Vehicle Parks and Camps		125	.21	per trailer or tent space
Retail Store		20	.034	per employee
Schools - Elementary	Note (c)	15	.038	per pupil
Schools - High and Junior High	Note (c)	20	.051	per pupil

Place	Loading	Daily Average Flow Gallons Per Day	Daily Average BOD_5 Pounds Per Day	Design Basis
Retail Fuel Stations (Located on major highways, etc., and whose primary function is to provide fuel and service to motor vehicles)	Note (d)	250	.43	per individual vehicle fueling point (up to the first four)
		125	.21	for each additional individual vehicle fueling point
Shopping Centers (no food service or laundries		0.2	.00034	per square foot of floor space
Swimming Pool (including employees)		10	.017	per swimmer
Showers		20	.04	per shower

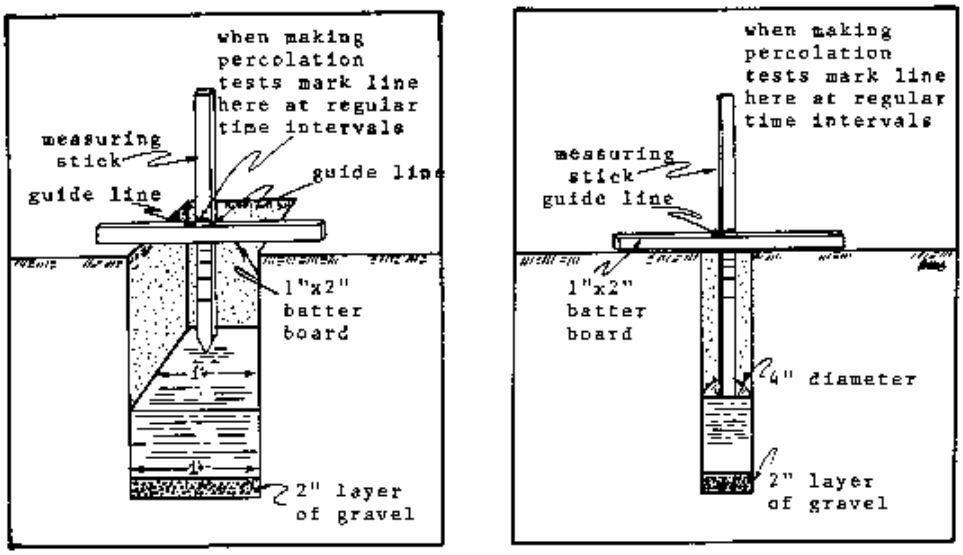
Place	Loading	Daily Average Flow Gallons Per Day	Daily Average BOD_5 Pounds Per Day	Design Basis
Vacation Cottages		50	.12	per person
Youth and Recreation Camps	Note (c)	50	.12	per person
Washing Machines		400	1.34	per machine

1. Note (a) If loading criteria other than presented here are used, they should be justified.
2. Note (b) Food Service waste not included.
3. Note (c) Food Service waste included but without garbage grinders
4. Note (d) Vehicle fueling points are an arrangement of gasoline or diesel fuel pumps to serve automobiles or other vehicles. For the purposes of these Guidelines, a vehicle fueling point is one that serves a vehicle at one time. Food service waste not included.

Note: Design calculations for sewage treatment facilities must be made based on both hydraulic loading(s) and organic loading(s). Final design of facility to be used upon the larger capacity (size) required by these calculations.

B. Figures

1. Methods of Making Percolation Tests



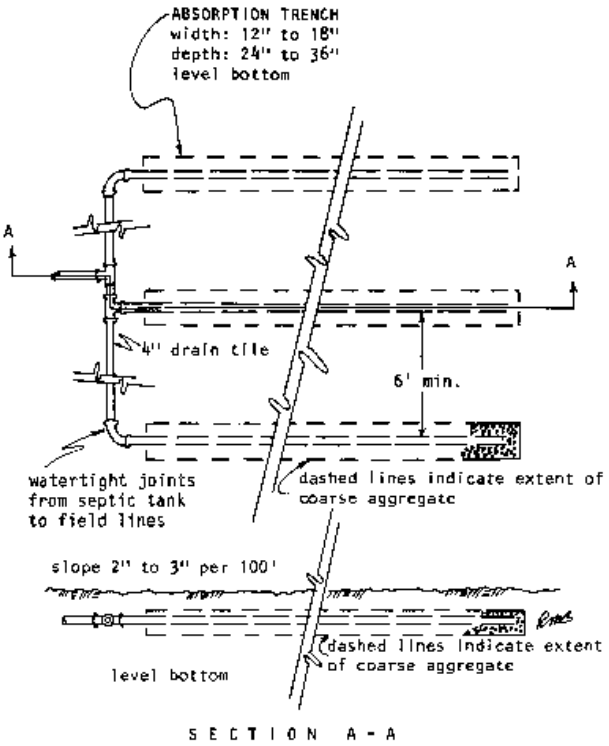
NOTE: 1. Leave batter board in place, being careful not to move it during tests.

2. Keep measuring stick within guide lines on batter board when each reading is taken.

FIGURE 1

METHODS OF MAKING PERCOLATION TESTS

2. Typical Layout of Absorption Trench

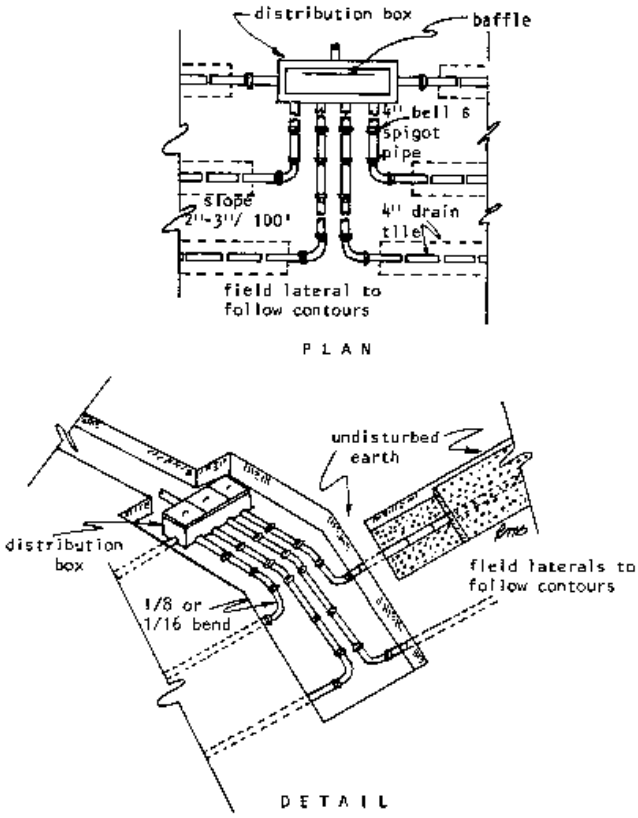


NOTE: See Figure 4 for additional details

FIGURE 2

TYPICAL LAYOUT OF ABSORPTION TRENCH

3. Absorption Field System for Sloping Ground

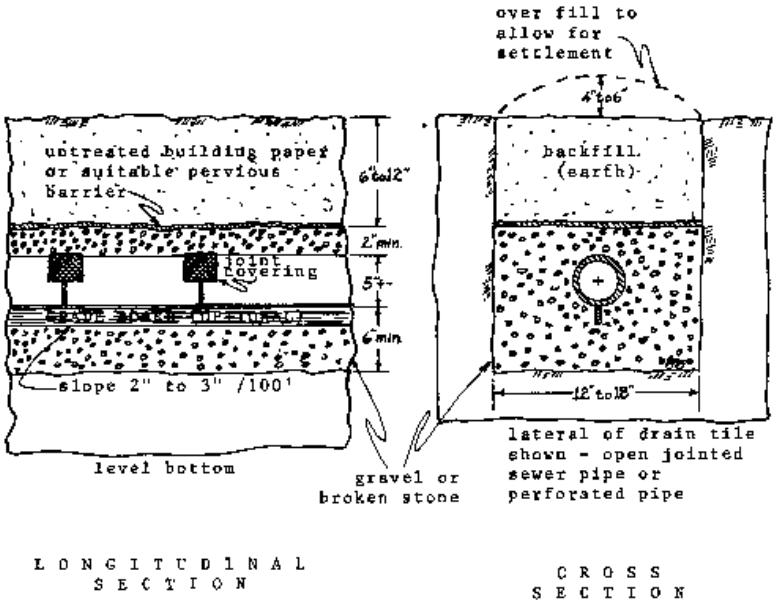


NOTE: See Figure 4 for additional details

FIGURE 3

ABSORPTION FIELD SYSTEM FOR SLOPING GROUND

4. Absorption Trench and Lateral Details



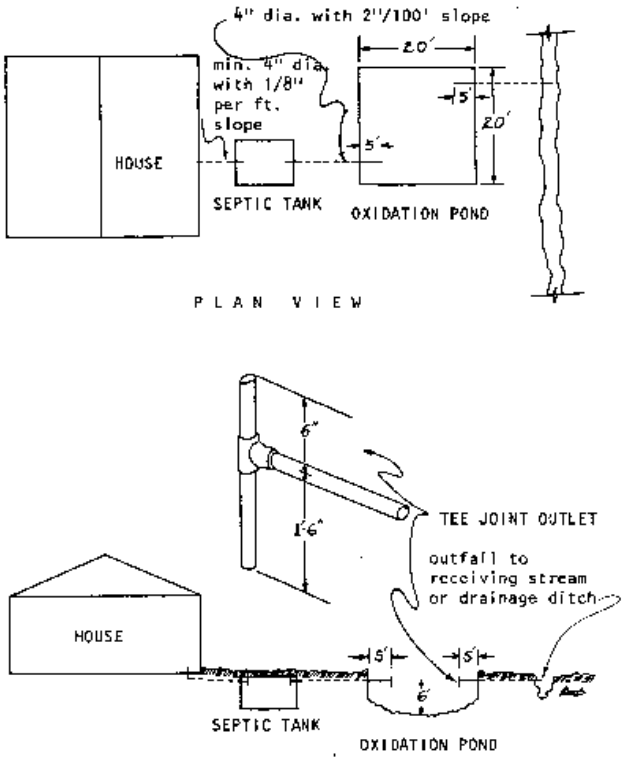
NOTES: 1. Drain tile laid with joints opened from ¼ to ½ inch. Special collars may be used if desired.

2. Asphaltic treated paper for joint covering.

FIGURE 4

ABSORPTION TRENCH AND LATERAL DETAILS

5. Typical Layout: Septic Tank/Oxidation Pond System



NOTES: 1. Pond must be enclosed by a suitable fence.
2. Outlet invert to be at same or lower elevation than inlet invert.
3. Pond water surface at least 2" below septic tank water surface.

FIGURE 5

TYPICAL LAYOUT: SEPTIC TANK/OXIDATION POND SYSTEM

6. Oxidation Pond Timber Retaining Mall Details

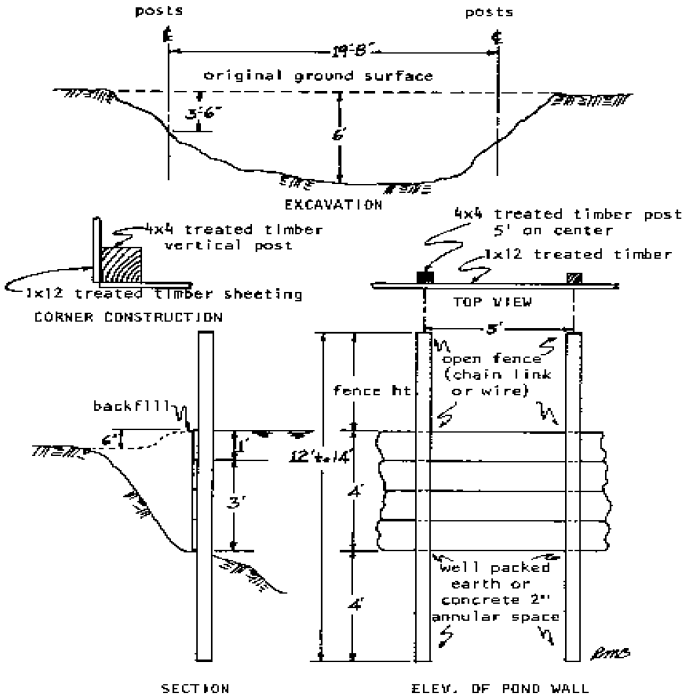


FIGURE 6
OXIDATION POND TIMBER RETAINING WALL DETAILS

7. Oxidation Pond Concrete Block retaining Wall Details

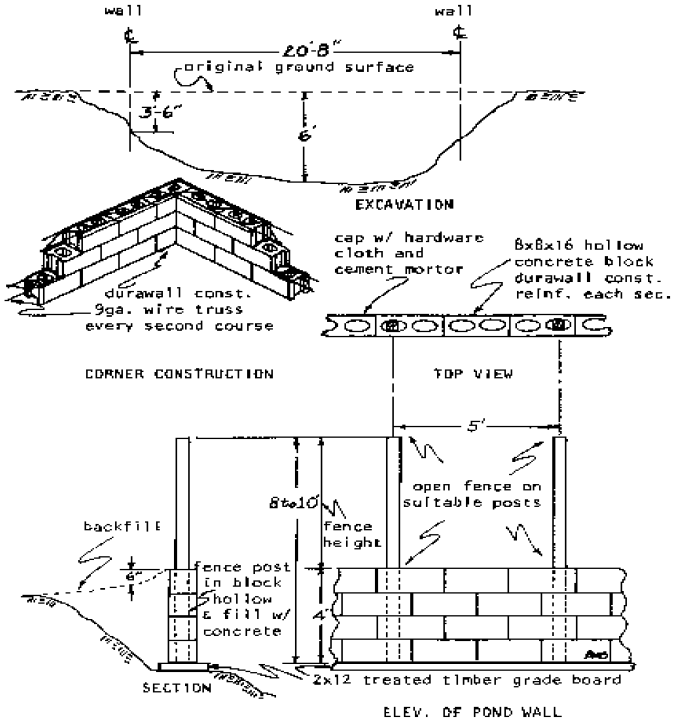


FIGURE 7

OXIDATION POND CONCRETE BLOCK RETAINING WALL DETAILS

8. Leveed Oxidation Pond

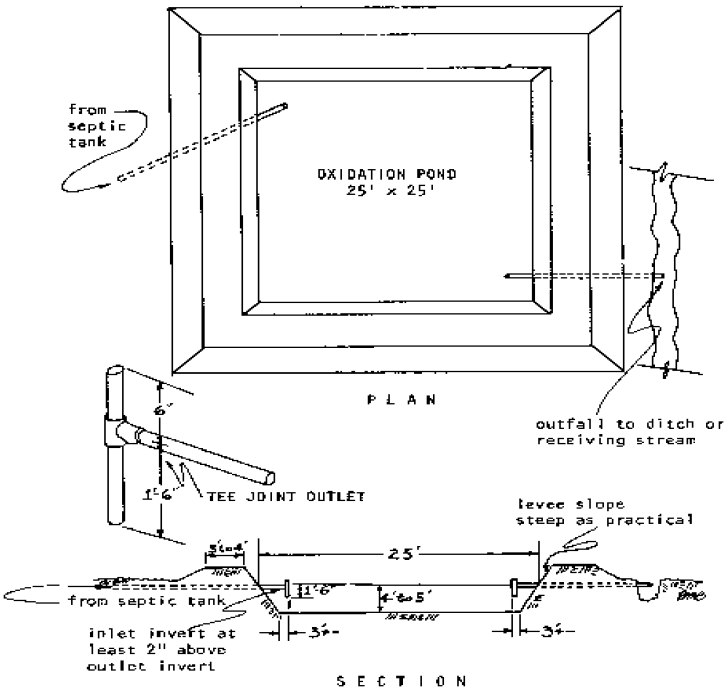
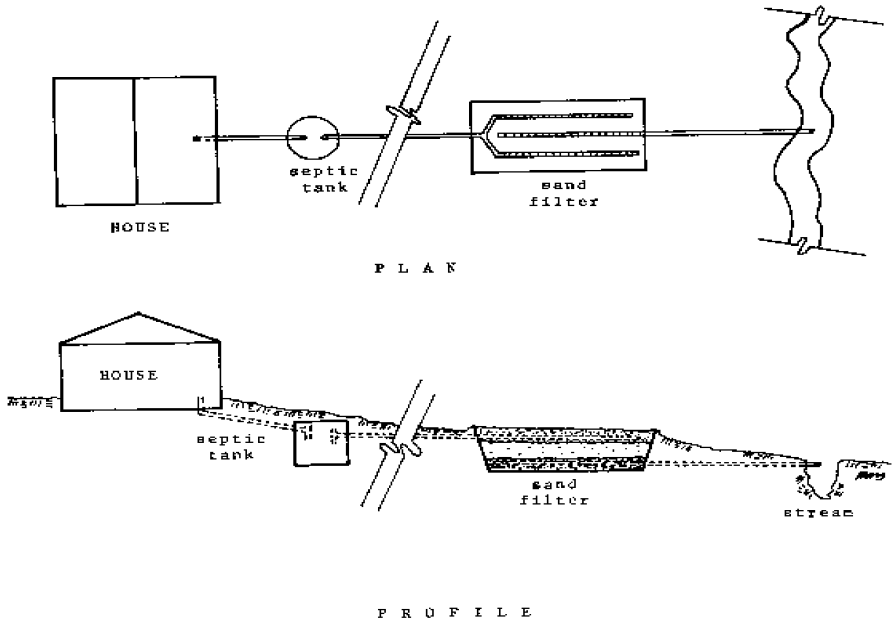


FIGURE 8
LEVEED OXIDATION POND

9. Typical Layout: Septic Tank/Sand Filter Bad System



NOTE: See Figure 10 for additional details

FIGURE 9
TYPICAL LAYOUT: SEPTIC TANK/SAND FILTER BED SYSTEM

10. Sand Filter Bed Details

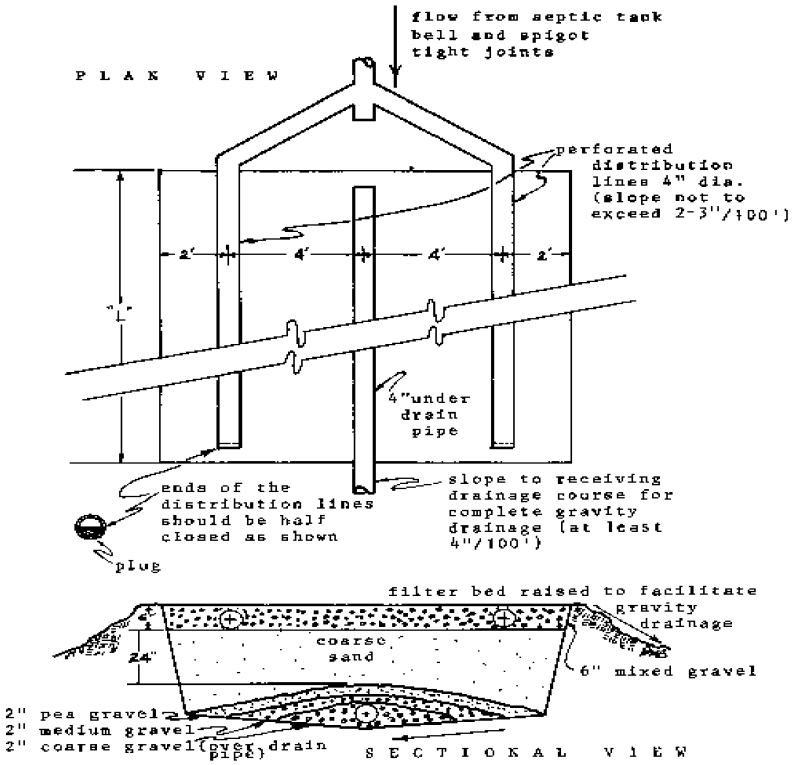


FIGURE 10
SAND FILTER BED DETAILS

11. Chlorinator

CHLORINATOR

STACK FEED CHLORINATORS

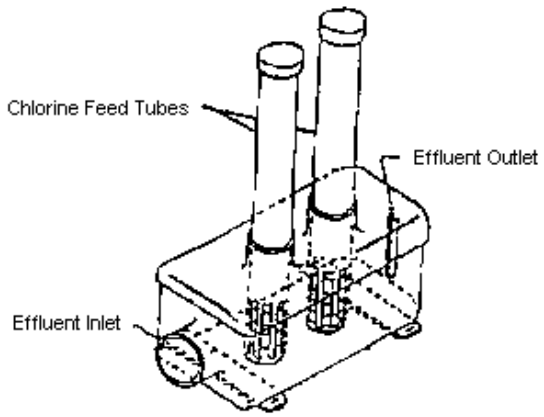


Figure 11

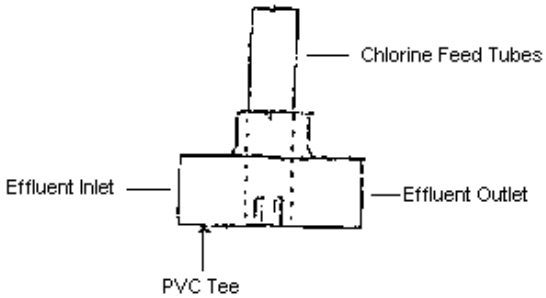


Figure 12

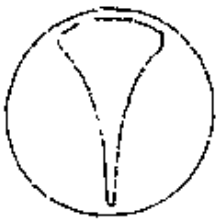


Figure 13

Chlorinators can be purchased premanufactured (as in Figure 11), or can be constructed onsite using the following minimum criteria - (Figure 12) Use a four-inch minimum PVC Tee with a restrictive insert (see Figure 13) to control the effluent flow. This allows the tablets to be contacted by the effluent in proportion to the amount of flow. The insert is cemented onto the PVC Tee with the restriction pointing down.

12. Effluent Reduction Tankage

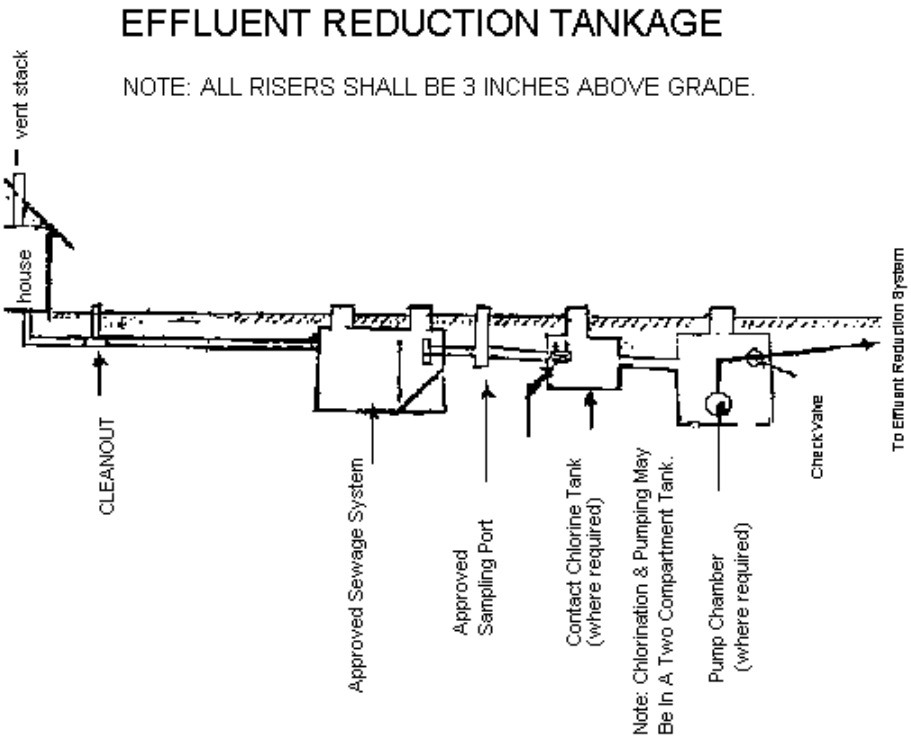


FIGURE 14

13. Effluent Reduction Field

EFFLUENT REDUCTION FIELD

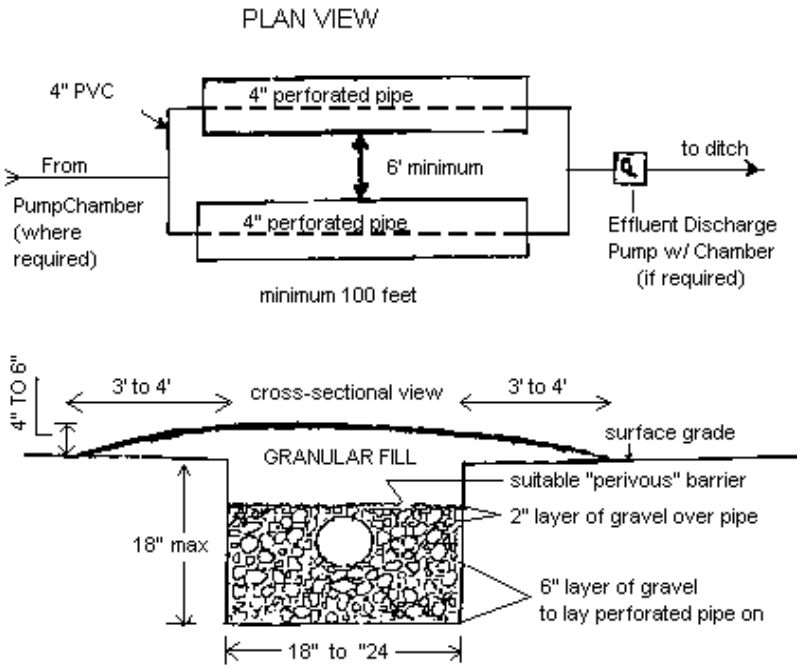
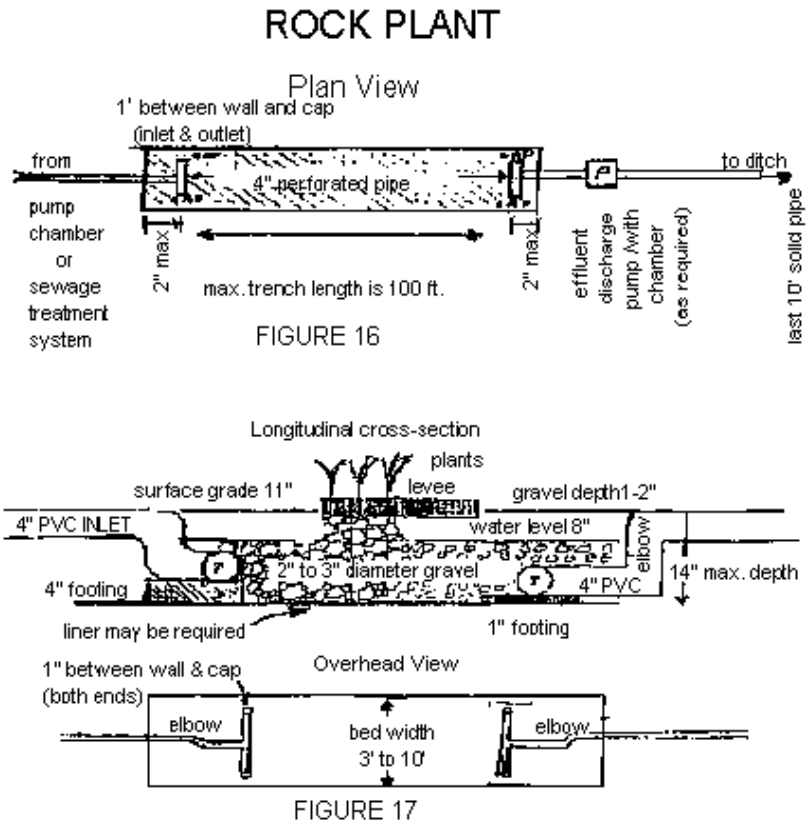


Figure 15

14. Rock Plant



15. Spray Irrigation Schematic

SPRAY IRRIGATION SCHEMATIC

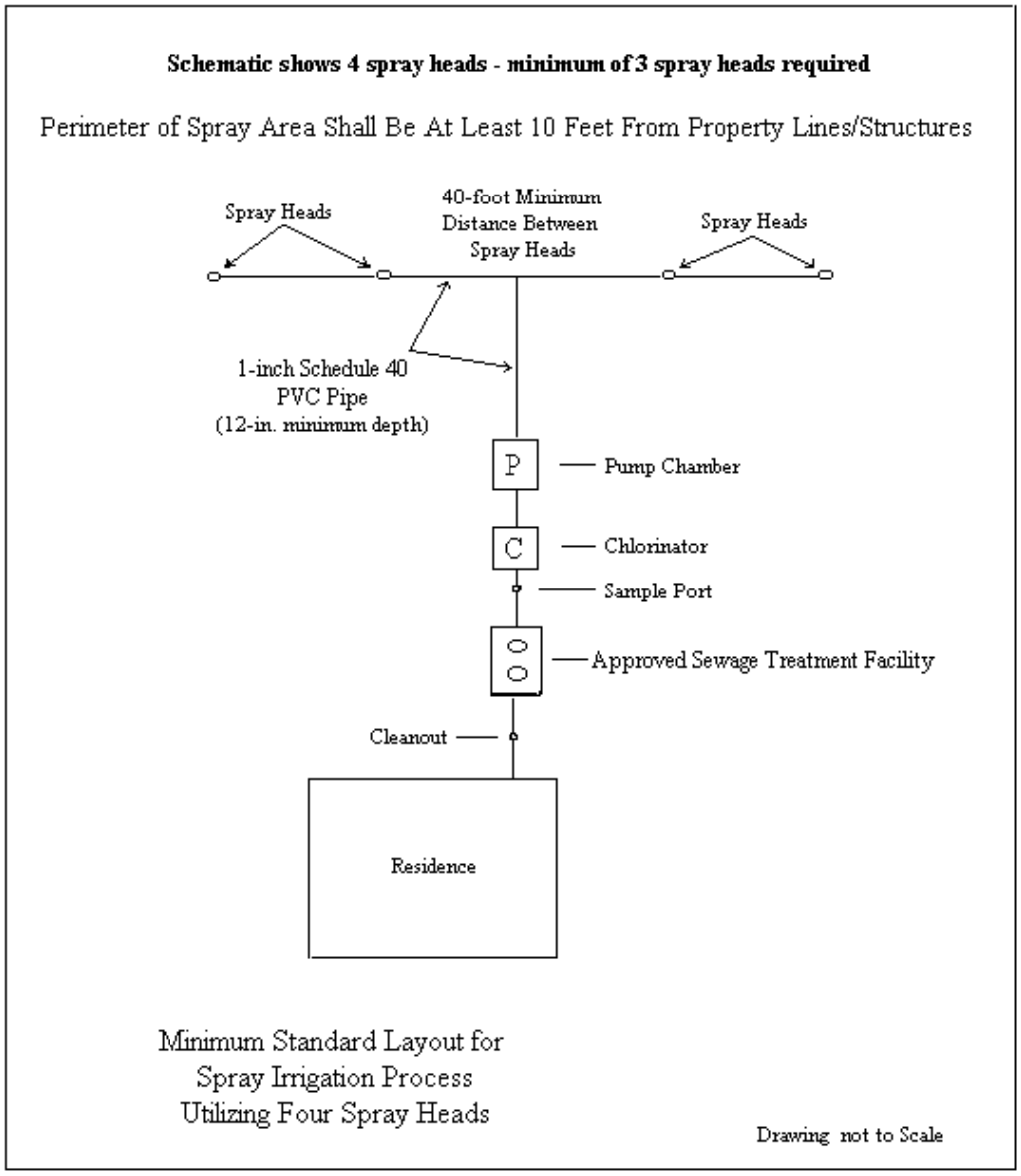


Figure 18

16. Overland Flow

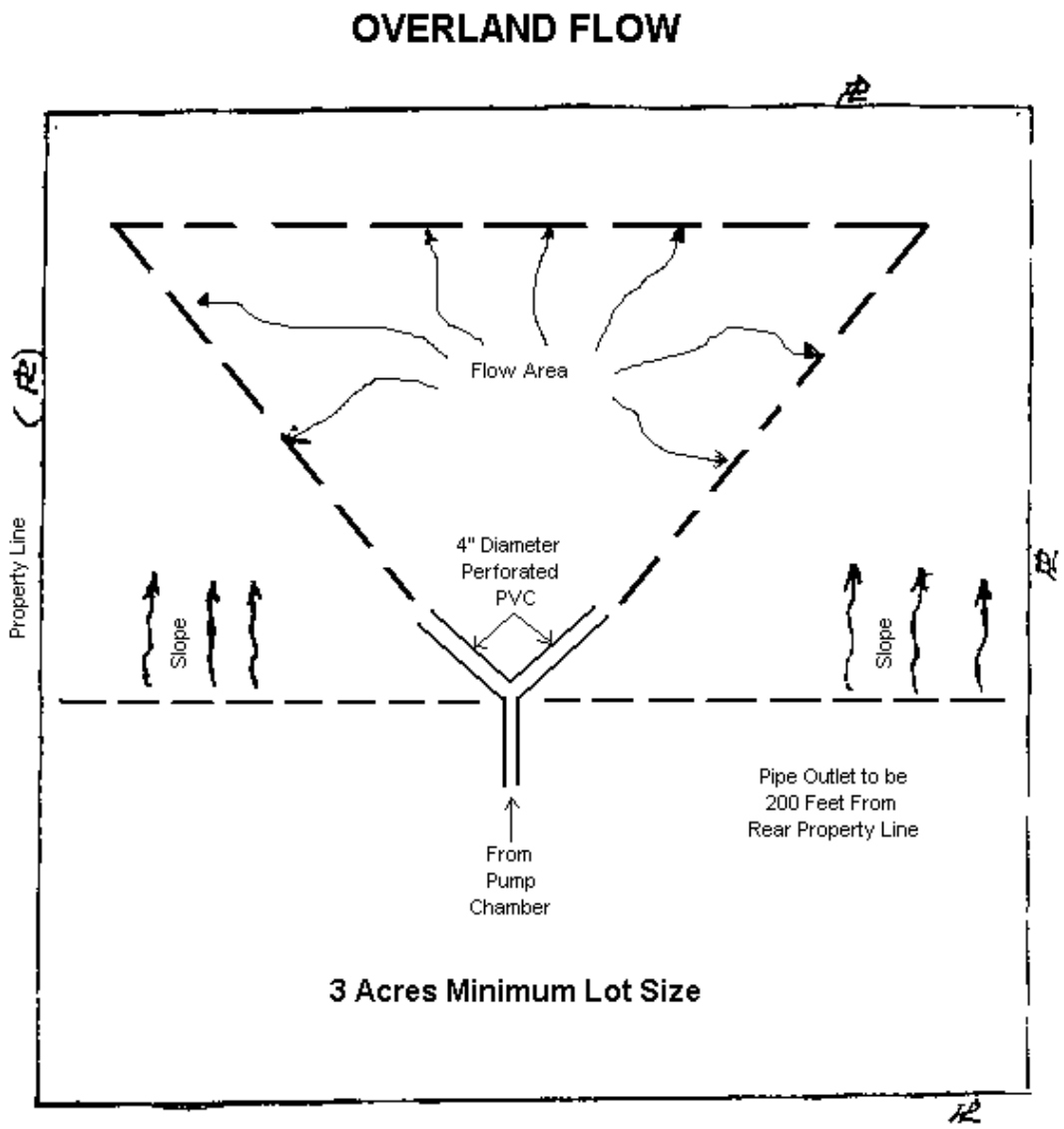
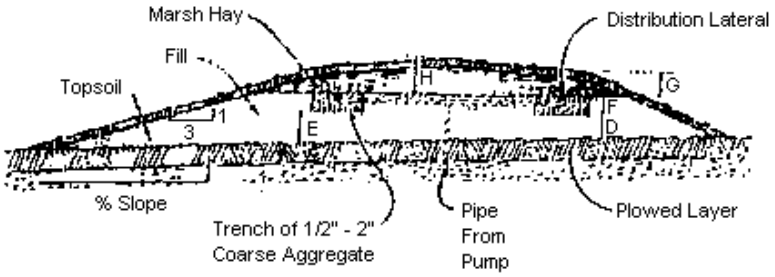


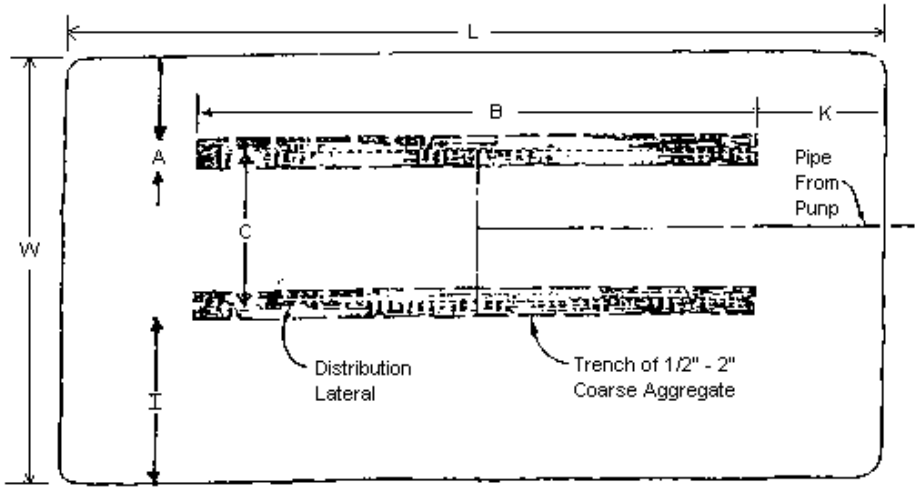
Figure 19

17. Mounds

MOUNDS



Cross Section of Mound System Using 2 Trenches for Absorption Area



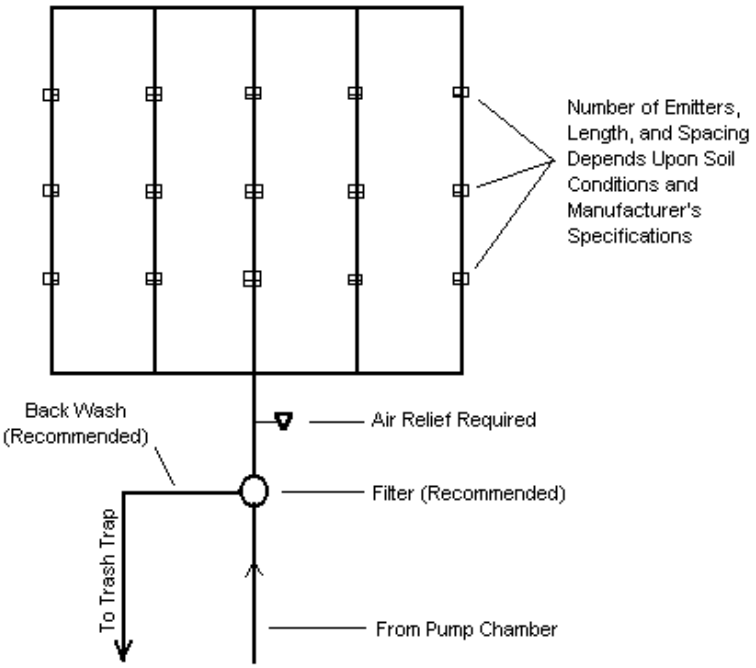
Plan View of Mound System Using 2 Trenches for Absorption Area

Figure 20

NOTE: MUST BE APPROVED BY OPH - ENGINEERING SERVICES
IN CONSULTATION WITH SANITARIAN REGIONAL DIRECTOR

18. Drip Disposal System

DRIP DISPOSAL SYSTEM

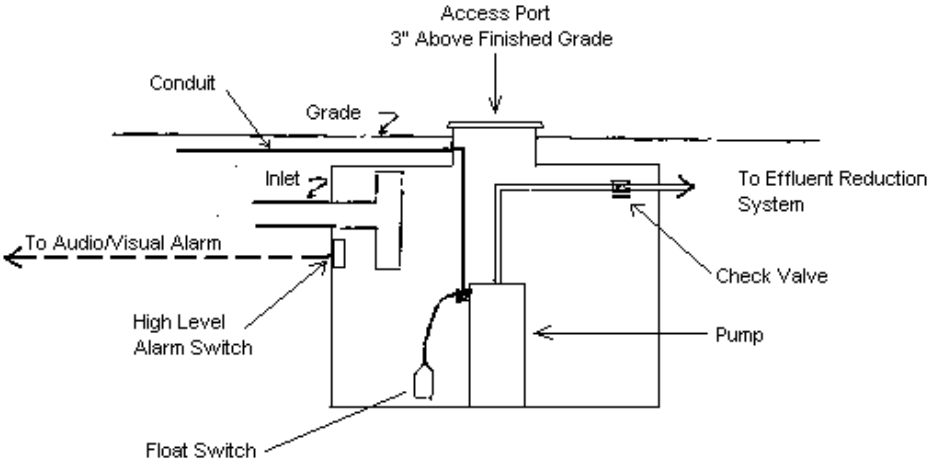


Line Depth - 6 inch Minimum to 18 inch Maximum
Line Separation - 2 foot Minimum

Figure 21

19. Pumping Chamber for Effluent Reduction

PUMPING CHAMBER FOR EFFLUENT REDUCTION



NOTE: Chlorination and Pumping May Be In A Two-Compartment Tank

Figure 22

Note: Figure 22 was inadvertently missing from the other figures published in the October 20, 2000 rule in the *Louisiana Register*. It is, therefore, not officially part of Part but is provided herein for informational purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1362 (June 2002).

Part XIV. Plumbing
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XIV	**Chapter XIV**
Chapter 1	
§101	14:001
§103	14:002
§105	14:003
§107	14:004

Part XIV. Plumbing

Chapter 1. General

§101. Adoption of Louisiana State Plumbing Code (LSPC) [formerly paragraph 14:001]

A. The Department of Health and Hospitals, Office of Public Health hereby adopts Part XIV (Plumbing) of the Sanitary Code, State of Louisiana to be comprised of the 1994 edition of the Standard Plumbing Code[8] as modified by the 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[8]. The 1994 Standard Plumbing Code[8] is a copyrighted document published by the Southern Building Code Congress International, Inc.(SBCCI) and is recognized as one of several national model plumbing codes. The SBCCI will incorporate the 1999 Louisiana Amendments into the text of their 1994 Standard Plumbing Code[8]. After the Office of Public Health has proofread and approved the combined document to ensure accuracy and consistency with the 1999 Louisiana Amendments, SBCCI will print a separate copyrighted document entitled the ALouisiana State Plumbing Code@. The ALouisiana State Plumbing Code@ shall be synonymous to APart XIV (Plumbing) of the Sanitary Code, State of Louisiana@.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1383 (June 2002).

§103. Availability [formerly paragraph 14:002]

A. Information concerning purchasing copies of the Louisiana State Plumbing Code may be obtained by contacting the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, (205) 591-1853 or by contacting the Chief Sanitarian, Office of Public Health, 6867 Bluebonnet Blvd. - Box 9, Baton Rouge, LA 70810, tel (225) 763-5553 or fax (225) 763-5552.

B. In addition, the Office of Public Health will purchase at least 33 copies of the Louisiana State Plumbing Code to be given to the Office of the State Library for distribution to various libraries designated as a recorder of state documents. Copies will be provided to the following libraries: LSU-BR, La Tech, UNO, LSU-Shreveport, McNeese, USL, NE La Univ., N.O. Public, NW La Univ., Nicholls, SE La Univ., Jefferson Parish Public (E & W), La College, Nunez Comm., Loyola, Southern-BR, Southern Univ. Law, SUNO, Shreve Memorial, Loyola Law, LSU Medical, Delgado, La Supreme Court, E.B.R. Public, Legislative Library, Grambling, Tulane, Library of Congress, State Library-BR, and the Recorder of State Documents in the Office of State Library. This will enable the general public to review and otherwise have accessibility to the document without the need to individually purchase a copy.

C. Copies of the Louisiana State Plumbing Code will also be provided to and may be reviewed (pursuant to a request to review public record) at the Office of Public Health=s Division of Environmental Health=s Central Office in Baton Rouge, any of the 9 Regional Engineering/Sanitarian offices, or any of the 64 Parish Health Unit sanitarian offices generally between the hours of 8:00 a.m. and 4:30 p.m. on regular work days.

AUTHORITY NOTE: Promulgated in accordance with the specific provisions of R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1383 (June 2002).

§105. Effective Date [formerly paragraph 14:003]

A. This rule shall become effective on October 20, 2000.

AUTHORITY NOTE: Promulgated in accordance with the specific provisions of R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1383 (June 2002).

§107. 1999 Louisiana Amendments [formerly paragraph 14:004]

A. The 1999 Louisiana Amendments to the 1994 Standard Plumbing Code[8] are attached as follows (numerical citations comport with 1994 Standard Plumbing Code[8] format).

1. These amendments can be viewed at any Office of Public Health regional office or at the Division of Environmental Health=s central office.

AUTHORITY NOTE: Promulgated in accordance with the specific provisions of R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1383 (June 2002).

Part XV. Hotels, Lodging Houses, Boarding Houses
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XV	**Chapter XV**
Chapter 1	
§101	15:001
§103	15:002 - 15:003
§105	15:004 - 15:006
§107	15:007 - 15:009
§109	15:010
§111	15:011
§113	15:012
§115	15:013
§117	15:014
§119	15:015
§121	15:016
§123	15:017
§125	15:018
§127	15:019
§129	15:020
§131	15:021-1 & 15:021-2

Part XV. Hotels, Lodging Houses, Boardi ng Houses

Chapter 1. General

§101. Definitions
[formerly paragraph 15:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted are defined for the purpose thereof as follows:

Boarding House—a building or group of buildings where persons are supplied with, and charged for, sleeping accommodations and meals for fixed periods of time.

Hotel—a building where transient guests are usually received without stipulated engagement as to the duration of their stay and are supplied with, and charged for, lodging or meals or both, and such services and attention as are necessarily incident to the use of such places as a temporary abode. This definition includes motels.

Lodging House—a building or group of buildings where persons are supplied with, and charged for , sleeping accommodations but not meals.

Proprietor—a person as defined in Part I, who owns or operates a hotel, lodging house or boarding house.

AUTHORITY NOTE: The first general authority for promulgation of the Sanitary Code is in R.S. 36:258 (B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R. S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1384 (June 2002).

§103. Permits
[formerly paragraph 15:002-1]

A. Any person operating a hotel, lodging house or boarding house must obtain a permit from the state health officer.

B. [Formerly paragraph 15:002-2] Such permits are non-transferable.

C. [Formerly paragraph 15:003] Any person constructing, expanding, or renovating a hotel, lodging house or boarding house shall submit plants to and acquire approval of the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1384 (June 2002).

§105. Water Supply
[formerly paragraph 15:004]

A. Enough potable water under pressure to supply a minimum of 50 gallons per person per day shall be provided for drinking, cooking and washing purposes. Water supplied to hotels, lodging houses and boarding houses shall conform to the requirements of Part XII of this Code.

B. [Formerly paragraph 15:005] Required Reports. Where a water treatment process is employed, accurate and complete daily reports on the report on the operation thereof shall be kept and submitted at monthly intervals to the state health officer in the parish in which the water supply is located, on a form prescribed by the state health officer.

1. [Formerly paragraph 15:006] Any failure of adequate treatment, change in treatment, process or equipment, or any change in source of water supply, shall be reported immediately to the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1384 (June 2002).

§107. Drinking Utensils
[formerly paragraph 15:007]:

A. Two types of drinking utensils are acceptable: single - service and multi-use. Single-service utensils are preferable. Multi-use utensils are acceptable, so long as they are washed, rinsed and sanitized between uses in accordance with Part XXIII of this Code.

B. [Formerly paragraph 15:008] Single-service utensils shall meet the requirements of §§2115, 2503, and 2517of Part XXIII of this Code.

C. [Formerly paragraph 15:009] The use of a communal drinking cup is prohibited. If drinking fountains are provided, they shall meet the requirements of 14:172 of Part XIV of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1384 (June 2002).

§109. Linen Requirements
[formerly paragraph 15:010]

A. Hotels, lodging houses, and boarding houses shall furnish each guest with clean bed linen and individual towels in each room occupied by such guest, and also in the public lavatories and wash rooms of such places. Clean sheets and pillow slips shall be provided for the bed, bunk, or cot to be occupied by such guest. Sheets shall be of sufficient width and length to completely cover the mattress and spring. At least one lavatory with a supply of soap shall be provided in each toilet room. Hotels should change all such linen daily. Lodging houses and boarding houses should change all such linen at least weekly. All towels, sheet and pillow slips used by one guest shall be washed, sanitized and dried before being furnished to another guest. The use of communal towels in public places is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1384 (June 2002).

§111. Eating and Beverage Facilities [formerly paragraph 15:011]

A. Eating and/or beverage facilities shall obtain a separate permit from the state health officer, having shown themselves to be in compliance with the appropriate Parts of this Code, viz. XII, XIII, XIV and XXIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§113. Swimming Facilities [formerly paragraph 15:012]

A. Swimming facilities shall meet the requirements of Part XXIV of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§115. Sewage Disposal [formerly paragraph 15:013]

A. Approved toilet and sewage disposal facilities shall be provided. Toilets, toilet rooms, and methods of sewage disposal shall conform to the requirements of Parts XIII and XIV of this code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§117. Garbage Disposal [formerly paragraph 15:014]

A. Garbage shall be deposited in watertight containers and either covered at all times or otherwise protected form animals, flies, and other insects. The contents shall be removed as often as necessary to prevent decomposition and overflow, and disposed of in accordance with the applicable regulations, including Part XIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§119. Employee Health [formerly paragraph 15:015]

A. The requirements of Part I, §117 and Part II, §501 shall be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§121. Dampness and Noxious Odors Prohibited [formerly paragraph 15:016]

A. No person shall rent, let, hire out, or allow to be used for a place of sleeping or residence, any portion or apartment of any building, wherein the floor is damp by reason of water from the ground, or which is impregnated or penetrated by an offensive gas or smell prejudicial to health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§123. Ice Requirements [formerly paragraph 15:017]

A. When ice is provided, it shall be of the same bacteriological quality as approved drinking water and shall be handled in compliance with §1907 of Part XXIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§125. Pest Control [formerly paragraph 15:018]

A. The walls, ceilings and floors throughout any hotel, lodging house or boarding house shall be kept clean, insect and rodent free (meeting the requirements of Part V of this Code) and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§127. Ventilation Requirements [formerly paragraph 15:019]

A. Sleeping rooms shall be ventilated by natural or artificial means or both, and also provided with heating facilities. The combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§129. Illumination Requirements [formerly paragraph 15:020]

A. All rooms shall be provided with adequate illumination to provide:

1. minimum of 10-foot candles in stairways and halls at an elevation 30 inches above the floor; and
2. a minimum of 30-foot candles over the areas used for sleeping, reading, cooking and bathing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

§131. Responsibility of the Proprietor [formerly paragraph 15:021-1]

A. It shall be the duty of the proprietor or person in charge of each establishment to which this Part applies to see that all regulations herein are observed.

B. [Formerly paragraph 15:021-2] The proprietors of all hotels, lodging housed and boarding housed shall keep a record of all guests, noting the name and address of each occupant; date of arrival; and date of departure. This record shall be open during normal operating hours to inspection by

the state health officer whenever there is a threat to the public health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(5) and R.S. 40: 5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1385 (June 2002).

Part XVI. Campsites
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XVI	**Chapter XVI**
Chapter 1	
§101	16:001
Chapter 3	
§301	16:002 & 16:003
Chapter 5	
§501	16:004 - 16:007 & 16:043
§503	16:008
Chapter 7	
§701	16:009
§703	16:010
§705	16:011
Chapter 9	
§901	16:012 - 16:024
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Part XVI. Campsites
Chapter I. General

§101. Definitions
[formerly paragraph 16:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Camp—any structure used temporarily or occasionally as a dwelling; not used as a residence.

Campsite—a parcel of land or place where cabins, cottages, huts, travel trailers and/or truck coaches or campers, mobile homes and/or trailers, tent campers, tents, and similar structures are erected, parked, maintained, when such place is designed to be used as a temporary abode for camping purposes. This definition includes, but is not limited to, any recreational, educational, tourist, sectarian, work lodging, squatter, or youth camps, and places where camping is allowed without benefit of habitational units, whether a fee is charged for the use thereof or not. This definition does not include private, single family camps.

Day Camp—an organized campsite that does not provide facilities for overnight use.

Comfort Station—a permanent or semi-permanent structure including at least a toilet and lavatory.

Disposal Site—a place or site in or on any camp where refuse materials are routinely disposed of by incineration, landfill, compost, or other disposal method approved by the Louisiana Department of Natural Resources.

Food Service Establishment—defined in Part XXIII of this Code.

Garbage—all putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, and all animal offal and carcasses of dead animals.

Mobile Home and/or Trailer—a unit used for living or sleeping purposes, equipped with wheels used for the purpose of transporting said unit from place to place whether by motor power or other means. (See "Travel Trailer")

Natural Swimming Area—all artificial and natural lakes, reservoirs, creeks, ponds, and streams, together with shores, associated buildings, equipment and appurtenances, if used by human beings for swimming or bathing purposes.

Permanent Structure—a building and appurtenance owned and/or operated by camp management for living, dining, sleeping, toilet, bathing, shelter, toolshed, storage, assembly, infirmary, or stable, so constructed as to be immovable and permanent.

Permit—a written document issued by the state health officer giving a designated person permission to operate a specific organized camp.

Permitive Camp—a campsite established for tent camping only, in which accommodations might only include toilet and refuse disposal facilities.

Resident Camp—a campsite where one or more permanent or semi-permanent structures are established or maintained as living or sleeping quarters with or without centralized food preparation and food service facilities.

Sanitary Stations—a sewage inlet with cover, surrounded by a concrete apron sloped inward to the drain, and watering facilities to permit periodic wash-down of the immediately adjacent area, to be used as a disposal point for the contents of sewage holding tanks of self-contained travel trailers and/or truck coaches or campers, mobile homes and/or trailers, and tent campers.

Semi-Permanent Structure—any building, tent, structure, or trailer and appurtenances owned and/or operated by camp management for sleeping, living, dining, toilet, bathing, kitchen, tool shed, storage, assemble, infirmary, or animal shelter, etc., so constructed as to be movable, and/or easily disassembled, and not permanent in nature.

Service Building—a permanent or semi-permanent structure of building, housing at least toilet, bathing, and lavatory facilities for both sexes.

Squatter—one who settles or locates on land without legal claim or without the expressed consent of the owner or person in charge of the land.

Tent Camper—any vehicular portable structure built on a chassis, designed as a temporary dwelling for travel, recreation, or vacation use, with or without kitchen equipment, toilet, and lavatory facilities constructed so that the sides and top may be raised an/or extended when parked and lowered and/or retracted while being transported.

Tent Camper Space—a plot of ground with a camp, marked and designated for the accommodation of one tent camper.

Tent Site—a plot of ground, within a campsite, marked and designed for the accommodation of one privately-owned tent.

Toilet—a water closet or privy.

Travel Trailer—a vehicular portable structure built on a chassis, designed as a temporary dwelling for travel, recreational, and vacation use and when equipped for the

road, body width not exceeding 8 feet and of any length provided the weight does not exceed 4,500 pounds, and of any weight provided the body length does not exceed 35 feet.

a. Self-Contained. Travel trailer having sleeping accommodations, kitchen sink, and other food preparation equipment, a water flushed or chemical toilet, lavatory and/or bathing facilities, and normally a sewage holding tank for retaining wastes.

b. Non Self-Contained. Travel trailer having sleeping accommodation usually kitchen facilities only and is dependent on a service building.

Travel Trailer Space—a plot of ground, within a camp, marked and designated for the accommodation of one travel trailer, mobile home, or mobile home trailer.

Truck Coach or Camper—a portable structure without chassis or wheels built for transport by truck, designed as a temporary dwelling for travel, recreation and vacation use.

a. Self-Contained. Truck coach or camper having sleeping accommodations, kitchen sink, and other food preparation equipment, water flushed or chemical toilet, lavatory and/or bathing facilities, and normally having a sewage holding tank for retaining liquid wastes.

b. Non Self-Contained. Truck coach or camper containing sleeping accommodations with or without sink and food preparation equipment, and dependent on a service building.

Truck Coach/Camper Space—a plot of ground, within a camp, marked and designated for the accommodation of one truck coach or truck camper.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(4) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1386 (June 2002).

Chapter 3. Plans Review

§301. New Construction or Major Alterations [formerly paragraph 16:002]

A. No new campsite shall hereafter be constructed nor shall major alterations be made to existing campsites without the prior written approval of, and unless in accordance with plans and specifications approved in advance by, the state health officer.

B. [Formerly paragraph 16:103] Said plans and specifications shall include, at least, the following:

1. a vicinity map showing the project location;
2. a plot plan showing:
   a. property lines;
   b. the location and width of roads;
   c. the number, location, and dimensions of all travel trailer spaces, tent camper spaces, and tent sites;
   d. the number, size, type, and location of all permanent and/or semi-permanent structures and facilities;
   e. the location of any water supply and sewage disposal system;
   f. the location of water and sewer lines;
3. plans and specifications for any sewage collection and/or treatment systems which must be in accordance with the requirements of Part XIII of this Code;
4. plans and specifications for any water supply systems, which must be in accordance with the requirements of Part XII of this Code;
5. plans and specifications for any swimming pool, which must be in accordance with the requirement of Part XXIV of this Code;
6. plans and specifications for any central food preparation and/or food service buildings, including kitchen floor plan, kitchen layout and type of equipment, dining area, rest room for kitchen workers, storage areas, and plumbing (including riser diagrams) which must be in accordance with the requirements of Part XIV of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(4) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1387 (June 2002).

Chapter 5. Permits and Inspections

§501. Requirements for Permits [formerly paragraph 16:004]

A. No person shall operate a campsite in Louisiana without first receiving approval from the state health officer. Such permit shall not be issued until all pertinent requirements of this Code are met.

B. [Formerly paragraph 16:005] The permit to operate a campsite shall expire on the first day of January next following the date of issue. The permit shall not be reissued if there are violations of this Code in the camp.

C. [Formerly paragraph 16:006] A permit may be revoked by the state health officer if he finds that the campsite for which the permit is issued, is operated, maintained, or occupied in violation of this Code. The permit shall be reissued when such violations are corrected.

D. [Formerly paragraph 16:007] Permits shall be conspicuously posted in the office of the campsite permitted and shall not be transferable from one person to another.

E. [Formerly paragraph 16:043] The state health officer may waive some of the requirements of this Part for primitive campsites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(4) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1387 (June 2002).

§503. Authority to Enter and Inspect Campsites [formerly paragraph 16:008]

A. The state health officer shall have authority to enter any campsite subject to the Code at any reasonable time for the purpose of inspection and enforcement of these regulations. The state health officer shall be given access to all parts of the establishment affected by this Code and be furnished any information necessary to make the inspection complete.

AUTHORITY NOTE: Except as may be limited by the provisions of R.S. 40:5 (21) and R.S. 40: 8 this Section is promulgated in accordance with R. S. 40:4(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1387 (June 2002).

Chapter 7. Location, Access, Water Supply and Swimming Facilities

§701. Location and Access [formerly paragraph 16:009]

A. Campsites shall be located on a well-graded and well-drained site, not subject to flooding, and so located that its drainage will not endanger any private or public water supply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(4) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1388 (June 2002).

§703. Water Supply [formerly paragraph 16:010]

A. Water supplies shall conform with the requirements of Part XII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(4) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1388 (June 2002).

§705. Swimming Facilities [formerly paragraph 16:011]

A. Where swimming facilities are provided, such as swimming pools or other types of swimming areas, they shall conform with the requirements of Part XXIV of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(4) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1388 (June 2002).

Chapter 9. Sleeping, Area, Grounds, Facilities and Maintenance of Campsites

§901. Campsite Requirements [formerly paragraph 16:012]

A. All permanent and/or semi-permanent structures (except tents and trailers) in any campsite shall be located such that the minimum distance between them is 40 feet. The minimum distance between any permanent and/or semi-permanent tent and/or trailer and any other such tent and/or trailer and/or between those and any other permanent and/or semi-permanent structure shall be 20 feet.

B. [Formerly paragraph 16:113] All living and/or sleeping quarters shall be structurally sound and shall provide protection to the occupants against the elements of the weather.

C. [Formerly paragraph 16:114] All living and/or sleeping quarters shall be properly ventilated by one or more methods including, but not limited to the following: windows, air conditioning, or forced air ventilation. Living and/or sleeping quarters which have no outside opening shall not be permitted in any campsite.

D. [Formerly paragraph 16:115] In all living and/or sleeping quarters the combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling and ventilating system shall be so designed, built, operated, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

E. [Formerly paragraph 16:116] All cooking stoves, heaters, heating systems, and other fired equipment shall be designed, built, operated, and maintained in accordance with the regulations of the Louisiana State Fire Marshal, State Office Building, Room 211, 325 Loyola Avenue, New Orleans, Louisiana 70112.

F. [Formerly paragraph 16:117] All campsites shall have each space and/or site for tents, travel trailers, truck coach or camper, sand tent campers clearly marked and designated.

G. [Formerly paragraph 16:118] In all campsites, all travel trailers, truck coaches or campers, mobile homes, and/or trailers, tent campers, and tent shall be located at least 20 feet apart.

H. [Formerly paragraph 16:119] Doubling or allowing more than one travel trailer, truck coach or camper, mobile home and/or trailer, tent camper, or tent per site at the same time is prohibited.

I. [Formerly paragraph 16:020] The number of sleepers per permanent structure of all camps shall be such that each sleeper is provided with at least 48 square feet or floor space.

J. [Formerly paragraph 16:021] Where electricity is provided, a minimum of 10-foot candles of lighting (measured 3 feet above the floor) shall be provided in all areas inside of all permanent or semi-permanent structures. Privies may be exempted from this requirement by the state health officer.

K. [Formerly paragraph 16:022] All permanent and semi-permanent structures used for living and/or sleeping purposes in all campsites shall be provided with cleanable walls, floors, and ceilings; and these shall be kept clean and in good repair at all times.

L. [Formerly paragraph 16:023] Unassigned

M. [Formerly paragraph 16:024] Food service operations, except individual or groups of individuals preparing their own meals, shall be operated in accordance with the regulations of Parts XXII and XXIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4(A)(4) and R. S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1388 (June 2002).

Chapter 11. Sanitary Toilet and Bathing Facilities at Campsites

§1101. Requirements for Toilets and Bathing Houses at Campsites [formerly paragraph 16:025]

A. Toilet, lavatory, and bathing (shower or tub) facilities shall be provided for all campers (persons), not living in self contained units, in accordance with the requirements of the following sub-paragraphs. Bathing facilities need not be provided in primitive camps or in day camps.

1. At least one water closet, toilet, pit privy, or chemical toilet shall be provided for each 15 persons or less, complete with sanitary toilet tissue. Pit privies and/or chemical toilets are not permitted if a camp or the actual inhabited area of a campsite is within 300 feet of a public line main or lateral. In such case plumbing fixtures shall be connected to the public sewer main or lateral, provided that such sewer main or lateral is adequate to serve such premises, and provided the property owner is legally entitled to make such a connection.

2. Urinals shall be provided at the rate of one for each male.

3. Separate bathing (shower) facilities, with hot and cold running water, shall be provided for male and female campers at the rate of one showerhead for each 15 persons of the same sex.

4. Hand-washing facilities with running water, soap, and sanitary towels, such as roll-type or single-service paper towels, or air dryers shall be provided in every toilet room. In areas where pit privies or chemical toilets may be the principal toilet facilities, hand-washing facilities consisting of cold running water and soap shall be provided outside the toilet facilities.

5. The use of common towels is prohibited.

B. [Formerly paragraph 16:026] Toilet rooms and bathing houses shall be located at a distance no greater than 200 feet away from all living and sleeping quarters.

C. [Formerly paragraph 16:027] The floors of toilet rooms and bathing housed shall be disinfected daily by the use of sanitizing solutions or equivalent bactericidal chemicals approved by the state health officer.

D. [Formerly paragraph 16:028] Pit privies shall be constructed to conform with the requirements of Part XIII of this Code.

E. [Formerly paragraph 16:029] Pit privies shall not be located within 100 feet of any kitchen, mess hall, or dining area.

F. [Formerly paragraph 16:030] All plumbing installations, including design, materials, construction, operation, and maintenance, shall be in accordance with the requirements of Part XIV of this Code.

G. [Formerly paragraph 16:031] The final disposition of all water borne human wastes, including but not limited to, those from restrooms, kitchens, lavatories, bathrooms, bath houses, toilets, urinals, showers, tubs, washing machines, and wash stands, shall be in accordance with the requirements of Part XIII of this Code.

H. [Formerly paragraph 16:032] All permanent and/or semi-permanent buildings, and all travel coaches and/or campers, mobile homes and/or trailers, and tent campers equipped with kitchens, baths, or toilet facilities shall be connected only to an approved sewerage system, designed, constructed, operated, and maintained in accordance with the requirements of Part XIV of this Code.

I. [Formerly paragraph 16:033] A sanitary station, meeting the requirements of the sate health officer, shall be provided in all campsites that accept self-contained travel trailers, truck coaches and/or campers, mobile homes and/or trailers, tent campers, or any other portable units which include a sewage holding tank.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4(A)(4) and R. S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1388 (June 2002).

Chapter 13. General Sanitary Requirements

§1301. Housekeeping [formerly paragraph 16:034]

A. All dwellings shall meet the requirements of Part V of this Code, shall be kept clean, free of insects and rodents, and well repaired. All outside openings shall be effectively screened against insects.

B. [Formerly paragraph 16:035] The entire premises of all camps shall be kept free of accumulations of refuse and debris.

C. [Formerly paragraph 16:036] All articles of bedding shall be kept clean and in good repair. Mattress covers shall be furnished in all sleeping quarters provided by the camp. When furnished by the camp, clean linen shall be provided to each occupant upon arrival and at least weekly thereafter.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4(A)(4) and R. S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1389 (June 2002).

§1303. Garbage and Refuse [formerly paragraph 16: 037]

A. Garbage and refuse shall be handled and disposed of in accordance with the requirements of the Louisiana Department of Natural Resources.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4(A)(4) and R. S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1389 (June 2002).

§1305. Disease Control [formerly paragraph 16:038]

A. Control of diseases shall be in accordance with the requirements of Part II of this Code.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4(A)(4) and R. S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1389 (June 2002).

§1307. Insects and Rodents [formerly paragraph 16:039]

A. Extermination methods used to control insects and rodents shall be in accordance with the regulations of the Louisiana Department of Agriculture, P.O. Box 16390-A, Baton Rouge, Louisiana 70893.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4(A)(4) and R. S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1389 (June 2002).

§1309. Other Animals [formerly paragraph 16:040]

A. No dogs cats, or other domestic animals shall be permitted to run at large within the limits of campgrounds.

B. [Formerly paragraph 16:041] It shall be the duty of the owner or person in charge of the camp to report, to the state health officer, bites to humans caused by dogs, cats, bats, or any other type of warm blooded domestic or wild animal.

C. [Formerly paragraph 16:042] Horses, dogs or other domestic animals or pets shall not be permitted in swimming areas or in areas used for waterfront activities.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4(A)(4) and R. S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1389 (June 2002).

Part XVII. Public Buildings, Schools and Other Institutions
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XVII	**Chapter XVII**
Chapter 1	
§101	17:001 - 17:004
§103	17:005 - 17:011
§105	17:012 - 17:014
§107	17:015 - 17:020
Chapter 3	
§301	17:021
§303	17:022 - 17:024
§305	17:025 - 17:027
Chapter 5	
§501	17:028

Part XVII. Public Buildings, Schools and Other Institutions

Chapter 1. General Requirements for Public Buildings

§101. Lighting, Heating, and Ventilation Requirements for Public Buildings [formerly paragraph 17:001]

A. Every public or government building in this state, including, but not limited to every school, kindergarten, nursery school, trade school, college, university, office building, store, commercial building, enclosed shopping center, theater, lecture hall, auditorium, hotel restaurant, boarding house, nursing home, hospital, airport building, bus depot, railroad depot, and other places where people congregate, shall be adequately lighted, heated, and ventilated, in accordance with the requirements of this chapter, and shall otherwise conform to all other requirements of this Part.

B. [Formerly paragraph 17:002] No person shall construct any new facilities for any state agency, or construct any new institutional buildings, or make major additions or alterations to such existing facilities, until plans and specifications therefore have been submitted to, and approved in writing by, the state health officer. Institutions include, but are not limited to the following (whether public or private): schools, kindergartens, nursery schools, trade schools, colleges, universities, hospitals, nursing homes, jails, and mortuaries.

C. [Formerly paragraph 17:03] Every indoor area traversed by people, including halls, stairways, and toilet rooms, shall have a minimum of 10-foot candles of illumination measured at a level 3 feet above the floor.

D. [Formerly paragraph 17:004] The combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002).

§103. Drinking Water Provisions [formerly paragraph 17:005]

A. Drinking water, processed in accordance with Part XII of this Code, shall be made available to all occupants of all public buildings.

B. [Formerly paragraph 17:006] Drinking fountains, shall be provided in public buildings and institutions in the quantities shown in Table 407 of the Louisiana State Plumbing Code (LSPC) as published October 2000. Said drinking fountains shall be constructed and installed in accordance with the requirements of 409.2 of the LSPC.

C. [Formerly paragraph 17:007] Unassigned

D. [Formerly paragraph 17:008] The use of receptacles for handling and storing drinking water other than bottled water approved by the state health officer is prohibited, except in emergencies, as approved by the state health officer.

E. [Formerly paragraph 17:009] Drinking utensils. Two types of drinking utensils are acceptable: Single-Service and multi-use. Single-service utensils are preferable, but multi-use are acceptable so long as they are washed, rinsed and sanitized between uses in accordance with Part XIV of this Code.

F. [Formerly paragraph 17:010] Single service utensils shall meet the requirements of §§2115, 2503, and 2517 of Part XXIII of this Code.

G. [Formerly paragraph 17:011] The use of a drinking cup in common is prohibited. If drinking fountains are provided, they shall meet the requirements of 409.2 of the LSPC.

AUTHORITY NOTE: Promulgated in accordance with RS. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002).

§105. Sewage Disposal Requirements [formerly paragraph 17:012]

A. All public buildings shall be provided with sewage disposal facilities in compliance with the provisions of Part XIII of this Code. Where an approved public sewerage system is available, the building shall be connected to it in compliance with §305 of Part XIII of this Code, provided the property owner is legally entitled to make such a connection. Where a public sewerage system is not available, disposal shall be into a private system which meets the requirements of Part XIV of this Code.

B. [Formerly paragraph 17:013] Toilet rooms shall be provided in all public buildings for use by the general public. Facilities for hand-washing and cleaning purposes shall be located in these places and shall be provided with soap, towels, and toilet paper. In addition, said toilet rooms shall meet the requirements of the following sections, and those of Parts XIII and XIV of this Code. Showers, if provided, shall meet the requirements of Part XIV of this Code.

C. [Formerly paragraph 17:014] The site of all public buildings shall be well drained, such that no waste or stagnant water will collect, in accordance with the provisions of Part XIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1390 (June 2002).

§107. Housekeeping Requirements [formerly paragraph 17:015]

A. Public buildings shall be kept clean. Sweeping and mopping should be done when the building is free of occupants, if possible. Sweeping shall be done in such a manner as to minimize the spread of dust. Mops shall be cleaned after use and before storage in a well ventilated area.

B. [Formerly paragraph 17:016] No feather dusting, or other types of dry dusting are allowable, however vacuum cleaners may be used.

C. [Formerly paragraph 17:017] No absorbent floor covering shall be used in assembly halls, dining rooms, halls and stairways. Any carpeting installed in such areas shall be made of nonabsorbent fibers.

D. [Formerly paragraph 17:018] Garbage and trash shall not be allowed to accumulate anywhere on the premises except in containers designed and maintained in accordance with Part XIII of this Code. Garbage may be disposed in a grinder of disposer if the sewage treatment system to which it is connected meets the requirements of this Code and is of adequate size to handle the load. Otherwise garbage and other discarded putrescible materials shall be stored in impervious cans with tight fitting covers. Oily rags and other materials subject to spontaneous combustion shall be stored in tightly covered metal containers. Other trash shall be stored in non-combustible containers.

E. [Formerly paragraph 17:019] Garbage cans shall be washed at the end of each day=s use, or more often if residues accumulate or odors become offensive. Said washing shall be done on a concrete or other impervious surface sloping toward a drain so that none of the wash water escapes the controlled area. Said drain shall be equipped with a strainer and shall be connected to a sanitary sewage treatment system which meets the requirements of Part XIII of this Code.

F. [Formerly paragraph 17:020] Spitting in or about any public building is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002).

Chapter 3. Special Sanitary Requirements for Schools and Other Institutions

§301. Toilet Rooms in Schools and Other Institutions [formerly paragraph 17:021]

A. For primary schools, and other special types of institutions, with classrooms, for normal children through 12 years of age, separate boys= and girls= toilet room doors shall not be further than 200 feet from any classroom doors. In multi-storied buildings, there shall be boys= and girls= toilet rooms on each floor, having the number of plumbing fixtures as specified in Part XIV of this Code for the classroom population of that floor. For secondary schools, and other special types of institutions with classrooms, for normal persons of secondary school age, separate boys= and girls= toilet room doors shall not be further than 400 feet from any classroom door.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002).

§303. School Lunchrooms [formerly par agraph 17:022]

A. All school lunch rooms shall comply with the general sanitary requirements for public eating places as specified in Part XXIII of this Code.

B. [Formerly paragraph 17:023] Single service utensils, made of paper or approved plastic, shall be used in school lunchrooms whenever equipment is deemed inadequate by the state health officer to provide proper sterilization for multiple service utensils.

C. [Formerly paragraph 17:024] In all primary schools and in other special types of institutions with classrooms, for normal children through 12 years of age, hand-washing facilities shall not be further than 50 feet from the lunch room or cafeteria. Said facility shall be provided with hot and cold running water in mixing faucets, soap or hand detergent, and individual towels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002).

§305. Space and Lighting Re quirements for Classrooms [formerly paragraph 17:025]

A. In all schools, and in other special types of institutions with classrooms, a minimum of 20 square feet of floor space shall be provided in every classroom for each student.

B. [Formerly paragraph 17:026] In all schools, and in other special types of institutions with classrooms, for normal persons, artificial lighting shall be provided in all classrooms, with a minimum level of illumination of 50 foot candles on the desks throughout the room. The light sources shall be so arranged as to distribute light uniformly and to avoid glare. The artificial lighting luminaries shall provide a Avisual comfort probability@ (VCP) of not less than 70 in the room. (The VCP is the number obtained using a rating system developed by the Illuminating Engineering Society of North America and European Counterparts to predict the degree of freedom from the discomfort due to glare in the lighting installation.) The ratio of maximum-to-average luminance of the lighting fixtures shall not exceed five to one in the zone 45 degrees to 85 degrees from nadir crosswise and lengthwise. (Note: These requirements assume walls and ceilings to be provided with matte finishes of white or light colors with walls having reflectance of at least 40 percent and ceilings at least 75 percent.)

C. [Formerly paragraph 17:027] The following amount of illumination (artificial light) shall be considered as minimum requirements:

Location	Amount of Light (foot-candles)
Classrooms—on desk and blackboards, study halls, lecture rooms, library desks and tables	50
Office of desks	50
Sewing rooms, drafting rooms, art rooms and other rooms where fine detail work is to be done—on the work	50
Shops, laboratories—on the work	50
Gymnasiums—main exercising floor, wrestling, playrooms, swimming pools, basketball, handball, boxing - three feet above the floor	30
Kitchen, not used for classrooms—at counter level	30
Auditorium, assembly rooms, cafeterias and other similar rooms not used for study—three feet above the floor	10
Locker rooms, corridors, stairs, passageways, toilet and all other indoor areas traversed by students—three feet above the floor	10

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1391 (June 2002).

Chapter 5. Health Requirements for Schools

§501. Employee Health and Student Health [formerly paragraph 17:028]

A. The requirements of Part 1, §117 and Part II, §§111 and 503 shall be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1392 (June 2002).

Part XVIII. Jails, Prisons and Other Institutions of Detention or Incarceration

Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XVIII	**Chapter XVIII**
Chapter 1	
§101	18:001 - 18016
§103	18:017 - 18:020

Part XVIII. Jails, Prisons and Other Institutions of Detention or Incarceration

Chapter 1. General Requirements

§101. Construction Requirements [formerly paragraph 18:001]

A. No new jails, prisons or other institutions of detention or incarceration shall hereafter be constructed nor shall major alterations be made to existing jails, prisons or other institutions of detention or incarceration without the prior written approval of, and unless in accordance with plans and specifications approved in advance by, the state health officer.

B. [Formerly paragraph 18:002] All buildings shall be of sound construction. A finish that is easily cleaned shall be applied to all walls, floors, and ceilings.

C. [Formerly paragraph 18:003] All facilities shall be connected to a potable water supply designed, constructed, operated, and maintained in accordance with the provisions of Part XII of this Code.

D. [Formerly paragraph 18:004] All facilities shall be connected to a sewage treatment system designed, constructed, operated, and maintained in accordance with the provision of Part XIII of this Code.

E. [Formerly paragraph 18:005] All plumbing shall be in accordance with the provisions of Part XIV of this Code.

F. [Formerly paragraph 18:006] Running potable water, for drinking purposes, shall be available to each cell and cell block area.

G. [Formerly paragraph 18:007] New construction and renovation shall provide hand washing lavatories, with hot water (not to exceed 110E Fahrenheit) and cold water, delivered through a mixing faucet, in each cell and cell block area except in padded cells.

H. [Formerly paragraph 18:008] New construction and renovations shall provide toilets conforming to the requirements of Part XIV in each cell and cell block area. When prisoners are not allowed free access to the cell block area, a toilet shall be provided in each cell. Padded cells are exempt from this provision.

I. [Formerly paragraph 18:009] Showers, tubs or other bathing facilities, with hot and cold water delivered through a mixing faucet, shall be available to all inmates and shall meet the requirements of Part XIV.

J. [Formerly paragraph 18:010] When inmates are housed in dormitories, sanitary facilities, meeting the requirements of Part XIV shall be provided in accordance with the following.

Toilets	Urinals*	Lavatories	Bathing Facilities (Showers, Tubs, etc.)	Drinking Fountains
1 for each 20 males inmates 1 for each 14 female inmates	1-30 1 31-50 2 51-100 3 101-150 4 over 150 for each additional 50 inmates	1 for each 16	**1 for 20	1 for 75
		Space between Beds min. of 28 inches vertically and horizontally for all new construction, renovation and replacement.		

1. * Only for facilities housing males. Trough urinals may not be used in new construction or renovation
2. ** The state health officer will consider written appeals based on unusual program schedules.

K. [Formerly paragraph 18:011] If visitor waiting rooms are provided, a toilet and lavatory shall be provided in a room separate from cell block facilities.

L. [Formerly paragraph 18:012] For all new construction or renovation, a minimum of 48 square feet of floor space shall be provided for each prisoner where he or she is confined for 72 hours or over in any one area at a time.

M. [Formerly paragraph 18:013] There shall be a minimum spacing of 28 inches, horizontally in all directions and vertically, between all beds which are not separated by walls or approved solid partitions.

N. [Formerly paragraph 18:014] All indoor area inhabited or traversed by people shall have a minimum of 20-foot candles of illumination measured at a level 3 feet above the floor.

O. [Formerly paragraph 18:015] Forced ventilation approved by the state health officer shall be provided throughout all areas. The combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space

from which combustion air is drawn does not become negative with respect to the atmosphere.

P. [Formerly paragraph 18:016] All openings to the outer air shall be protected against the entrance of flies, mosquitoes, rodents, and other insects and vermin by self-closing doors, closed windows, screening, controlled air currents or other approved means, and shall meet the requirements of Part V of this Code.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1392 (June 2002).

§103. Operations and Maintenance [formerly 18:017]

A. All facilities and fixtures shall be maintained in a clean condition at all times.

B. [Formerly paragraph 18:018] Beds, pillows, sheets and pillow cases, if provided, and other bedding, shall be maintained in good repair and in clean condition at all times. Either fixed or removable impervious covers or removable cloth covers, which are maintained in good repair and kept clean, shall be provided for all mattresses and pillows.

C. [Formerly paragraph 18:019[All food must be prepared in a kitchen that possesses a valid "Permit to Operate" issued by the state health officer. Food transported from a kitchen area or dining hall to other areas shall be transported in accordance with the requirements of Part XXIII.

D. [Formerly paragraph 18:020] An isolation cell shall be provided for any prisoner with communicable disease when isolation is deemed necessary by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1393 (June 2002).

Part XIX. Ambulatory Surgical Centers Renal Dialysis Centers Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XIX	**Chapter XIX**
Chapter 1	
§101	19:001
§103	19:002 & 19:005 - 19:008
Chapter 3	
§301	19:003 - 19:004 & 19:009 - 19:012
§303	19:013 - 19:014
§305	19:015 - 19:018
§307	19:019 - 19:023
§309	19:024 - 19:026
§311	19:027 - 19:028
§313	19:029 - 19:035
§315	19:036 - 19:039
§317	19:040
§319	19:041 - 19:042
Chapter 5	
§501	19:043 - 19:044

Part XIX. Ambulatory Surgical Centers Renal Dialysis Centers

Chapter 1. General Requirements

§101. Definitions [formerly paragraph 19:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Ambulatory Surgical Center—an establishment with an organized medical staff of physicians, permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, continuous physician services and registered professional nursing services whenever a patient is in the facility, which does not provide services or other accommodations for patients to stay overnight, and which offers the following services whenever a patient is in the center: drug services as need for medical operations and procedures performed; provisions for physical and emotional well-being of patients; provisions for emergency services; organized administrative structure; and administrative, statistical, and medical records.

Hospital—any institution, place, building, or agency, public or private, whether for profit or not, devoted primarily to the maintenance and operation of facilities to ten or more individual for the diagnosis, treatment or care of persons admitted for overnight stay or longer who are suffering form illness, injury, infirmity or deformity or other physical condition which obstetrical, medical or surgical services would be available and appropriate.

Renal Dialysis Center—an establishment which is approved to furnish diagnostic, therapeutic, or rehabilitative services required for the care of end stage renal disease dialysis patients.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1393 (June 2002).

§103. Construction Requirements [formerly paragraph 19:004]

A. Plans. No new hospital, ambulatory surgical center, or renal dialysis center shall hereafter be constructed, nor shall major alterations be made to existing hospitals, without the prior written approval of, and unless in accordance with plans and specifications approved in advance by, the state health officer. The review and approval of plans and specifications shall be made in accordance with the publication entitled: AMinimum Requirements of Construction and Equipment for Hospitals and Medical Facilities@ {DHEW Publication No. (HRA) 79 - 14500}, published by the U.S. Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration, Bureau of Health Facilities Financing, Compliance and Conversion.

B. [Formerly paragraph 19:005] Doors, Stairways, and Elevators: The building shall be provided with ramps, doors, corridors, and elevators to accommodate the handicapped. Stairways, ramps and elevators shall be provided with nonskid floors and surfaces, and shall have handrails on both

sides located approximately 31 inches (78.7 cm) above the stair-tread on edge of riser and continue the length of stairway or ramp. All doors to the outside shall open outward and be provided with self-closing devices and be equipped with panic type hardware, unless automatic sliding doors are provided.

C. [Formerly paragraph 19:006] Ventilation, Air Conditioning and Heating: All patient rooms shall be well ventilated and under positive pressure except for negative pressure rooms designated as such. Temperature, humidity, pressure and air exchange characteristics shall conform to the requirements in AMinimum Requirements on Construction and Equipment for Hospitals and Medical Facilities@ (DHEW Publication No. (HRA) 79-14500) as they apply to specific areas of the building. The heating and cooling system shall be such type and maintained and operated in such a manner to provide a comfortable temperature for patients and personnel. The heating and cooling system shall also be constructed to conform to the requirements in AMinimum Requirements of Construction and Equipment for Hospitals and Medical Facilities@ (DHEW Publication No. (HRA) 79-14500).

D. [Formerly paragraph 19:007] Lighting and Wiring: Usable rooms and general areas of the building shall be lighted with a minimum of 20 food-candles including rooms where food is prepared and handled. Emergency lighting shall be provided for surgery, delivery, nursery, emergency rooms, intensive care units and for patients requiring mechanical respirators, life support systems or monitoring equipment. Power outlets serviced by emergency power shall be distinguished from non-emergency outlets. The emergency generator shall be checked at least once weekly and records to insure proper operation and maintenance shall be kept for at least one year. Flash lights or battery operated lamps for emergency use shall be available at the nurses= station to hospital personnel and kept in operating condition.

E. [Formerly paragraph 19:008] Toilet Facilities: Each patient shall have access to a toilet room without entering the general corridor area. One toilet room shall serve no more than four beds and no more than two patient rooms. The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from a toilet room which serves single-bed and two-bed rooms if each such patient=s room contains a lavatory. Toilet room air shall be filtered or mechanically exhausted to the outside. This room shall be equipped with hot and cold water under pressure with detergent or antiseptic scrub and individual towels. Toilet rooms shall be provided with waste receptacles which shall remain covered.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1393 (June 2002).

Chapter 3. Operations and Maintenance

§301. General
[formerly paragraph 19:003]

A. The building shall be in good repair, reflect good housekeeping and shall be free of insects and rodents and when necessary, dust control measures shall be employed. Equipment shall be clean and in good repair for the safety and well being of the patients and employees. Equipment should be properly disinfected or sterilized as required.

B. [Formerly paragraph 19:004] Employee health shall meet the requirements of Part I, §117 and Part II, §§501-503(C).

C. [Formerly paragraph 19:009] Housekeeping: An approved method of cleaning patient rooms, floors, and corridors shall be provided. Use EPA approved hospital grade disinfectant matched to local water conditions; dilute and apply according to manufacturer=s directions. Separate cleaning equipment shall be provided for the food preparation and storage area, operating rooms, and delivery rooms. Removable mop heads shall be provided for proper cleaning and disinfection. Wet vacuum operations are encouraged. A mop sink and a sufficient amount of storage area shall be provided to store all cleaning compounds and equipment.

D. [Formerly paragraph 19:010] Storage: There shall be clean storage space throughout the building for all supplies and equipment, which shall include provision for the safe separation of different items and located away from foot traffic and overhead contamination.

E. [Formerly paragraph 19:011] Water Supply: All water supplies shall conform to Part XII of this Code and to the federal drinking water standards. Approved emergency water supply shall be provided or made available in the event of internal or external disaster.

F. [Formerly paragraph 19:012] Food Service: The dietary unit of the hospital shall comply with all the provisions established in Part XXIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1394 (June 2002).

§303. Laundry
[formerly paragraph 19:013]

A. Laundry Room. The clean and dirty laundry areas shall be separated to prevent cross-contamination. Hand-washing facilities shall be provided in each area. Personnel in dirty laundry rooms shall not perform duties in clean laundry rooms. The ventilation systems for the clean and dirty laundry rooms shall be separate. The clean laundry room shall have a positive air pressure and the dirty laundry rooms shall have a negative air pressure with respect to surrounding areas.

B. [Formerly paragraph 19:014] Laundry Movement and Storage. The facility shall make provisions and be responsible for the proper handling, cleaning, disinfection, and storage of lined and other washable items. Laundry carts shall be handled in a way as not to transmit communicable diseases form one section of the hospital to another and the carts shall be properly disinfected. Clean laundry shall be carried in clean carts only and be covered so as to prevent contamination en route. Disposable bags shall be used for the handling of contaminated items from isolation areas. Clean linens shall be placed in a clean bag or other suitable container. A commercial contract for such services with an outside vendor does not relieve the facility from ensuring that these conditions are met.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10)and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1394 (June 2002).

§305. Plumbing, Sewage, Garbage, and Waste [formerly paragraph 19:015]

A. All plumbing shall be installed and maintained in a manner so as to comply with all local and state plumbing codes and regulations, including Part XIV of this Code. Approved equipment shall be provided for cleaning and sanitizing bedpans, if used for more than one patient.

B. [Formerly paragraph 19:016] Sewage shall be disposed of in accordance with Part XIII of this Code and with the Environmental Protection Agency (EPA) and Louisiana Department of Natural Resources (DNR) hazardous waste regulations.

C. [Formerly paragraph 19:017] Garbage and trash shall be stored and disposed of in accordance with Part XIII of this Code and with DNR regulations. Compactors, dumpsters and other equipment shall be maintained in a sanitary condition.

D. [Formerly paragraph 19:018] Contaminated dressings, surgical, obstetrical and laboratory waste shall be incinerated or sterilized before burial in a landfill. Disposable needles and other Asharps@ shall be placed in specifically labeled containers of sufficient thickness to prevent breakthrough and disposed of in an approved manner, preferable incineration.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1395 (June 2002).

§307. Patient Areas [formerly paragraph 19:019]

A. All new facilities and those undergoing extensive renovation shall have no more than four beds per room in patient areas, excluding nurseries or intensive care units, and shall have at least one isolation room maintained under negative air pressure for every 30 adult beds.

B. [Formerly paragraph 19:020] Bathing Facilities: A tub or shower shall be provided at the ratio of one per 10 patients on each floor and conveniently located. Bathroom air shall be mechanically exhausted to the outside or filtered and be clean, disinfected and free of odors. Handgrips and non-slip mats shall be provided for tub and/or showers. Bathrooms fixtures shall meet the standards of Part XIV of this Code. Bathtub and/or shower shall be provided with hot and cold water delivered through a mixing valve.

C. [Formerly paragraph 19:021] All supplies and equipment used in patient care shall be properly cleaned and appropriately stored. They shall be disinfected between uses for different patients. Impervious material which can be readily cleaned and disinfected shall be used to cover beds and pillows. After discharge of a patient, the bed, bedside furniture and equipment shall be properly cleaned and terminally disinfected. Mattresses, blankets and pillows assigned to patients shall be in a sanitary condition. The blankets, towels, sheets and pillow cases used for a patient in isolation shall be collected at the bedside in a double lined bag and taken immediately for laundering after each use.

D. [Formerly paragraph 19:022] Nursing stations shall be clean, have proper storage of medication, provide hand-washing facilities with hot and cold water, soap, towels and waste receptacles. Narcotics shall be stored under a double lock arrangement.

E. [Formerly paragraph 19:023] The handling and storage of ice for patient use shall conform with Part VI of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1395 (June 2002).

§309. Laboratory [formerly paragraph 19:024]

A. Microbiological cultures shall be disposed of in an incinerator approved by the Air Quality Division of the DNR or sterilized prior to disposal. Smoking and eating are not allowed in laboratory areas. Laboratories, especially horizontal work surfaces, shall be cleaned and disinfected at the end of each work day.

B. [Formerly paragraph 19:025] Sterilizers of the proper type and necessary capacity for adequate sterilization shall be provided and maintained in a satisfactory condition. The hospital shall adopt a recognized method of verifying sterilizer performance and records shall be kept of the sterilizer operations for at least a year. Quality control of sterilization procedures shall include placement of indicators insuring that heat/time requirements have been met in package interiors and at least weekly live spore testing in steam sterilizers. Live spore testing shall be conducted for each load which is gas sterilized. A mechanism shall be employed for re-sterilizing outdated packs and recalling sterilized supplies in the event of a spore test failure. Clean and sterilized supplies shall be dated and kept separate from soiled and contaminated supplies and equipment.

C. [Formerly paragraph 19:026] Blood bank refrigerators shall be kept clean and maintained at a temperature of 36E to 38E F (2E to 3E C), provided with an alarm and used for flood storage only. Time and temperature charts shall be maintained continuously and monitored and recorded daily. These records shall be maintained for at least a year. Alarm devices for refrigerators shall be provided.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1395 (June 2002).

§311. Radiation Controls [formerly paragraph 19:027]

A. All equipment and handled materials providing a source of radiation and disposal of radioactive waste shall be shielded as required by the Nuclear Division of DNR office of Environmental Affairs. All radiation equipment operators shall be provided with the proper clothing and equipped with an approved radiation monitoring device. Certificates of registration shall be obtained from DNR=s Nuclear Control Board and available for review.

B. [Formerly paragraph 19:028] Dressing rooms and toilet facilities shall be conveniently located for patients.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1395 (June 2002).

§313. Operating Rooms, Delivery Rooms, Intensive Care Units, Recovery, Nursery and Emergency Rooms [formerly paragraph 19:029]

A. Only authorized and properly attired personnel shall be allowed into operating rooms, delivery rooms, recovery rooms, intensive care units and nurseries. Scrub suits for operation room and delivery rooms used should not be worn outside designated areas.

B. [Formerly paragraph 19:030] Operating room and delivery room shall be cleaned and disinfected between uses.

C. [Formerly paragraph 19:031] Adequate hand-washing facilities providing hot and cold running water equipped with mixing faucet, knee, foot, or elbow faucet control shall be provided in or adjacent to these areas. Hand-washing facilities shall not be located in, but rather adjacent to the operating room. Adequate supplies of antiseptic scrub material or detergent shall be maintained for these facilities at all times.

D. [Formerly paragraph 19:032] There shall be adequate provisions for washing instruments and equipment used in these areas. Sterilization procedures shall comply with the stipulation specified in the laboratory §§209-211(A) of this Chapter.

E. [Formerly paragraph 19:033] The operating room shall be provided with safety electrical circuits, properly grounded, non-conductive floor surfaces, positive ventilation, and humidity control in accordance with federal construction and life safety standards.

F. [Formerly paragraph 19:034] Handling of equipment and surgical clothing shall be done so as to prevent cross-contamination with other areas.

G. [Formerly paragraph 19:035] Staff Facilities: A separate facility shall be provided for the staff of the operating room, delivery room and nursery. This facility shall include dressing rooms with toilet and lavatory facilities including hot and cold running water, detergent or antiseptic scrub, individual towels and waste receptacles.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1396 (June 2002).

§315. Nursery [formerly paragraph 19:036]

A. A maximum of 24 infants stations shall be allowed in each full-term nursery room. The nursery shall be maintained at a temperature of approximately 75E F (24E C) and 30-60 percent relative humidity. The nursery shall have a reliable thermometer with records of daily temperatures maintained. Separate nursery rooms shall be provided for well and sick babies. There shall be a suitable designated area for staff hygiene and gowning.

B. [Formerly paragraph 19:037] There shall be a suitable, designated area for the preparation of milk mixtures. This area shall be equipped with a sink, hand-washing facilities and storage space. This sink and lavatory shall be equipped with foot, knee or elbow faucet control with hot and cold water dispensed through a mixing valve.

C. [Formerly paragraph 19:038] Infant formula and other fluids requiring heat sterilization shall be prepared by terminal heat method in a separate room. This is a process by which the completely assembled formula units (bottles filled with formula, with nipples applied and covered with nipple protectors) are exposed to a minimum of 230E F (110E C) for 10 minutes in order to achieve pasteurization.

D. [Formerly paragraph 19:039] The individually bottled formula shall be stored in a refrigerator, specifically designated for that purpose, equipped with a thermometer. The temperature shall be maintained at 40E to 45E F (4E to 7E C).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1396 (June 2002).

§317. Respiratory/Physical Therapy Rooms [formerly paragraph 19:040]

A. These areas shall be clean at all times and free of materials or equipment not needed to carry out the function required by the respective units. Accommodation shall be made to handle patients under isolation requiring such therapy. Respiratory and hydrotherapy equipment shall be cleaned and disinfected as needed after each use.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1396 (June 2002).

§319. Morgue [formerly paragraph 19:041]

A. The mortuary table shall be cleaned and disinfected after each use and kept in good repair. A check valve shall be provided in the water supply line upstream from the control valve. A vacuum breaker or siphon breaker of an approved typed shall be installed in the water supply line at least 6 inches (15 cm) higher than the aspirator and downstream form the control valve. The aspirator shall be installed at least 6 inches (15 cm) above the highest level at which suction may be taken. An air gap equal to at least one pipe diameter shall be provided between the outlet of the discharge pipe and the overflow rim of the receiving fixture.

B. [Formerly paragraph 19:042] The cold storage vaults shall be clean and in good repair, maintained at less than 45E F (7E C) and used for no other purpose.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1396 (June 2002).

Chapter 5. General Standards

§501. Space and Bed Standards [formerly paragraph 19:043]

A. The following space and bed guidelines shall be provided for specific patient care areas:

1. Adult Patient Room4 beds per room maximum
   100 sq. ft. (9.29 sq. m) for single room
   80 sq. ft. (7.43 sq. m) per bed for multi-bed rooms
   3'8" (1.12m) minimum clearance at foot of bed in multi-bed rooms
2. Adult Intensive Care Unit
   120 sq. ft. (11.15 sq. m) for single bed rooms or Intensive Care Unit Cubicles
   7'10" (2.13m) clearance between beds

3. Obstetrical Care- Levels I, II, AND III*
4. Labor Room
   ** Minimum of 140 sq. ft. per private room
   ** Minimum of 100 sq. ft. for each bed in multiple-bed rooms
5. Delivery Room
   ** Minimum of 350 sq. ft. of floor space
6. Neonatal Care (Nursery)
   Levels I and II*
   ** Maximum of 24 bassinets per nursery room
   ** Minimum of 2 feet between bassinets
   Minimum of 20 sq. ft. per infant in normal newborn area
   ** Minimum of 40 sq. ft. per infant in admission-observation area
7. Level III* (Newborn Intensive Care)
   ** Minimum of 6 ft. between bassinets or incubators
   Minimum of 80 sq. ft. per infant
   * Levels are defined in the following document: AObstetrical and Neonatal Guidelines Regionalization of Perinatal Care in the State of Louisiana,@ Commission on Perinatal Care, February, 1980, amended February 1982.
   ** These standards conform to the new guidelines recommended by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists in AGuidelines for Perinatal Care@, 1983.
8. Pediatrics
   6 cribs/beds maximum per room for pediatric/adolescent room
   60 sq. ft. (5.57 sq. m) per cribs/beds
9. Our Patient
   80 sq. ft. (7.43 sq. m) for general and special exam rooms.
   120 sq. ft. (11.15 sq. m) for out patient treatment rooms
10. Operating Room
    360 sq. ft. (33.45 sq. m) per room
11. Cystoscopy-type room
    250 sq. ft. (23.23 sq. m) per room

B. [Formerly paragraph 19:044] Present Enforceable Standards with which Hospitals Must Comply Include the Following Parts from this Code:

1. Part II The Control of Diseases
2. Part V Disease Vector Control
3. Part VII Milk, Milk Products, and Manufactured Milk Products
4. Part VIII Frozen Desserts
5. Part IX Seafood (Marine and Freshwater Animal Food Products)
6. Part XII Water Supplies
7. Part XIII Sewage and Refuse Disposal
8. Part XIV Plumbing
9. Part XXIII Eating and Drinking Establishments
10. Part XXVI The Burial, Transportation, Disintermentor other Disposition of Dead Human Bodies

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1396 (June 2002).

Part XX. Nursing Homes
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XX	Chapter XX
Chapter 1	
§101	20:001
§103	20:002
§105	20:003
§107	20:004 - 20:007
§109	20:008 & 20:009
§111	20:010-1 - 20:010-6
§113	20:011
§115	20:012
§117	20:013
§119	20:014
§121	20:015
§123	20:016

Part XX. Nursing Homes
Chapter 1. General Sanitary Provisions for Nursing Homes

§101. Definitions
[formerly paragraph 20:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted are defined for the purposes thereof as follows.

*Nursing Home*Ca private home, institution, building, residence or other place, serving three or more persons who are not related by blood or marriage to the operator, whether operated for profit or not, and including those places operated by a political subdivision of the State of Louisiana which undertakes, through Its ownership or management, to provide maintenance, personal care, or nursing for persons who, by reason of illness or physical infirmity or age, are unable to properly care for themselves. The term does not include the following:

a. a hospital, sanitarium or other Institution whose principal activity or business is the care and treatment of persons suffering form tuberculosis or from mental disease;

b. a hospital, sanitarium or other medical Institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation of organized facilities therefor.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36: 258(B), with more particular provisions throughout Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1397 (June 2002).

§103. Advance Approval of New Construction or Major Alteration of Existing Nursing Homes is Mandatory
[formerly paragraph 20:002]

A. No new nursing home shall hereafter be constructed nor shall major alterations be made to existing nursing homes without the prior approval or, and unless in

accordance with plans and specifications approved in advance by, the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1397 (June 2002).

§105. Heating, Cooling, and Ventilating Systems [formerly paragraph 20:003]

A. All homes shall be provided with heating equipment adequate to maintain, in every room used by patients, a temperature of not less than 76 degrees Fahrenheit in the coldest weather. Each room having a bathtub, or shower, or toilet shall have a heater, or a duct to it form a heating system. The combustion chambers of all heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1398 (June 2002).

§107. Building Conditions [formerly paragraph 20:004]

A. All homes shall be structurally sound, and shall be maintained in good condition.

B. [Formerly paragraph 20:005] Stairs shall be provided where needed which may be easily used by the patients. Stair treads shall have non-slip surfaces.

C. [Formerly paragraph 20:006] Every occupied room shall have a smooth floor, walls, and ceilings in good repair and so finished as to enable satisfactory cleaning.

D. [Formerly paragraph 20:007] All rooms shall be provided with adequate illumination to provide: (a) a minimum of 10-foot candles over the entire stairway, halls, and occupied rooms at an elevation of 30 inches above the floor; and (b) a minimum of 30-foot candles over areas used for reading or close work.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1398 (June 2002).

§109. Bedding Requirements [formerly paragraph 20:009]

A. Each patient shall be provided with an individual bed which shall be equipped with clean bed linens. Moisture-proof covers and rubber sheets shall be provided as necessary to keep mattress and pillows dry. Provisions shall be made when necessary for laundering household linens and personal clothing of patients.

B. [Formerly paragraph 20:008] Each patient's bedroom shall have windows opening to the outside atmosphere.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1398 (June 2002).

§111. Bathroom Requirements [formerly paragraph 20:010-1]

A. Every nursing home shall have toilets, lavatories and bathtubs or showers on each floor occupied by patients. There shall be one lavatory in each room, or immediately adjacent thereto, one toilet for each eight patients and one tub or shower for each 10 patients. In nursing homes built and operating as such prior to May 21, 1974, there shall be at least one toilet and lavatory for each 10 patients and one bathtub or shower for each 15 patients.

B. [Formerly paragraph 20:010-2] There shall be bedpans and urinals in sufficient number for patients needing them and facilities for sanitization thereof are required. There shall be a clinic service sink with flush rim or a water closet with bedpan lugs, and a bedpan washing attachment with a foot operated valve for washing and a deep sink suitable for immersing the bedpans in a sanitizing solution. The equipment shall be in the soiled utility area or a separate room with a safe storage place for chemicals and a rack for draining and storing the bedpans.

C. [Formerly paragraph 20:010-3] Bathrooms shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. The fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

D. [Formerly paragraph 20:010-4] Tub and shower bath bottoms shall be of non-slip material. Grab bars shall be provided to prevent falling and to assist in getting in and out of the tub or shower.

E. [Formerly paragraph 20:010-5] Lights shall be controlled by wall switches, which shall be so placed that they cannot be reached from the bathtub or shower.

F. [Formerly paragraph 20:010-6] Institutional type grab bars shall be provided at all patient water closets.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1398 (June 2002).

§113. Nurses' Station [formerly paragraph 20:011]

A. A Nurses' Station shall be provided and shall include a sink, adequate work space, and storage for medicine.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1398 (June 2002).

§115. Sanitary Provisions for Food [formerly paragraph 20:012]

A. Food preparation, storage and service shall meet the requirements of Part XXIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1398 (June 2002).

§117. Water Supply [formerly paragraph 20:013]

A. The water supply shall meet the requirements of Part XII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1398 (June 2002).

§119. Sewage and Waste Disposal
[formerly paragraph 20:014]

A. Sewage and waste disposal shall meet the requirements of Part XIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1399 (June 2002).

§121. Plumbing
[formerly paragraph 20:015]

A. Plumbing shall meet the requirements of Part XIV of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1399 (June 2002).

§123. Employee and Patient Health Provisions
[formerly paragraph 20:016]

A. Employee and patient health shall meet the requirements of Part 1, §117 and Part II, §§501-505 of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40: 4(A)(10) and R S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1399 (June 2002).

Part XXI. Day Care Centers and Residential Facilities
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XXI	**Chapter XXI**
Chapter 1	
§101	21:001
§103	21:002 - 21:009
Chapter 3	
§301	21:010 - 21:018
§303	21:019 - 21:019-4
Chapter 5	
§501	21:020 - 21:020-4
Chapter 7	
§701	21:021 - 21:021-2

Part XXI. Day Care Centers and Residential Facilities

Chapter 1. General Requirements

§101. Definitions
[formerly paragraph 21:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this part and all other parts which are adopted or may be adopted, are defined for the purpose thereof as follows:

Day Care Centers—includes adult and child day care centers.

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the person's home.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the care giver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the children's home. A day care center that remains open for more than 20 hours in a continuous seven day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

Infant—any child under the age of 12 months.

Food Preparation—any activity in which food or beverages (other than pre-packaged individual servings) are cooked, processed, mixed, unpackaged or otherwise handled for service to the staff and clients of a care facility.

Preschool—any child less than five years of age.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

Suitable Barrier—any gate or other device designed to exclude children which is non-climbable and not easily opened by children, with openings in the barrier no greater than 3 1/2 inches to prevent entrapment. Pantograph-type gates shall not be permitted.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Parts 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1399 (June 2002).

§103. General
[formerly paragraph 21:002]

A. No new facilities for institutions covered by this Part, shall hereafter be constructed nor shall major alterations be made to such existing facilities without the prior written approval of, and unless in accordance with plans and specifications approved in advance by, the state health officer.

B. [Formerly paragraph 21:002-1] Facilities applying for license after the effective date of this Part shall meet all of the requirements contained herein. Facilities licensed or with pending applications prior to the effective date shall be allowed 36 months from the effective date to comply with the following sections: 103.D.5.a, 103.D.5.c, as regards temperature control; 103.D.5.d, 103.F.1, 103.G, 501.A, and 501.C as regards opening-sizes, heights and gates; 501.D. Facilities licensed or with pending applications prior to the effective date shall be allowed twelve months from the effective date to comply with the following sections: 103.I.2 and 301.A.9. Such facilities shall comply with all other requirements of this Part on the effective date.

C. [Formerly paragraph 21:002-2] This Part shall become effective on April 1, 1993.

D. [Formerly paragraph 21:003] All of the above facilities shall comply with appropriate Parts of this Code as stated below:

1. [Formerly paragraph 21:003-1] Employee, patient, and client health shall meet the requirements of Part I, §117 and Part II, §§111, 503, and 505 of this Code.

2. [Formerly paragraph 21:003-2] Child day care centers and residential facilities for children and the mentally retarded shall meet the requirements of Part IV of this Code.

3. [Formerly paragraph 21:003-3] Water supplies shall meet the requirements of Part XII of this Code.

4. [Formerly paragraph 21:003-4] Sewage disposal shall meet the requirements of Part XIII of this Code.

5. [Formerly paragraph 21:003-5] Plumbing shall meet the requirements of Part XIV of this Code with the following additional provisions:

a. In child day care facilities toilets and lavatories shall be provided as follows: For pre-school children, between the ages of 2 - 5, one for up to 15 children; two for 16-30 children; one for every additional 30 children. Fixtures shall be of size appropriate for the age of children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

b. For children between pre-school and 12 years of age, one toilet for each 30 girls and each 60 boys; one lavatory for each 30 of each gender.

c. Handwashing and bathing facilities shall be provided with hot and cold running water. Where such water will be in direct contact with children, the temperature shall not exceed 120EF.

d. Residential facilities housing six residents or less may provide plumbing fixtures as a single family residence. All others must provide plumbing as required for dormitories.

E. [Formerly paragraph 21:004] Toilet training chairs shall be of a type which is easily cleaned and sanitized. Training "potties" shall be cleaned and disinfected, immediately after each use, in a mop/utility sink or other plumbing fixture dedicated solely to that purpose, the waste being disposed of in a flushing toilet. They shall be stored in the toilet room and be accessible to children only under direct supervision. Training chairs shall not be counted as toilets in the toilet-child ratio.

F. [Formerly paragraph 21:005] Heating, cooling and ventilation shall meet the following requirements:

1. [Formerly paragraph 21:005-1] A draft free temperature of 65EF to 75EF shall be maintained during the cooler months (November - March) and a draft free temperature of 68EF to 82EF shall be maintained during the warmer months (April - October).

2. [Formerly paragraph 21:005-2] The combustion chambers of all heaters, heating systems, and other fired equipment shall be vented to the atmosphere. Other parts of the heating, cooling, and ventilating system shall be so designed, built, and maintained as to ensure that the pressure in the space from which combustion air is drawn does not become negative with respect to the atmosphere.

G. [Formerly paragraph 21:006] In day care centers, the following illumination levels shall be maintained (all measurements to be made 3 feet above the floor): Minimum of 50-foot candles in all work and play areas; minimum of 10-foot candles in hallways, stairs, toilet rooms; maximum of 5-foot candles in any area during napping or sleeping.

H. [Formerly paragraph 21:006-1] Shielded light fixtures or shatterproof bulbs shall be utilized in food preparation areas and in areas designated for children less than 2 years of age.

I. [Formerly paragraph 21:007] Bedding shall meet the following standards:

1. [Formerly paragraph 21:007-1] Each bed in every residential facility shall be separated, vertically and horizontally, by at least 28 inches. In day care centers, cribs, cots, and mats used for napping shall be separated by at least 18 inches with a head to foot arrangement so that no two children's heads are adjacent.

2. [Formerly paragraph 21:007-2] Cribs shall meet current federal safety standards, and industry voluntary standards. Spaces between slats shall be no more than 2 3/8 inches. Mattresses shall be of standard size so that they fit the crib frame without gaps of more than 1/2 inches. Cribs shall not be used with the drop side down. There shall be no corner post extensions (over 1/16 inch) or cutouts in the headboards.

3. [Formerly paragraph 21:007-3] Stacked cribs shall not be used.

4. [Formerly paragraph 21:007-4] Bedding such as cots, beds, cribs, or floor pads (mats) shall be maintained in a safe and sanitary manner. Linens, if provided with bedding, shall be changed when soiled and between each use by different persons. These sheets shall be changed and laundered routinely at least once each week and blankets at least once each month and immediately when soiled.

J. [Formerly paragraph 21:008] The food preparation area in day care centers and residential facilities shall meet the following:

1. [Formerly paragraph 21:008-1] Where seven or more individuals are cared for, food preparation, storage and handling shall meet all the requirements of Part XXIII of this code, with the following exception: where the number of individuals cared for is between 7and 15, the following may be provided: either a three-compartment sink as required in Part XXIII of this Code or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water under pressure to each compartment.

2. [Formerly paragraph 21:008-2] Food preparation, storage and handling where six or less individuals are cared for may provide a "home-type" setting with the following: approved potable water supply, approved sewage disposal, a two-compartment sink with hot and cold running water under pressure to each compartment and an approved domestic type dishwasher, plumbing installed in accordance with Part XIV, adequate dry storage space for food and a refrigerator capable of maintaining a temperature below 45EF.

3. [Formerly paragraph 21:008-3] Children shall be excluded by a suitable barrier from the food preparation area.

4. [Formerly paragraph 21:008-4] In facilities where the provision of food by clients is permitted by State regulations, food brought into the facility shall have a label showing client's name and the identity of the food. Perishable food shall be refrigerated at 45EF or below. Thermometer shall be provided in each refrigerator. All foods shall be protected against contamination.

K. [Formerly paragraph 21:009] Only Grade A pasteurized milk shall be served and dispensed in accordance with Part XXIII, §1115 at day care centers and residential facilities except that in facilities licensed for 30 or less, the state health officer may allow milk to be served from commercially filled containers with capacity of one-half gallon or greater. The serving of reconstituted milk is prohibited except in making instant desserts, whipped products, or for cooking and baking purposes, as stated in Part XXIII, §1707.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1399 (June 2002).

Chapter 3. Child Day Care Centers

§301. General Standards [formerly paragraph 21:010]

A. Written policies and procedures regarding infection control practices and disease prevention shall be developed by each center which include the following:

1. [Formerly paragraph 21:010-1] Staff and children shall wash their hands at least at the following times: upon entering the center, before preparing or serving meals, after toileting or changing diapers, before and after eating meals or snacks, and anytime hands become soiled with body fluids (urine, stool, saliva, blood, nasal discharge).

2. [Formerly paragraph 21:010-2] Procedures shall ensure that staff teach use of running water, soap, and single use of disposable towels. Hands shall be washed and scrubbed for at least 10 seconds with soap and running water. Warm running water in sinks is required.

3. [Formerly paragraph 21:010-3] Weekly monitoring by the center director shall ensure that handwashing and cleaning procedures are followed as specified in the center's plan.

4. [Formerly paragraph 21:010-4] Noses shall be blown or wiped with disposable, one-use tissues that are discarded in a plastic-lined and covered garbage container.

5. [Formerly paragraph 21:010-5] Draining or oozing cuts or sores shall be covered.

6. [Formerly paragraph 21:010-6] Child care personnel shall adopt routine procedures for handling blood and blood-containing fluids and wound exudates of all children in the center.

a. For spills of vomitus, urine, and feces, floors, walls, bathrooms, table tops, toys, kitchen counter tops, and diaper-changing tables shall be cleaned and disinfected.

b. For spills of blood or blood-containing body fluids and injury and tissue discharges, the area shall be cleaned and disinfected. Gloves shall be used in these situations unless the amount of blood or body fluid is so small that it can easily be contained by the material used for cleaning.

c. Persons involved in cleaning contaminated surfaces avoid exposure of open skin sores or mucous membranes to blood or blood-containing body fluids and injury or tissue discharges by using gloves to protect hands when cleaning contaminated surfaces.

d. Mops shall be cleaned, rinsed in sanitizing solution and then wrung as dry as possible and hung to dry.

e. Blood-contaminated material and diapers shall be disposed of in a plastic bag with a secure tie.

7. [Formerly paragraph 21:010-7] The day care center director shall exclude from care any child with the following illnesses or symptoms based on potential contagiousness of the disease. Periods may be extended beyond this depending upon individual conditions.

Illness/Symptom	Exclude Until
Meningococcal disease (Neisseria meningitis	Well & proof of non-carriage[1]
Hib disease (Haemophilus influenza)	Well & proof of non-carriage[1]
Diarrhea (two or more loose stool, or over and above what is normal for that child)	Diarrhea resolved or is controlled (contained in diaper or toilet)
Fever of unknown origin (100EF oral or 101 rectal or higher) and some behavioral signs of illness	Fever resolved or cleared by child's physician/health department
Chicken pox	Skin lesions (blisters) all scabbed over
Hepariris A	One week after illness started and fever resolved
AIDS (or HIV infection)	Until child's health, neurologic development, behavior, and immune status is deemed appropriate (on a case-by-case basis) by qualified persons, including the child's physician chosen by the child's parent, guardian and the center director[2]
Undiagnosed generalized rash	Well or clear by child's physician as on-contagious
Any child with a sudden onset of vomiting, irritability or excessive sleepiness	Evaluated and cleared by child's physician

a. [1]Proof of non-carriage: Either by completion of appropriate drug regimen of Rifampin (two-day course for Meningococcal disease or four-day course for Hib disease) or by a negative throat culture obtained after completion of treatment for meningitis.

b. [2]These persons should include the child's physician and other qualified individuals such as the center director, a representative from the Office of Public Health, and a child development specialist, and should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether an HIV-infected child poses a potential threat to others.

c. With most other illnesses, children have either already exposed others before becoming obviously ill (e.g., colds) or are not contagious one day after beginning treatment (e.g. strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies). The waiting periods required after the onset of treatment vary with the disease. Check with your local health department for information on specific diseases. Children who are chronic carriers of viral illnesses such as cytomegalovirus (CMV) and Herpes simplex can and should be admitted to day care centers.

d. The parent or designated person shall be notified as soon as possible if a child develops symptoms of illness or suffers an accident while in care.

8. [Formerly paragraph 21:010-8] Guidelines shall be developed regarding biting behavior, treatment of bites, and notification to parents of the children (if injury requires first aid or medical attention).

9. [Formerly paragraph 21:010-9] Each child care employee shall receive a total of three hours of training per year on infectious diseases, health and safety, and/or food service preparation. Whenever possible, this training should be provided during regular working hours.

B. [Formerly paragraph 21:011] Indoor environmental surfaces associated with children's activities and objects handled by children shall be cleaned when soiled and at least on the following basis:

1. Table tops and objects handled by children such as washable toys shall be cleaned at least once weekly. Items that children may place in their mouths shall be washed and sanitized at least daily. Soft, non-washable toys shall be limited to personal use items brought from home that are not shared between children.

2. All walls and ceilings shall be of a color that readily shows soil. Walls, ceilings, and other surfaces shall be maintained in good repair and in a clean condition; not able to visibly contaminate cold rinse water.

3. Floors, except those carpeted, shall be vacuumed or swept, and mopped with a disinfecting solution at least daily and when soiled. Soiled mop water shall be disposed of immediately after use. Stored mops shall be hung.

4. Carpeted floors and large throw rugs which cannot be washed, shall be vacuumed at least daily and shampooed at least every three months and when soiled.

5. Toilet rooms and fixtures shall be cleaned and disinfected at least daily and shall be in good repair. Toilet rooms shall have walls, floors and ceilings of a smooth, easily cleanable finish, and shall be painted a light color. These rooms must be ventilated by means of a ventilation system in compliance with Part XIV.

6. Potty chairs and diaper changing surfaces shall be cleaned and disinfected after each use.

7. Any object or surface contaminated by bodily fluids (e.g. urine, feces, blood, wound or tissue exudate) shall be cleaned immediately and disinfected with a fresh solution of household bleach diluted 1/4 cup in 1gallon of water made fresh every 24 hours.

8. Soap and separate paper towels will be provided at handwashing sinks.

C. [Formerly paragraph 21:012] Coat hooks spaced at least 12 inches apart, or individual cubicles or lockers, child's height shall be provided for storage of clothing and personal possessions of the children.

D. [Formerly paragraph 21:013] All areas accessible to children shall be free of toxic or hazardous materials and conditions:

1. [Formerly paragraph 21:013-1] Cleaning materials, detergents, aerosol cans, pesticides, health and beauty aids, poisons, and other toxic materials shall be stored in their original labeled containers and shall be used only in a manner that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children. When not in actual use, such materials shall be kept in a locked place inaccessible to children and stored separately from medications and food. Matches and lighters shall be inaccessible to children.

2. [Formerly paragraph 21:013-2] All medications will be kept in a locked cabinet.

3. [Formerly paragraph 21:013-3] Poisonous or potentially harmful plants on the premises shall be inaccessible to children.

4. [Formerly paragraph 21:013-4] No pets shall be maintained on the premises except aquarium fish if they are kept out of the reach of children, or animals to aid the disabled.

5. [Formerly paragraph 21:013-5] Electrical outlets accessible to the children shall be covered with child resistant covers or be of the child-proof type.

6. [Formerly paragraph 21:013-6] All stair cases must be provided with suitable barriers to prevent access by children. All porches and decks where children are allowed to play must be provided with suitable barriers to prevent falls.

7. [Formerly paragraph 21:013-7] Smoking shall not be permitted in indoor areas of the child care facility.

8. [Formerly paragraph 21:013-8] Premises shall be maintained free of insect, rodent or other pest infestations or haborages. Application of any pesticide shall not be done when children are present. No restricted use pesticides shall be stored or used on the premises unless by properly licensed persons.

9. [Formerly paragraph 21:013-9] Open containers such as mop buckets shall not be left unattended.

E. [Formerly paragraph 21:014] Openings to the outside shall be protected against the entrance of flies or other flying insects by outward opening, self-closing doors, closed windows, screening or other effective and approved means.

F. [Formerly paragraph 21:015] Each foundation, floor, wall, ceiling, roof, window, exterior door, and basement shall be free from openings which may permit the entry of rodents.

G. [Formerly paragraph 21:016] Each center shall be provided with a designated area for the care of a child who needs to be separated from the group due to injury, illness or the need for additional rest. This area shall be located so the child may be supervised. Toilet and lavatory facilities shall be readily accessible. If the child under care is suspected of having a communicable disease, all equipment used by the child shall be cleaned and sanitized after use. This area may be used for other purposes when not needed for the separation and care of a child or if the uses do not conflict.

H. [Formerly paragraph 21:017] All formula bottles for those children still on bottles must be properly designated with the particular child's name attached to the bottle. These formulas are to be brought in bottles with caps and tops and shall immediately be placed under refrigeration by the operator. When bottles are emptied, they must be promptly cleaned and any bottles to be reused must be properly sterilized.

I. [Formerly paragraph 21:018] In child care centers, infants shall be cared for in an area separated by a suitable barrier from older children. Activities which bring infants and older children in contact with each other shall be limited.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1401 (June 2002).

§303. Diaper Changing Areas [formerly paragraph 21:019]

A. A diaper changing table shall be provided in those centers that accept children in that age group. Children shall be diapered or have soiled underwear changed in the diaper changing area. The changing area shall never be located in food preparation areas and shall never be used for temporary placement of food.

B. [Formerly paragraph 21:019-1] Changing tables shall have an impervious surface and be kept in good repair. Tables shall be sturdy, adult-height, and shall be equipped with railings.

C. [Formerly paragraph 21:019-2] Changing tables shall be disinfected after each use by washing to remove visible soil followed by wiping with an approved disinfecting solution (e.g., 1/4 cup of liquid chlorine bleach per 1 gallon of water made fresh every 24 hours). Disposable, non-absorbent paper sheets approved by the health department for this purpose may be used and shall be discarded immediately after each diapering.

D. [Formerly paragraph 21:019-3] Conveniently located, washable, plastic-lined, covered receptacles operated by a foot pedal shall be provided for soiled diapers; separate from a similar covered receptacle for burping cloths and linen and shall be placed out of children's reach.

E. [Formerly paragraph 21:019-4] A handwashing sink shall be in or adjacent to each diapering area.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1403 (June 2002).

Chapter 5. Outdoor Play Areas

§501. General Standards [formerly paragraph 21:020]

A. The outdoor play area shall be enclosed with a fence or natural barriers. The barrier shall be at least 4 feet in height and the bottom edge shall be no more than 3 1/2 inches off the ground. There shall be at least two exits from such areas with at least one remote from buildings. Gates shall be equipped with self-closing and positive self-latching closure mechanisms. The latch or securing device shall be high enough or of a type that cannot be opened by small children.

1. The openings in the fence shall be no greater than 3 1/2 inches to prevent entrapment. The fence shall be constructed to discourage climbing, at least equivalent to a chain link fence.

B. [Formerly paragraph 21:020-1] Outdoor areas shall be kept free of excessive dust,weeds, brush, high grass, debris, and standing water.

C. [Formerly paragraph 21:020-2] Outside play areas shall be free from unprotected swimming and wading pools (both in-ground and above-ground), ditches, quarries, canals, excavations, fish ponds or other bodies of water. All water hazards shall be enclosed with a fence which is at least 5 feet high and comes within 3 1/2 inches of the ground with no openings of greater than 3 1/2 inches.

D. [Formerly paragraph 21:020-3] All pieces of playground equipment with play surfaces 4 feet or higher from the ground shall have an appropriate energy absorptive surface such as wood chips at a depth of 8-10 inches or rubber mats manufactured for such use meeting A.S.T.M. Standard F-355, under the fall zone of the equipment.

E. [Formerly paragraph 21:020-4] Sandboxes shall be constructed to permit drainage, and shall be covered when not in use and be kept free from cat or other animal excrement.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1403 (June 2002).

Chapter 7. Swimming Pools

§701. General Standards [formerly paragraph 21:021]:

A. Outdoor swimming pools associated with children's activities shall be rendered safe and free of hazards.

B. [Formerly paragraph 21:021-1] Water in swimming and wading pools used by children shall be maintained between pH 7.2 and pH 8.2. The water shall be disinfected by available free chlorine greater than 0.4 parts per million or an equivalent disinfectant as approved by the state health officer. Swimming pools shall be maintained in a clean condition and the chlorine level and pH level shall be tested in accordance with Part XXIV of this Code. Wading pools shall be tested every two hours during use periods and cleaned daily. The results of these tests will be posted in a log for review by the state health officer.

C. [Formerly paragraph 21:021-2] Water temperature shall be maintained at no less than 82EF and no more than 93EF while in use.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(10) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1403 (June 2002).

Part XXIII. Retail Food Establishments Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XXIII	**Chapter XXIII**
§101	23:001
§301	new
§303	22:01 and 23:002-1
§305	23:002-2
§307	22:02-2 and 23:003
§309	22:02-3 and 23:004
§311	22:02-4
§501	22:03 and 23:125
§503	22:04-1 and 23:126-1
§505	22:04-3 and 23:126-2
§507	22:04-3 and 23:126-3
§701	22:05 and 23:031
§901	22:06-1 and 23:032
§903	22:06-2 and 23:032
§905	22:06-3
§907	22:06-4 and 23:033-1
§909	new
§911	22:07-1 and 23:034-1
§913	22:07-2 and 23:034-2
§915	22:07-3 and 23:033-2
§917	22:07-4
§919	22:07-5 and 23:034-3
§1101	22:08-1 and 23:005

§1103	22:08-2 and 23:005
§1105	22:08-3
§1107	22:08-4
§1109	22:08-5.1 and 23:006-4
§1111	22:08-5.2 and 23:006-6
§1113	22:08-6
§1115	22:08-7 and 23:006-1
§1117	22:08-8 and 23:006-2
§1119	22:08-9 and 23:006-3
§1121	22:08-10
§1123	22:08-11
§1301	22:09-1
§1303	22:09-2
§1305	22:09-3 and 23:014
§1307	22:09-4 and 23:011-2
§1309	22:09-5 and 23:010-2
§1311	22:09-6 and 23:010-2
§1313	22:09-7 and 23:010-3
§1315	22:09-8 and 23:020
§1317	22:09-9
§1319	new
§1321	22:09-10 and 23:019
§1501	22:10-1 and 23:009
§1503	22:10-2 and 23:009
§1505	22:10-3 and 23:009-5
§1507	new
§1701	22:11-1 and 23:013
§1703	23:012
§1705	22:11-3
§1707	23:015
§1709	22:11-2
§1901	22:12-1
§1903	22:12-2
§1905	22:12-3 and 23:024-1 and 23:024-2
§1907	22:12-4 and 23:025
§1909	22:12-5 and 23:027
§1911	new
§2101	22:13 and 23:037
§2103	22:13-1 and 23:037
§2105	22:13-2
§2107	22:13-3
§2109	22:13-4 and 23:035-2
§2111	22:13-5 and 23:035-3
§2113	22:14 and 23:042
§2115	22:15 and 23:036
§2117	22:16
§2119	22:17 and 23:041
§2301	22:18-1
§2303	22:18-2 and 23:051-1
§2305	22:18-3 and 23:052
§2501	22:19-1 and 23:052-6
§2503	22:19-2 and 23:049
§2505	22:19-3 and 23:051-4
§2507	22:19-4 and 23:051-4
§2509	22:19-5
§2511	22:19-6
§2513	22:19-7
§2515	22:19-8 and 23:053
§2517	22:19-9 and 23:055
§2519	22:19-10
§2701	22:20-1 and 23:058
§2703	22:20-2 and 23:061
§2705	22:20-3
§2707	22:20-4 and 23:062
§2709	22:20-5 and 23:060
§2901	22:21-1 and 23:063
§3101	22:22-1 and 23:064
§3103	22:22-2 and 23:064
§3105	22:22-3 and 23:066
§3107	22:22-4 and 23:065
§3109	22:22-5 and 23:074
§3111	22:22-6 and 23:070

§3113	22:22-7 and 23:067
§3115	22:22-8 and 23:068
§3117	22:22-9
§3301	22:23-1 and 23:078
§3303	22:23-2 and 23:078
§3305	22:23-3 and 23:080-2
§3307	22:23-4 and 23:078-4
§3501	22:24-1 and 23:081
§3503	22:24-2
§3505	22:24-3 and 23:082
§3507	22:24-4 and 23:111
§3701	22:22:25 and 23:083
§3703	22:26 and 23:090
§3705	22:27-1 and 23:098
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§3709	22:28-1 and 23:100
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§3903	22:29-2 and 23:106
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§4113	22:35-4 and 23:114-2
§4115	22:35-5 and 23:113-1
§4117	22:36 and 23:112
§4119	22:37 and 23:115
§4121	22:39
§4123	22:40-1
§4125	22:40-2
§4127	new
§4129	22:34-1
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§4301	22:42-1 and 23:127
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§4501	22:34-3
§4503	22:34-4
§4507	23:117-1
§4509	22:34-2
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§4515	22:34-6
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§4701	23A:002
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§4709	23A:004-1
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§4713	23A:007
§4715	23A:008
§4717	23A:008-3
§4719	23A:008-4
§4721	23A:008-5
§4723	23A:008-6
§4725	23A:009
§4727	23A:010
§4729	23A:011
§4731	23A:012

§4733	23A:013
§4735	23A:014-1 and 23A:014-2
§4737	23A:014-2
§4739	23A:015

Part XXIII. Retail Food Establishments

Chapter 1. Definitions

§101. Definitions [formerly paragraph 23:001]

A. Terms not defined or referenced herein shall have the meanings as defined in LAC 51:I.. In any instance where a term defined herein is also defined in one or more Parts of LAC 51:Part I, the definition contained in this Part shall govern this Part.

"*a*"**C**water activity.

*Additive***C**as defined in Federal Food, Drug and Cosmetic Act 201(s), [21 U.S.C. 321(s)], any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

a. a pesticide chemical residue in or on a raw agricultural commodity, processed food; or

b. a pesticide chemical; or

c. a color additive; or

d. any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 et seq.,); or

e. a new animal drug; or

f. an ingredient described in paragraph (ff) of this Act in, or intended for use in, a dietary supplement;

g. and defined in 21 CFR 170.3(e)(1)**C**Food additives include all substances not exempted by section 201(s) of this Act, the intended use of which results or may reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. A material used in the production of containers and packages is subject to the definition if it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food packed in the container. "Affecting the characteristics of food" does not include such physical effects, as protecting contents of packages, preserving shape, and preventing moisture loss. If there is no migration of a packaging component from the package to the food, it does not become a component of the food and thus is not a food additive. A substance that does not become a component of food, but that is used, for example, in preparing an ingredient of the food to give a different flavor, texture, or other characteristic in the food, may be a food additive.

*Adulterated Food***C**as defined in §607 of the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.), a food is considered adulterated if it has been found to be such by any department of the United States government, or:

a. if it contains any poisonous or deleterious substances, added or otherwise, which may render it dangerous to health, or any added poisonous or deleterious substance which is prohibited by R.S. 40:611 or which is in excess of the limits of tolerance prescribed by regulations of the department;

b. if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;

c. if it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health;

d. if it is the product of a diseased animal or of an animal which has died otherwise than by slaughter;

e. if its container is composed of any poisonous or deleterious substance which may render the contents injurious to health;

f. if any valuable constituent has been in whole or in part abstracted therefrom;

g. if any substance has been substituted wholly or in part therefore;

h. if damage or inferiority has been concealed in any manner;

i. any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, reduce its quality or strength, or create a deceptive appearance;

j. if it contains a coal-tar color other than one from a batch that has been certified in accordance with regulations of the department;

k. if it is confectionery or ice cream and contains any alcohol, resinous glaze, or non-nutritive substance except harmless coloring, harmless flavoring, natural gum, and pectin. However, this Paragraph does not apply to any confectionery or ice cream by reason of its containing less that one-half of one percent by volume of alcohol, derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substance.

*Approved Supplier***C**a producer, manufacturer, distributor or food establishment that is acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.

*Base of Operations/Commissary***C**a catering establishment, restaurant, or any other properly equipped place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

*Bed and Breakfast Establishment***C**a privately owned house where rooms are let and a breakfast is included in the rent. See Food Establishment.

*Beverage***C**a liquid for drinking, including water.

*Bulk Food*Cprocessed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

*CIP*Cclean in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

*Certification Number*Ca unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

*Comminuted*Creduced in size by methods including chopping, flaking, grinding, or mincing and restructured or reformulated.

*Consumer*Ca "person" who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a "food" establishment or "food processing plant" and does not offer the "food" for resale.

*Convenience Store*Ca retail food store which is usually easily accessible and deals mostly with prepackaged food products.

*Corrosion-Resistant Material*Ca material that maintains acceptable surface cleanability characteristics under prolonged influence of the "food" to be contacted, the normal use of cleaning compounds, and "sanitizing" solutions, and other conditions of the environment.

*Critical Control Point*Cas defined in the 1999 Food Code published by FDA, a point or procedure in a specific "food" system where loss of control may result in an unacceptable health risk.

*Critical Item*Ca provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup, severe insect and rodent infestation, and chemical contamination.

*Deli/Delicatessen*Ca food establishment which generally serves ready to eat food products such as sandwiches, cold cuts, cheeses, prepared salads and some prepared hot foods.

*Drinking Water*Csee potable water.

*Dry Storage Area*Ca room or area designated for the storage of "packaged" or containerized bulk "food" that is not Apotentially hazardous@ and dry goods such as "single-service" items.

*Easily Cleanable*Csurfaces that are readily accessible and made of such materials, finish and so fabricated that residue may be effectively removed by normal cleaning methods.

*Employee*Cthe permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

*Equipment*Can article that is used in the operation of a food establishment and retail food store/market such as, but not limited to, a reach-in or walk-in refrigerator or freezer, grinder, ice maker, meat block, mixer, oven, scale, sink, slicer, stove, table, thermometers, vending machine, or warewashing machine.

*Fairs and Festivals*Ca gathering of persons for an event such as a bazaar, carnival, circus, public exhibition or other similar gathering for the purpose of celebration, competition, entertainment, distribution or sale of foods or goods, exhibition, religious activity, or other such purposes, which will operate for only a temporary period in any one location.

*Food*Ca raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

*Foodborne Disease Outbreak*Cthe occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

*Food Contact Surfaces*Ca surface of equipment or a utensil with which food normally comes in contact with, or a surface of equipment or a utensil from which food may drain, drip or splash into a food or onto a surface normally in contact with food.

*Food Establishment*Can operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption. The term includes restaurants, cafeterias, caterers, delicatessens, bars, lounges, or any other facility that prepares food for individual service or for a group of people, whether consumption is on or off the premises and regardless if there is a charge for the food. The term does not include:

a. private homes where food is prepared or served for individual family consumption and a kitchen in a private home if only "food" that is not "potentially hazardous" is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by "law" and if the "consumer" is informed by a clearly visible placard at the sales or service location that the "food" is prepared in a kitchen that is not subject to regulation and inspection by the "regulatory authority;"

b. a kitchen in a private home, such as a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Office of Public Health.

*Food Vendor/Food Concessionaire*Cany person who handles food or drink during preparation or serving, or who comes in contact with any eating or drinking utensils, or who is employed at any time in a room in which food or drink is prepared or served in a temporary food service.

*Game Animals*Can animal, the products of which are food, that is not classified by law as cattle, sheep, swine, goat, poultry, fish, and game birds or small animals as described in Chapter X of the Louisiana State Sanitary Code.

*Garbage*Cthe putrescible components of refuse which are subject to spoilage, rot, or decomposition. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

*HAACP*CHazard Analysis Critical Control Point.

*HACCP Plan*Ca written document that delineates the formal procedures for following the Hazard Analysis Critical

Control Point principles developed by The National Advisory Committee of Microbiological Criteria for Foods.

Hermetically Sealed Container—a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

Highly Susceptible Population—a group of "persons" who are more likely than other populations to experience foodborne disease because they are immunocompromised, or for the purposes of this Part, older adults in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

Hot Holding Temperature—food stored for hot holding and service shall be held at a temperature of 140EF (60EC) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305.A.7 the minimum hot holding temperature shall be 130EF (54EC).

Individual Food Operator/Responsible Person—the person responsible for operating the individual temporary food service.

Injected—manipulating a meat through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping."

Itinerant Food Establishment—any fixed or mobile food establishment which operates on a temporary or seasonal basis.

Itinerant Retail Food Store/Market—any fixed or mobile retail food store/market which operates on a temporary or seasonal basis.

Kiosk—a small structure used as a food and/or beverage booth.

Kitchenware—food preparation and storage utensils.

Label—the principal display or displays of written, printed, or graphic matter upon any food or the immediate container thereof, or upon the outside container or wrapper, if any, of the retail package of any food.

Labeling—includes all labels and other written, printed and graphic matter, in any form whatsoever, accompanying any food.

Linens—fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

Market—a retail food store or food market which stores, prepares, packages, serves, vends or otherwise provides food products such as beverages, eggs, meat, milk, produce, seafood or other similar products.

Microorganisms—yeasts, molds, fungi, bacteria, parasites and viruses including, but not limited to, species having public health significance. The term "undesirable microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated within the meaning of the Food, Drug and Cosmetic Laws and Regulations.

Mobile Food Establishment—a vehicle-mounted food establishment designed to be readily movable.

Mobile Retail Food Store/Market—a vehicle-mounted retail food store/market designed to be readily movable.

Multi-Service Articles—reusable articles for the service of foods made of smooth, impervious material and approved by the State Health Officer.

Noncritical Item—all provisions in this Part that are not classified as critical items.

Offal—waste parts, especially of a butchered animal, including but not limited to bones, cartilage, fatty tissue and gristle.

Open Air Market—a site that deals in produce that is normally peeled or washed prior to consumption, honey, jellies and syrups.

Organizer/Promoter/Chairman—that person responsible for managing a festival or fair. In the event of his/her unavailability, the assistant shall be deemed the responsible person.

"*pH*"—the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 alkalinity. The value for pure distilled water is 7, which is considered neutral.

PPM—parts per million, (mg/l) which is the metric equivalent.

Packaged—bottled, canned, cartoned, securely bagged, or securely wrapped.

Permit—the document issued by the "Department" that authorizes a "person" to operate a "food establishment" or "retail food store/market."

Permit Holder—the entity that:

a. is legally responsible for the operation of the establishment such as the owner, the owner's agent, or other "person;" and

b. possesses a valid "permit" to operate an establishment.

Person—an association, a corporation, individual, partnership, other legal entity, governmental subdivision or agency.

Person in Charge—the individual present at a food establishment or retail food store/market who is responsible for the operation at the time of inspection.

Personal Care Items—

a. items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a "person's" health, hygiene, or appearance;

b. includes items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

Pest—refers to any objectionable animal or insect including, but not limited to, birds, roaches, rodents, flies, and larvae.

Poisonous or Toxic Materials—substances that are not intended for ingestion including, but not limited to:

a. cleaners and "sanitizers" which include cleaning and "sanitizing" agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

b. pesticides, except "sanitizers," which include substances such as insecticides, rodenticides, herbicides;

c. substances necessary for the operation and maintenance of the establishment such as nonfood grade

lubricants and "personal care items" that may be deleterious to health.

*Potable Water***C**water having bacteriological, physical, radiological and chemical qualities that make it safe and suitable for use by people for drinking, cooking or washing.

*Potentially Hazardous Food***C**

a. food that is natural or synthetic and is in a form capable of supporting:

i. the rapid and progressive multiplication of infectious or toxigenic microorganisms;

ii. the multiplication and toxin production of *Clostridium botulinum*; or

iii. in shell eggs, the multiplication of *Salmonella enteritidis*.

b. *potentially hazardous food* includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures.

c. potentially hazardous food does not include:

i. an air-cooled hard-boiled-egg with shell intact;

ii. a food with a water activity (a_w) value of 0.85 or less;

iii. a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 75EF (24EC);

iv. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

v. a food for which a variance granted by the regulatory authority is based upon laboratory evidence demonstrating that rapid and progressive multiplication of infectious and toxigenic microorganisms or the slower multiplication of *C. botulinum* cannot occur.

*Premises***C**

a. the physical facility, its contents, and the contiguous land or property under the control of the "permit holder"; or

b. the physical facility, its contents, and the land or property not described under Subparagraph a of this definition if its facilities and contents are under the control of the "permit holder" and may impact establishment personnel, facilities, or operations, and an establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

*Pushcart***C**a mobile food establishment or retail food store/market propelled by a person.

*Ready-to-Eat-Food***C**food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.

*Recognized Louisiana Festival or Fair***C**those fairs or festivals that are officially acknowledged, in writing, as recognized by a state, parish, or municipal governmental body or by the Louisiana Association of Fairs and Festivals.

*Reconstituted***C**dehydrated food products recombined with water or other liquids.

*Reduced Oxygen Packaging***C**the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent oxygen. This may include methods referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide.

*Refuse***C**any garbage, rubbish, sludge from a food establishment, retail food store/market, waste treatment plant, water supply treatment plant, or air pollution control facility. It also includes other discarded material such as solid, liquid, semi-solid, or contained gaseous material resulting from either industrial, commercial, mining, or agricultural operations, or from community activities. It does not include solid or dissolved material in domestic sewage, irrigation return flow, industrial discharges which are point sources, or radioactive wastes.

*Regulatory Authority***C**the local, state or federal enforcement body or authorized representative having jurisdiction over the food establishment or retail food store/market.

*Retail Food Manufacturer***C**an establishment in which food is manufactured or packaged for human consumption and is sold only at the site of manufacture, such as but not limited to bakery products and candy.

*Retail Food Store/Market***C**all types of food markets including convenience, fixed, mobile and temporary food stores. These may also be referred to as groceries. Larger retail food stores may also include bakeries and delicatessens.

*Rubbish***C**all non-putrescible waste matter, except ashes, from any public or private establishments, institution, or residence. It also includes construction and demolition wastes.

*Safe Material***C**an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any "food."

*Sanitization***C**the application of cumulative heat or chemicals on cleaned "food-contact surfaces" that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999-percent reduction of representative disease microorganisms of public health importance.

*Seafood***C**includes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

*Sealed***C**free of cracks or other openings that allow the entry or passage of moisture.

*Seasonal***C**a recurrent period that is characterized by certain seasons of the year, occupations, festivities, or crops; any period of time that is legally available to the hunter, fisherman, or trapper. These seasons are legally set by government regulatory agencies such as the State Department of Wildlife and Fisheries, State Department of Agriculture or other such agencies.

*Single-Service Articles***C**tableware, carry-out utensils, and other items such as bags, containers, cups, lids, closures, plates, knives, forks, spoons, paddles, napkins, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use and then discarded.

*Single-Use Articles***C**utensils and bulk food containers designed and constructed to be used once and discarded.

"Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs, or buckets, bread wrappers, pickle barrels, and number 10 cans.

*Slacking***C**the process of moderating the temperature of a "food" such as allowing a "food" to gradually increase from a temperature of -23EC (-10EF) to -4EC (25EF) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen "food" such as spinach.

*Smoked Food***C**food which has been colored or flavored by natural or liquid smoke.

*Substantial Renovation***C**

a. alterations or repairs made within a 12-month period, costing in excess of 50 percent of the then physical value of the existing building; or

b. alterations or repairs made within a 12-month period, costing in excess of $15,000; or

c. alterations or repairs made within a 12-month period, involving a change in "occupancy classification" or use of the property;

d. the physical value of the building in Subparagraph a of this Paragraph may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located;

e. the cost of alterations or repairs in Subparagraphs a or b of this Paragraph may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor, or

ii. by copies of receipts for the actual costs.

*Tableware***C**eating, drinking, and serving utensils for table use such as flatware including forks, knives and spoons; hollowware including bowls, cups, serving dishes, tumblers; and plates.

*Temperature Measuring Device***C**a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

*Temporary Food Establishment***C**a fixed or mobile food establishment that operates for a period of time of not more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

*Temporary Retail Food Store/Market***C**a fixed or mobile food store/market which operates for a period of time no more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

*Temporary Food Service***C**a "temporary food establishment" or "temporary retail food store/market."

*Utensil***C**a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multi-use, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

*Warewashing***C**the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

*Water Activity***C**(a_w) a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

*Wholesome***C**food which is in sound condition, clean, free from adulteration or contamination and is otherwise suitable for human consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), amended LR 28:1405 (June 2002).

Chapter 3. General Requirements

§301. Effective Date of Title

A. The provisions of this Title shall have effect from the date of publication hereof as a rule in the *Louisiana Register*. Upgrading of such buildings and facilities shall be required when:

1. the construction of buildings and facilities was not previously approved by the state health officer pursuant to sanitary code requirements then in effect;

2. substantial renovation of, or additions to, such buildings or facilities is undertaken;

3. the real property ownership, or the occupancy classification of the business located therein changes subsequent to the effective date hereof;

4. the business ownership (occupant) changes subsequent to the effective date, except that the upgrading of restroom plumbing fixtures shall not be required where only the business ownership (occupant) changes if the construction of restroom plumbing fixtures was approved by the state health officer pursuant to sanitary code requirements then in effect; or

5. a serious health threat to the public health exists, unless otherwise specifically provided hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:315 (February 2002), amended LR 28:1409 (June 2002).

§303. Interpretation [formerly paragraph 23:002]

A. This Part shall be interpreted and applied to promote its underlying purpose of protecting the public health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:315 (February 2002), amended LR 28:1409 (June 2002).

§305. Food Safety Certification [formerly paragraph 23:002-2]

A. The owner or a designated employee of each food establishment shall hold a "food safety certificate" from the department exclusively on behalf of that food establishment. The certificate shall be required to be renewed every five years.

B. Any food establishments with food sales of less than $125,000 annually shall not be required to comply with this Section until July 1, 2002. However, any establishment may apply for such certificate prior to such date. Those food establishments permitted after July 1, 2002 shall comply with this Section within 60 days of permit issuance.

C. To obtain a department food safety certificate, the following is required.

1. The individual must complete a course provided by an approved training program. The department shall approve

all training programs and shall maintain a list of these training programs. These programs shall include, but are not limited to, the standards set forth in the ServSafe Program established by the Educational Foundation of the National Restaurant Association, or other programs recognized by the food service industry and the department.

a. Instructors/trainers shall meet the criteria established by the Educational Foundation of the National Restaurant Association or other instructor/trainer requirements established by the food service industry and the department.

b. The department shall approve training programs administered or approved by another state, political subdivision, or other jurisdiction with standards that meet or exceed those established in this code.

2. The individual must pass a written exam approved by the department before qualifying for the certificate. This test will meet the standards as described in Paragraph 1 above.

3. The individual must submit a completed application to the department with:

a. satisfactory evidence that he/she has completed an approved training program which includes passing a written examination; and

b. a $25 fee for each certificate.

4. Upon receipt and approval of the documentation and fee described in Paragraph 3 above, the department shall then issue a food safety certificate to the applicant.

5. The permit holder shall display a current state food safety certificate in a location in the food establishment conspicuous to the public.

D. Certificates from the department shall be required to be renewed every five years for a $25 fee. A person shall pass another written exam as described in Paragraph 2, Subsection C above before the certificate is renewed.

E. No parish or municipality in Louisiana shall enforce any ordinance or regulation requiring a food establishment or any of its employees to complete a Food Safety training program or test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:316 (February 2002), amended LR 28:1409 (June 2002).

§307. Submission of Plans
[formerly paragraph 23:003]

A. Whenever a food establishment or retail food store/market is constructed, substantially renovated, or a change of real property or business ownership occurs, or the occupancy classification changes, plans and specifications shall be submitted to the state health officer for review and approval. The plans and specifications must be approved before construction and renovation begins and shall indicate the proposed type of operation, anticipated volume and types of food products to be stored, prepared, packaged and/or served along with the proposed layout of the facility, mechanical plans, construction materials and the types and location and specifications of all fixed and mobile equipment to be used in the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:316 (February 2002), amended LR 28:1410 (June 2002).

§309. Preoperational Inspection
[formerly paragraph 23:004]

A. The state health officer may conduct one or more preoperational inspections to verify that the food establishment or retail food store/market is constructed and equipped in accordance with the approved plans and is in compliance with all provisions of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:316 (February 2002), amended LR 28:1410 (June 2002).

§311. Hazard Analysis Critical Control Point (HACCP)
[formerly paragraph 22:02-4]

A. A food establishment or retail food store/market that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan and provide the information required in §4121.

B. A HACCP plan shall contain:

1. a catagorization of the types of Potentially Hazardous Foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the department.

2. a flow diagram by specific food or category type identifying Critical Control Points and providing information on the following;

a. ingredients, materials, and equipment used in the preparation of that food; and

b. formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

3. a supervisory training plan that addresses the food safety issues of concern;

4. a statement of standard operating procedures for the plan under consideration including clearly identifying;

a. each critical control point;

b. the critical limits for each critical control point;

c. the method and frequency for monitoring and controlling each critical control point by the employee designated by the person in charge;

d. the method and frequency for the person in charge to routinely verify that the employee is following standard operating procedures and monitoring critical control points;

e. action to be taken by the person in charge if the critical limits for each critical control point are not met;

f. records to be maintained by the person in charge to demonstrate that the HAACP plan is properly operated and managed; and

5. additional scientific data or other information, as required by the department supporting the determination that food safety is not compromised by the proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:316 (February 2002), amended LR 28:1410 (June 2002).

Chapter 5. Permits

§501. General
[formerly paragraph 23:125]

A. No person shall operate a food establishment or retail food store/market of any type without first having received a valid permit to operate from the state health officer. Permits are not transferable. A valid permit shall be posted in a location of the establishment conspicuous to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:317 (February 2002), amended LR 28:1411 (June 2002).

§503. To Obtain a Permit from the State Health Officer
[formerly paragraph 23:126-1, 23:126-2, 23:126-3]

A. The owner, president of the corporation, or other such officer duly delegated by the corporation or partnership shall make written application for a permit to operate and submit plans as described in §307 to the state health officer.

B. After plans and specifications have been reviewed and approved, the owner, president of the corporation, or other such officer shall request a preoperational inspection be made as described in §309 to determine compliance with all provisions of this Title.

C. A permit to operate shall be issued by the state health officer to the applicant if an inspection reveals that the proposed food establishment or retail food store/market and applicant has complied with all the provisions of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:317 (February 2002), amended LR 28:1411 (June 2002).

Chapter 7. Employee Health

§701. General
[formerly paragraph 23:031]

A. All employees shall meet the requirements of Part I, §117.A, B of this title, Employee Health and Chapter 2, The Control of Diseases, of the State Sanitary Code. The employee shall report information to the person in charge about their health and activities as they relate to infectious diseases that are transmissible through food. The person in charge shall be responsible for complying with Part I, §117 of this title, and excluding the employee from the food establishment to prevent the likelihood of foodborne disease transmission.

B. All employees shall report to the person in charge any symptom caused by illness, infection, or other source that is:

1. associated with an acute gastrointestinal illness such as diarrhea, fever, vomiting, jaundice or sore throat with fever; or

2. a lesion containing pus such as a boil or infected wound that is open or draining and is:

a. on the hands or wrist, unless an impermeable cover such as a finger cot, or stall protects the lesion and a single-use glove is worn over the impermeable cover;

b. on exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

c. on other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

C. The person in charge shall restrict employees from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, in a food establishment or retail food store/market if the employee is suffering a symptom specified in Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:317 (February 2002), amended LR 28:1411 (June 2002).

Chapter 9. Personal Cleanliness and Hygienic Practices

§901. Handwashing
[formerly paragraph 23:032]

A. Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, before applying gloves, during work as often as necessary to keep them clean, and after smoking, using tobacco, eating, drinking, coughing, sneezing, handling raw food, using the toilet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:317 (February 2002) , amended LR 28:1411 (June 2002).

§903. Fingernails
[formerly paragraph 22:06-2]

A. Employees shall keep their fingernails clean and trimmed not to exceed the end of the fingertip. An employee shall not wear nail polish or artificial fingernails when working with exposed food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:317 (February 2002), amended LR 28:1411 (June 2002).

§905. Jewelry
[formerly paragraph 22:06-3]

A. Employees may not wear jewelry on their arms and hands while preparing food. This does not apply to a plain ring such as a wedding band.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:317 (February 2002), amended LR 28:1411 (June 2002).

§907. Outer Clothing
[formerly paragraph 22:06-4]

A. Employees shall wear clean outer clothing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1411 (June 2002).

§909. Hand Sanitizers

A. Employees may apply hand sanitizers only to hands that are cleaned as specified in §901.of this Chapter. Hand sanitizers shall comply with all state and federal regulations and be used in accordance with label directions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1411 (June 2002).

§911. Eating and Drinking
[formerly paragraph 23:034-1]

A. Employees shall eat and drink only in designated areas where the contamination of exposed food, equipment, utensils or other items needing protection cannot result. An employee may drink while preparing food from a closed beverage container if the container is handled properly to prevent contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

§913. Using Tobacco
[formerly paragraph 23:034-2]

A. Employees shall not use tobacco in any form while preparing or serving food. Employees shall use tobacco only in designated areas such as described in §4105.C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

§915. Hair Restraints
[formerly paragraph 23:033-2]

A. Employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, equipment, utensils and other items needing protection. This does not apply to employees such as counter staff who only serve beverages and wrapped or packaged food items if they present a minimal risk of contaminating exposed food, clean equipment, utensils, and linens, and unwrapped single service and single use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

§917. Food Contamination
[formerly paragraph 22:07-4]

A. Employees experiencing persistent sneezing, coughing or a runny nose may not work with exposed food, equipment, utensils or other items needing protection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

§919. Handling
[formerly paragraph 22:07-5]

A. Employees shall handle soiled tableware in a manner to prevent the contamination of clean tableware by their hands. Employees may not care for or handle animals allowed under §4101.B of this Part while preparing or serving food, except employees may handle or care for fish in aquariums, or molluscan shellfish, or crustacea in display tanks or storage when they wash their hands as specified under §901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

Chapter 11. Food Supplies

§1101. General
[formerly paragraph 22:08-1]

A. All food shall be safe, unadulterated and honestly presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

§1103. Source
[formerly paragraph 22:08-2]

A. Food shall be obtained from sources that comply with law. Food prepared in a private home may not be used or offered for human consumption in any food establishment or retail food store/market. This section shall not apply to any jellies, preserves, jams, honey and honeycomb products prepared in private homes, when the gross annual sales are less than $5000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:4.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

§1105. Package
[formerly paragraph 22:08-3]

A. Food packages shall be in a good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

§1107. Labeling
[formerly paragraph 22:08-4]

A. Packaged food shall be labeled as specified by law. All bulk food storage containers shall be properly labeled according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:318 (February 2002), amended LR 28:1412 (June 2002).

§1109. Raw Shellfish Consumer Information Message
[formerly paragraph 22:08-5.1]

A. All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording: "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED." In addition, this message must appear on the principal display panel or top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels. In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters: "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE

CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.@

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1412 (June 2002).

§1111. Exemption to Raw Shellfish Consumer Information Message
[formerly paragraph 22:08-5.2]

A. Food establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to non-detectable levels may apply for an exemption from the mandatory consumer information notification requirement. Food establishments interested in obtaining an exemption shall certify in writing to the state health officer that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt and verification of that communication, the state health officer may confirm the establishment as being exempt from the requirement of displaying the consumer information message. The food establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P.O. Box 629
Baton Rouge, LA 70821-0629

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1413 (June 2002).

§1113. Hermetically Sealed Containers
[formerly paragraph 22:08-6]

A. Food in hermetically sealed containers shall be obtained from a licensed and/or regulated food processing plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1413 (June 2002).

§1115. Milk
[formerly paragraph 22:08-7]

A. Fluid, frozen, dry milk and milk products shall be obtained from sources with Grade A Standards as specified in law and Chapter VII and Chapter VIII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1413 (June 2002).

§1117. Seafood
[formerly paragraph 22:08-8]

A. Fish, shellfish, edible crustaceans, marine and fresh water animal food products shall be obtained from sources according to law and Chapter IX of the State Sanitary Code. Shellstock tags shall be retained by the food establishment or retail food store/market for 90 days after service or sale to the consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1413 (June 2002).

§1119. Eggs
[formerly paragraph 22:08-9]

A. Shell eggs shall be received clean and sound according to law.

B. Liquid, frozen and dry egg products shall be obtained pasteurized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1413 (June 2002).

§1121. Poultry and Meats
[formerly paragraph 22:08-10]

A. Poultry and meat products shall be obtained from sources according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1413 (June 2002).

§1123. Game Animals
[formerly paragraph 22:08-11]

A. Game animals may be received for sale if they are under a routine inspection program conducted by a regulatory authority or raised, slaughtered, and processed under a voluntary inspection program by a regulatory authority.

B. If retail food markets are requested by an individual to process wild deer meat, they must process this meat in accordance with the guidelines established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1413 (June 2002).

Chapter 13. Temperature

§1301. Temperature Control
[formerly paragraph 22:09-1]

A. Except as specified in §1303 of this Chapter, all refrigerated potentially hazardous foods shall be received at a temperature of 41EF (5EC) or below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:320 (February 2002), amended LR 28:1413 (June 2002).

§1303. Exceptions
[formerly paragraph 22:09-2]

A. Shell eggs, milk and molluscan shellstock may be received at a temperature not to exceed 45EF (7.2EC) as specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:320 (February 2002), amended LR 28:1413 (June 2002).

§1305. Cooking/Reheating
[formerly paragraph 22:09-3]

A. Foods shall be cooked to heat all parts of the food to a temperature and for a time that are at least:

1. 165EF (74EC) or above for 15 seconds for wild game, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites or stuffing containing fish, meat or poultry;

2. 155EF (68EC) or above for 15 seconds for comminuted fish, comminuted meats, injected meats, ratites or raw pooled eggs;

3. 165EF (74EC) or above when foods are cooked or reheated in microwave ovens and the food shall be rotated and stirred throughout to compensate for uneven distribution of heat;

4. 145EF (63EC) or above for 15 seconds for pork and all other foods;

5. 165EF (74EC) or above for 15 seconds in all parts of the food when reheating all potentially hazardous food that is cooked, cooled, and reheated for hot holding or serving;

6. 130EF (54EC) minimum internal temperature for beef roasts or to a temperature and time that will cook all parts of the roast as required by the following;

a. in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature; and

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10 lbs.)	4.5 kg (10 lbs.) or more
Still Dry	350EF (177EC) or more	250EF (121EC) or more
Convection	325EF (163EC) or more	250EF (121EC) or more
High Humidity[1]	250EF (121EC) or less	250EF (121EC) or less

[1]Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.

b. as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature;

Temperature	Time in Minutes	Temperature	Time in Minutes	Temperature	Time in Minutes
130EF (54EC)	121	136EF (58EC)	32	142EF (61EC)	8
132EF (56EC)	77	138EF (59EC)	19	144EF (62EC)	5
134EF (57EC)	47	140EF (60EC)	12	145EF (63EC)	3
Holding time may include post-oven heat rise.					

7. 140EF (60EC) or above for 15 seconds for raw vegetables and fruit.

B. Exceptions:

1. raw or undercooked whole muscle, intact beef steak to be served or offered for sale in a ready to eat form shall be cooked to 145EF (63EC) or above surface temperature on both the top and bottom and until a cooked color change is achieved on all external surfaces; and

2. all food shall be served in accordance with this Section unless otherwise ordered by the consumer for immediate service, such as but not limited to raw, marinated fish, raw molluscan shellfish, steak tartare, or partially or lightly cooked food, if the food establishment serves a population that is not a highly susceptible population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:320 (February 2002), amended LR 28:1414 (June 2002).

§1307. Hot Holding Temperatures
[formerly paragraph 22:09-4]

A. Food stored for hot holding and service shall be held at a temperature of 140EF (60EC) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305.A.6 of this Chapter the minimum hot holding temperature shall be 130EF (54EC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:320 (February 2002), amended LR 28:1414 (June 2002).

§1309. Cold Holding Temperatures
[formerly paragraph 22:09-5]

A. Food stored for cold holding and service shall be held at a temperature of 41EF (5EC) or below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:320 (February 2002), amended LR 28:1414 (June 2002).

§1311. Cooling
[formerly paragraph 22:09-6]

A. Cooling of food shall be accomplished by using one or more of the following methods:

1. placing the food in shallow pans;
2. separating the food into smaller or thinner portions;
3. using rapid cooling equipment;
4. stirring the food in a container placed in an ice water bath;
5. using containers that facilitate heat transfer;
6. adding ice as an ingredient;
7. other approved effective methods.

B. Cooked potentially hazardous food shall be cooled:

1. to 70EF (21EC) from 140EF (60EC) within two hours of cooking or hot holding; and

2. to 41EF (5EC) from 70 EF (21EC) within four hours or less.

C. Potentially hazardous food, if prepared from ingredients at ambient temperature, shall be cooled to 41EF (5EC) within four hours following preparation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:320 (February 2002), amended LR 28:1414 (June 2002).

§1313. Frozen Food
[formerly paragraph 22:09-7]

A. Stored frozen food should be stored at a temperature of 0EF (-17.8EC) or below and shall be maintained frozen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:321 (February 2002), amended LR 28:1415 (June 2002).

§1315. Thawing
[formerly paragraph 22:09-8]

A. Potentially hazardous food shall be thawed by one of the following methods:

1. under refrigeration that maintains the food temperature at 41EF (5EC) or below;

2. completely submerged under potable running water at a temperature of 70EF (21EC) or below with sufficient water velocity to agitate and float off loose particles in an overflow;

3. for a period of time that does not allow thawed portions to rise above 41EF (5EC);

4. as part of the conventional cooking process or thawed in a microwave oven and immediately transferred to conventional cooking equipment with no interruption in the cooking process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:321 (February 2002), amended LR 28:1415 (June 2002).

§1317. Time as a Public Health Control
[formerly paragraph 22:09-9]

A. Time only, rather than time in conjunction with temperature, may be used as a public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

1. the food is marked or otherwise identified with the time within which it shall be cooked, served or discarded;

2. the food is served or discarded within four hours from the point in time when the food is removed from temperature control;

3. food in unmarked containers or packages, or for which the time expires, is discarded; and

4. written procedures are maintained in the food establishment or retail food store/market and are available to the department upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:321 (February 2002), amended LR 28:1415 (June 2002).

§1319. Parasite Destruction by Freezing

A. Except as specified in Subsection B of this Section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

1.4EF (-20EC) or below for 168 hours (7 days) in a freezer; or

2.31EF (-35EC) or below for 15 hours in a blast freezer.

B. If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under Subsection A of this Section.

C. Except as specified in Subsection B of this Section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment or retail food store/market for 90 calendar days beyond the time of service or sale of the fish.

D. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under §1319 may substitute for the records specified under Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:321 (February 2002), amended LR 28:1415 (June 2002).

§1321. Temperature Measuring Devices (Thermometers)
[formerly paragraph 22:09-10]

A. Temperature measuring devices shall be provided and used to measure:

1. food temperatures of potentially hazardous food on a device scaled in Fahrenheit (F) accurate to a plus or minus 2EF or Celsius (C) accurate to a plus or minus 1EC and should be able to measure the internal temperature of food products that are less than 1/2 inch thick,

2. ambient air temperature of all equipment used to hold potentially hazardous food on a device scaled in Fahrenheit accurate to a plus or minus 3EF or Celsius accurate to a plus or minus 1.5EC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:321 (February 2002), amended LR 28:1415 (June 2002).

Chapter 15. Food Storage

§1501. Protected
[formerly paragraph 22:10-1]

A. Food shall be protected from contamination by storing the food:

1. in a clean, dry location;

2. where it is not exposed to splash, dust, or other contamination;

3. at least six inches (15 cm) above the floor except:

i. metal pressurized beverage containers and cased food packages in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture.

ii. containerized food may be stored on dollies, racks or pallets, provided such equipment is readily movable.

4. so that it is arranged so that cross contamination of raw animal foods of one type with another, or ready to eat foods is prevented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:322 (February 2002), amended LR 28:1415 (June 2002).

§1503. Storage
[formerly paragraph 22:10-2]

A. Food may not be stored:

1. in locker rooms;
2. in toilet rooms;
3. in dressing rooms;
4. in garbage rooms;
5. in mechanical rooms;
6. under sewer pipes;
7. under water pipes that are not adequately shielded to intercept potential drips;
8. under open stairwells;
9. in vehicles used to transfer or hold any type of waste; or
10. under other sources of contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:322 (February 2002), amended LR 28:1416 (June 2002).

§1505. Packaged Food
[formerly paragraph 22:10-3]

A. Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water through the packaging, wrapping, or container because of its positioning in the ice or water. Unpackaged food may only be stored in direct contact with drained ice; except

1. whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water;
2. raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service or sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:322 (February 2002), amended LR 28:1416 (June 2002).

§1507. Date Marking

A. Ready-to-eat, potentially hazardous foods prepared on premise and held under refrigeration for more than 24 hours shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed, which is, including the day of preparation, seven calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:322 (February 2002), amended LR 28:1416 (June 2002).

Chapter 17. Food Preparation

§1701. General
[formerly paragraph 22:11-1]

A. During preparation, unpackaged food shall be protected from environmental sources of contamination. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served or offered for human consumption in ready to eat form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:322 (February 2002), amended LR 28:1416 (June 2002).

§1703. Hand Contact
[formerly paragraph 23:012]

A. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:322 (February 2002), amended LR 28:1416 (June 2002).

§1705. Cross Contamination
[formerly paragraph 22:11-3]

A. Cross contamination shall be prevented by separating:

1. raw animal foods from ready to eat foods, including but not limited to, placing, storing, or displaying ready to eat food above raw animal food;
2. raw unprepared vegetables from ready to eat potentially hazardous foods; or
3. certain raw animal foods from each other because of different cooking temperatures except when combining as ingredients.

B. Cross contamination shall be prevented by properly washing, rinsing and sanitizing cutting boards, food preparation surfaces and other food contact surfaces following contact with raw animal foods or raw vegetables and before contact with ready to eat food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:322 (February 2002), amended LR 28:1416 (June 2002).

§1707. Reconstituted Dry Milk and Dry Milk Products
[formerly paragraph 23:015]

A. Reconstituted dry milk and dry milk products meeting the requirement of Chapter VII of the State Sanitary Code may only be used in instant desserts and whipped products, or for cooking and baking purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:322 (February 2002), amended LR 28:1416 (June 2002).

§1709. Molluscan Shellfish
[formerly paragraph 22:11-2]

A. Raw shellfish shall be handled in accordance with Chapter IX of the State Sanitary Code, except a HACCP plan is not required and raw shellfish may not be prepackaged by food establishments and retail food stores/markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1416 (June 2002).

Chapter 19. Food Display and Service

§1901. General [formerly paragraph 22:12-1]

A. Food on display shall be protected from contamination by the use of packaging, counter service line or food/sneeze guards, display cases, or other effective means except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption.

B. Proper utensils shall be used for preparation, service and dispensing of food. These utensils shall be stored in accordance with §2519 of this Part.

C. Self service consumers shall not be allowed to use soiled tableware, including single service articles, to obtain additional food from the display and serving equipment. Tableware, including single service articles, shall be made available at the serving display. A sign shall be posted at the serving display prohibiting the reuse of soiled tableware.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1417 (June 2002).

§1903. Bulk Foods [formerly paragraph 22:12-2]

A. Bulk foods shall be handled and dispensed in a manner described in §1901.of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1417 (June 2002).

§1905. Condiments [formerly paragraph 22:12-3]

A. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1417 (June 2002).

§1907. Ice [formerly paragraph 22:12-4]

A. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice-dispensing equipment. Ice-dispensing utensils shall be stored in accordance with §2519.of this Part.

B. Ice used as a medium for cooling food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, shall not be used as food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1417 (June 2002).

§1909. Reservice [formerly paragraph 22:12-5]

A. Once served to a consumer, portions of left-over food shall not be reserved, except:

1. food that is not potentially hazardous, such as crackers and condiments, in an unopened original package and maintained in sound condition may be reserved or resold;

2. food that is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1417 (June 2002).

§1911. Special Requirements for Highly Susceptible Populations

A. In a food establishment that serves a highly susceptible population:

1. prepackaged juice or a prepackaged beverage containing juice must be pasteurized;

2. pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs shall be substituted for raw shell eggs in the preparation of:

a. foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, egg nog, ice cream, and egg-fortified beverages, and

b. recipes in which more than one egg is broken and the eggs are combined except:

i. when combined immediately before cooking for one consumer's serving at a single meal, cooked to 145EF for 15 seconds and served immediately, such as an omelet, souffle, or scrambled eggs;

ii. when combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread.

3. Food in an unopened original package may not be re-served.

4. The following foods may not be served or offered for sale in a ready to eat form:

a. raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

b. a partially cooked animal food such as lightly cooked fish, rare meat, soft cooked eggs that are made from raw shell eggs, and meringue; and

c. raw seed sprouts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:323 (February 2002), amended LR 28:1417 (June 2002).

Chapter 21. Equipment and Utensils

§2101. General [formerly paragraph 22:13]

A. All equipment and utensils shall be of construction approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:324 (February 2002), amended LR 28:1417 (June 2002).

§2103. Multi-Use [formerly paragraph 22:13-1]

A. Materials that are used in the construction of utensils and food contact surfaces of equipment shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

1. safe;

2. durable, corrosion-resistant, and non absorbent;

3. sufficient in weight and thickness to withstand repeated warewashing;

4. finished to have a smooth, easily cleanable surface; and

5. resistant to pitting, chipping, grazing, scratching, scoring, distortion, and decomposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:324 (February 2002), amended LR 28:1417 (June 2002).

§2105. Copper

[formerly paragraph 22:13-2]

A. Copper and copper alloys such as brass shall not be used in contact with a food that has a pH below 6.0, such as vinegar, fruit juice, or wine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:324 (February 2002), amended LR 28:1418 (June 2002).

§2107. Galvanized Metal

[formerly paragraph 22:13-3]

A. Galvanized metal shall not be used for utensils or food-contact surfaces or equipment that are used for acidic food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:324 (February 2002), amended LR 28:1418 (June 2002).

§2109. Lead

[formerly paragraph 22:13-4]:

A. Lead in Ceramic, China, and Crystal Utensils—Use Limitation

1. Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

Utensil Category	Description	Maximum Lead mg/L
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls $ 1.1L (1.16 qt)	1
Small Hollowware	Bowls < 1.1L (1.16 qt)	2.0
Flat Utensils	Plates, Saucers	3.0

B. Lead in Pewter Alloys—Use Limitation

1. Pewter alloys containing lead in excess of 0.05 percent shall not be used as a "food-contact surface."

C. Lead in Solder and Flux—Use Limitation.

1. Solder and flux containing lead in excess of 0.2 percent shall not be used as a food-contact surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:324 (February 2002), amended LR 28:1418 (June 2002).

§2111. Wood

[formerly paragraph 22:13-5]

A. Wood and wood wicker shall not be used as a food-contact surface except as follows.

1. Hard maple or an equivalently hard, close-grained wood may be used for:

a. cutting boards, cutting blocks, baker's tables; and utensils, such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

b. wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230EF (110EC) or above.

2. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

3. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in untreated wood containers or approved treated wood containers complying with the Code of Federal Regulations (CFR).

4. "Cedar-Plank" or "Shingles" may be used as a single-service article if;

a. the food establishment has certified that the "cedar-plank" has not been chemically treated and is in its natural state;

b. the side of the "plank" which will come in contact with the fish must be planed and sanded to a smooth finish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:324 (February 2002), amended LR 28:1418 (June 2002).

§2113. Non-Food Contact Surfaces

[formerly paragraph 22:14]

A. Surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, non absorbent, and smooth material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:324 (February 2002), amended LR 28:1418 (June 2002).

§2115. Single-Service and Single-Use Articles

[formerly paragraph 22:15]

A. Single-service and single-use articles shall not be reused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:325 (February 2002), amended LR 28:1418 (June 2002).

§2117. Gloves, Use Limitations

[formerly paragraph 22:16]

A. If used, single use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

B. Except as specified in Subsection C of this Section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under §1305 of this Part such as frozen food or a primal cut of meat.

C. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove or a single-use glove.

D. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under §1305 of this Part such as frozen food or a primal cut of meat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:325 (February 2002), amended LR 28:1418 (June 2002).

§2119. Food Temperature Measuring Devices [formerly paragraph 22:17]

A. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:325 (February 2002), amended LR 28:1419 (June 2002).

Chapter 23. Requirements for Equipment

§2301. General [formerly paragraph 22:18-1]

A. Equipment used for cooling, heating and holding cold and hot foods, shall be sufficient in number and capacity to provide food temperatures as specified in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:325 (February 2002), amended LR 28:1419 (June 2002).

§2303. Manual Warewashing, Sink Compartment Requirements [formerly paragraph 22:18-2]

A. A sink with at least three compartments shall be provided for manual washing, rinsing and sanitizing equipment and utensils, except:

1. where an approved alternative process is used as specified in Subsection C of this Section; or
2. where there are no utensils or equipment to wash, rinse and sanitize as in a facility with only prepackaged foods.

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

C. When equipment or utensils are too large for the warewashing sink or warewashing machine, the following alternative process may include:

1. high-pressure detergent sprayers;
2. low or line-pressure spray detergent foamers;
3. other task specific cleansing equipment, such as CIP;
4. brushes or other implements.

D. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing. Drainboards for sinks and machines shall be self-draining.

E. A warewashing sink may not be used for handwashing or dumping mop water. Sinks may be used to wash wiping cloths, wash produce and other foods or thaw foods if the sinks are properly washed and sanitized before this use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:325 (February 2002), amended LR 28:1419 (June 2002).

§2305. Warewashing Machines [formerly paragraph 22:18-3]

A. When provided, a warewashing machine shall have an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. temperatures required for washing, rinsing and sanitizing;
2. pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. conveyor speed for conveyor machines or cycle time for stationary rack machines.

B. Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

C. Warewashing machines shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. in each wash and rinse tank; and
2. as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

D. Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine.

E. Warewashing machines shall be operated in accordance with the machine's data plate and other manufacturer's specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:325 (February 2002), amended LR 28:1419 (June 2002).

Chapter 25. Cleaning of Equipment and Utensils

§2501. General [formerly paragraph 22:19-1]

A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.

B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other accumulations.

C. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:326 (February 2002), amended LR 28:1419 (June 2002).

§2503. Frequency of Cleaning
[formerly paragraph 22:19-2]

A. Equipment food contact surfaces and utensils shall be cleaned:

1. before each use with a different type of raw animal food such as beef, seafood, lamb, pork, or poultry;

2. each time there is a change from working with raw foods to working with ready to eat foods;

3. between uses with raw fruits or vegetables and with potentially hazardous food;

4. before using or storing a temperature measuring device;

5. at any time during the operation when contamination may have occurred.

B. Equipment food-contact surfaces and utensils used with potentially hazardous food shall be cleaned throughout the day at least every four hours.

C. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

D. Warewashing equipment, including machines and the compartments of sinks, basins or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards, shall be cleaned:

1. before use;

2. throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

3. if used, at least every 24 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:326 (February 2002), amended LR 28:1420 (June 2002).

§2505. Cleaning Agents
[formerly paragraph 22:19-3]

A. The wash compartment of a sink, mechanical warewasher, or other alternative process as specified in §2303.C of this Part, when used for warewashing, shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleanser, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:326 (February 2002), amended LR 28:1420 (June 2002).

§2507. Temperature of Wash Solution
[formerly paragraph 22:19-4]

A. The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110EF (43EC) unless a different temperature is specified on the cleaning agent manufacturer's label instruction.

B. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

1. for a single tank, stationary rack, single temperature machine, 165EF (74EC);

2. for a single tank, conveyor, dual temperature machine, 160EF (71EC);

3. for a single tank, stationary rack, dual temperature machine, 150EF (66EC);

4. for a multitank, conveyor, multitemperature machine, 150EF (66EC).

C. The temperature of the wash solution in spray type warewashers that use chemicals to sanitize may not be less that 120EF (49EC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:326 (February 2002), amended LR 28:1420 (June 2002).

§2509. Methods of Cleaning
[formerly paragraph 22:19-5]

A. Precleaning

1. Food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with a pre wash cycle.

2. If necessary for effective cleaning, utensils and equipment shall be pre-flushed, pre-soaked, or scrubbed with abrasives.

B. Loading. Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. exposes the items to the unobstructed spray from all cycles and;

2. allows the items to drain.

C. Wet Cleaning

1. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

2. The washing procedures selected shall be based on the type and purpose of equipment or utensil, and on the type of soil to be removed.

3. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:326 (February 2002), amended LR 28:1420 (June 2002).

§2511. Rinsing Procedures
[formerly paragraph 22:19-6]

A. Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or other solutions. A distinct, separate water rinse after washing and before sanitizing shall be used with:

1. a three compartment sink;

2. an alternative manual warewashing equipment equivalent to a three compartment sink as specified in §2303.C of this Part;

3. a three-step washing, rinsing and sanitizing procedure in a warewashing system for CIP equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:327 (February 2002), amended LR 28:1420 (June 2002).

§2513. Sanitization
[formerly paragraph 22:19-7]

A. After the food-contact surfaces of all equipment and utensils are washed and rinsed, they shall be sanitized before use. Clean food-contact surfaces of all equipment and utensils shall be sanitized in:

1. hot water:

a. if immersion in hot water is used in manual operation, the temperature of the water shall be maintained at 171EF (77EC) or above;

b. in a mechanical operation, the temperature of the hot water rinse as it enters the manifold may not be more than 194EF (90EC) or less than:

i. for a single tank, stationary rack, single temperature machine, 165EF (74EC); or

ii. for all other machines, 180EF (82EC). This should achieve a utensil surface temperature of 160EF (71EC) as measured by an irreversible registering temperature indicator;

c. in a mechanical operation using a hot water rinse, the flow pressure may not be less than 15 pounds per square inch or more than 25 pounds per square inch as measured in the water line immediately upstream from the fresh hot water sanitizing rinse control valve;

2. chemicals:

a. only a chemical sanitizer listed in 21 CFR 178.1010, Sanitizing Solutions, shall be used in a sanitizing solution for manual or mechanical operation at the specified exposure times. These sanitizing solutions shall be used in accordance with the EPA approved manufacturers label use instructions, and shall be used as follows.

i. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Minimum Concentration	Minimum Temperature	Minimum Temperature
MG/L or ppm	>pH 8 - pH 10	pH 8 or less
25 ppm	120? F (49? C)	120? F (49? C)
50 ppm	100? F (38? C)	75? F (24? C)
100 p.p.m	55? F (13? C)	55? F (13? C)

ii. An iodine solution shall have a:

(a). minimum temperature of 75EF (24EC);

(b). pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness; and

(c). concentration between 12.5 mg/L and 25 mg/L(ppm).

iii. A quarternary ammonium compound solution shall:

(a). have a minimum temperature of 75EF (24EC);

(b). have a concentration of 200 mg/L (ppm) or as indicated by the manufacturer's use directions included in labeling; and

(c). be used only in water with 500 mg/L (ppm) hardness or less.

iv. Other solutions of the chemicals specified in (i), (ii), and (iii), of this Subparagraph may be used if demonstrated to the department to achieve sanitization and approved by the department; or

v. other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling.

b. Chemical, manual or mechanical operations, including the applications of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified in §2513.A.2.a of this section shall be used to provide the following:

i. an exposure time of at least 10 seconds for a chlorine solution;

ii. an exposure time of at least 30 seconds for other chemical sanitizer solutions, or

iii. an exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in this Part.

c. A test kit or other device that accurately measures the concentration in mg/L or parts per million (ppm) of sanitizing solution shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:327 (February 2002), amended LR 28:1421 (June 2002).

§2515. Air Drying
[formerly paragraph 22:19-8]

A. Except as specified in Subsection C of this Section, after cleaning and sanitizing, equipment and utensils may not be cloth-dried.

B. Equipment and utensils shall be air-dried or used after adequate draining as specified in paragraph (a) of 21 CFR 178.1010 Sanitizing Solutions, before contact with food.

C. Utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:327 (February 2002), amended LR 28:1421 (June 2002).

§2517. Storage of Clean Equipment and Utensils
[formerly paragraph 22:19-9]

A. Except as specified in Subsection D of this Section, cleaned equipment, utensils and single-service and single use articles shall be stored:

1. in a clean dry location;

2. where they are not exposed to splash, dust, or contamination; and

3. at least 6 inches (15 cm) above the floor.

B. Clean equipment and utensils shall be stored as specified under Subsection A of this Section and shall be stored:

1. in a self-draining position that permits air drying; and

2. covered or inverted.

C. Single-service and single-use articles shall be stored as specified under Subsection A of this Section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than 6 inches (15 cm) above the floor on dollies, pallets, racks, or skids provided that the storage equipment is designed so that it may be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:328 (February 2002), amended LR 28:1421 (June 2002).

§2519. In Use and Between Use Utensil Storage
[formerly paragraph 22:19-10]

A. During pauses in food preparation or dispensing, food preparation dispensing utensils shall be stored:

1. in the food;

a. with their handles above the top of the food and the container;

b. with their handles above the top of the food within containers or equipment that can be closed, if such food is not potentially hazardous , such as bins of sugar, flour, or cinnamon;

2. on a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under §2503 of this Part;

3. in running water of sufficient velocity to flush particulate matter to the drain, if used with moist food such as ice cream or mashed potatoes; or

4. in a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous;

5. in a container of water if the water is maintained at a temperature of at least 140EF (60EC) and the container is cleaned at least once every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:328 (February 2002), amended LR 28:1422 (June 2002).

Chapter 27. Water Supply

§2701. General
[formerly paragraph 22:20-1]

A. Sufficient quantities of potable water for the needs of the food establishment or retail food store/market shall be provided in accordance with Chapter XII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:328 (February 2002), amended LR 28:1422 (June 2002).

§2703. Pressure
[formerly paragraph 22:20-2]

A. Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:328 (February 2002), amended LR 28:1422 (June 2002).

§2705. Hot Water
[formerly paragraph 22:20-3]

A. Hot water shall be provided to all fixtures, equipment and nonfood equipment as required and the generation and distribution system shall be sufficient to meet the peak hot water demands throughout the food establishment or retail food store/market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:328 (February 2002), amended LR 28:1422 (June 2002).

§2707. Steam
[formerly paragraph 22:20-4]

A. Steam used in contact with food or food contact surfaces shall be free of deleterious materials or additives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:328 (February 2002), amended LR 28:1422 (June 2002).

§2709. Bottled Water
[formerly paragraph 22:20-5]

A. Bottled and packaged potable water shall be obtained from a source that complies with Chapter VI of the State Sanitary Code and the Food, Drug and Cosmetic Law and Regulations. Bottled and packaged potable water, if used, shall be handled and stored in a way that protects it from contamination and shall be dispensed from the original container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:328 (February 2002), amended LR 28:1422 (June 2002).

Chapter 29. Sewage

§2901. General
[formerly paragraph 22:21-1]

A. All sewage from retail food establishments or retail food stores/markets shall be disposed of through an approved sewerage system/facility in accordance with Chapter XIII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:329 (February 2002), amended LR 28:1422 (June 2002).

Chapter 31. Plumbing

§3101. General
[formerly paragraph 22:22-1]

A. Plumbing shall be sized, installed, and maintained in accordance with Chapter XIV of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:329 (February 2002), amended LR 28:1422 (June 2002).

§3103. Cross-Connection
[formerly paragraph 22:22-2]

A. There shall be no cross-connection between the potable water supply and any other source of water of lesser quality including any source of pollution from which the potable water supply might become contaminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:329 (February 2002), amended LR 28:1423 (June 2002).

§3105. Backflow
[formerly paragraph 22:22-3]

A. Backflow shall be prevented by:

1. installing an air gap in the water distribution system between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment which is at least twice the diameter of the water supply inlet (or generally, three times the diameter if affected by a nearby wall); or

2. installing an approved backflow or backsiphonage prevention device installed and maintained on a water line in accordance with Chapter XIV of the State Sanitary Code;

3. not having a direct connection between the drainage system and any drain line originating from equipment in which food, portable equipment, or utensils are placed (e.g., any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted, or otherwise prepared or handled; potato peelers; ice cream dipper wells, refrigerators; freezers; walk-in coolers and freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; or similar equipment).

Exception: A commercial dishwashing (warewashing) machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 5 feet (1.5 m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:329 (February 2002), amended LR 28:1423 (June 2002).

§3107. Non-Potable Water System
[formerly paragraph 22:22-4]

A. A non-potable water system is permitted only for purposes such as air conditioning and fire protection, provided the system is installed in accordance with Chapter XII and Chapter XIV of the State Sanitary Code and:

1. the non potable water does not contact directly or indirectly, food, potable water equipment that contacts food, or utensils; and

2. the piping of any nonpotable water system shall be easily identified so that it is readily distinguishable from piping that carries potable water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:329 (February 2002), amended LR 28:1423 (June 2002).

§3109. Lavatory Facilities
[formerly paragraph 22:22-5]

A. All lavatory fixtures shall be installed in accordance with Chapter XIV of the State Sanitary Code and:

1. at least one handwashing lavatory shall;

a. be located to permit convenient use by all employees in food preparation areas and utensil washing areas including the produce, meat and seafood markets;

b. also be located in or immediately adjacent to toilet rooms;

2. lavatories shall be accessible to employees at all times;

3. lavatories shall be equipped to provide a flow of water at a temperature of at least 85EF (30EC) through a mixing valve or combination faucet;

4. if a self-closing, slow-closing, or metering faucet is used, it shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet;

5. steam mixing valves are prohibited;

6. a supply of hand-cleansing soap or detergents shall be available at each lavatory. A supply of individual disposable towels, a continuous towel system that supplies the user with a clean towel or a heat-air drying device shall be available at each lavatory. The use of common towels is prohibited;

7. lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair;

8. a handwashing lavatory may not be used for purposes other than handwashing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:329 (February 2002), amended LR 28:1423 (June 2002).

§3111. Toilet Facilities
[formerly paragraph 22:22-6]

A. All toilet fixtures and facilities shall be installed in accordance with Chapter XIV of the State Sanitary Code and:

1. toilet fixtures and facilities shall be the number required, shall be conveniently located, and accessible to employees at all times;

2. a toilet room located on the premises shall be completely enclosed and provided with a solid tight-fitting and self-closing door except that this requirement does not apply to a toilet room that is located outside a food establishment or retail food store/market and does not open directly into the food establishment or retail food store/market, such as but not limited to shopping malls, airports, or other places of public assembly;

3. toilet rooms shall be mechanically vented to the outside atmosphere;

4. toilet fixtures and facilities shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials with at least one covered waste receptacle in toilet rooms used by women.

B. Toilet rooms shall be provided with a properly installed floor drain. The floor shall slope towards the floor drain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:329 (February 2002), amended LR 28:1423 (June 2002).

§3113. Grease Traps
[formerly paragraph 22:22-7]

A. An approved type grease trap shall be installed in accordance with Chapter XIV of the State Sanitary Code and:

1. it shall be installed in the waste line leading from the sinks, drains and other fixtures or equipment where grease may be introduced in the drainage or sewage system in quantities that may affect line stoppage or hinder sewage treatment;

2. a grease trap, if used, shall be located to be easily accessible for cleaning and shall be serviced as often as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:330 (February 2002), amended LR 28:1424 (June 2002).

§3115. Garbage Grinders
[formerly paragraph 22:22-8]

A. If used, garbage grinders shall be installed and maintained in accordance with Chapter XIV of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:330 (February 2002), amended LR 28:1424 (June 2002).

§3117. Utility or Service Sink
[formerly paragraph 22:22-9]

A. At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste. The sink shall be located in an area to avoid food contamination.

B. The use of lavatories, utensil washing, equipment washing, or food preparation sinks as a utility or service sink is prohibited.

C. In some special applications, because of space restrictions or unique situations, when the risk of contamination is low in the opinion of the state health officer, a large utility/service sink may be used as a handwashing sink.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:330 (February 2002), amended LR 28:1424 (June 2002).

Chapter 33. Garbage, Rubbish and Refuse

§3301. General
[formerly paragraph 22:23-1]

A. All garbage, rubbish and refuse shall be handled in accordance with Chapter XXVII of the State Sanitary Code .

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:330 (February 2002), amended LR 28:1424 (June 2002).

§3303. Receptacles for Garbage, Rubbish and Refuse
[formerly paragraph 22:223-2]

A. Equipment and receptacles for refuse, recyclables, returnables, and for use with materials containing food residue shall be durable, cleanable, insect and rodent resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage of garbage, etc., inside the retail food establishment or retail food store/market, or within closed outside receptacles.

C. Outside receptacles for garbage, etc., shall have tight-fitting lids, doors, or covers and shall be kept closed.

D. There shall be a sufficient number of receptacles to hold all the garbage and refuse that accumulates. They shall be emptied when full. All garbage, rubbish and refuse shall be disposed of in an approved manner pursuant to applicable state laws and regulations.

E. Soiled receptacles shall be cleaned at a frequency to prevent a nuisance or the attraction of insects and rodents.

F. Liquid waste from compacting shall be disposed of as sewage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:330 (February 2002), amended LR 28:1424 (June 2002).

§3305. Incineration
[formerly paragraph 22:23-3]

A. Where garbage, rubbish or refuse is burned on the premises, it shall be done by incineration in accordance with the rules and regulations of the Louisiana Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:330 (February 2002), amended LR 28:1424 (June 2002).

§3307. Cleaning and Storage
[formerly paragraph 22:23-4]

A. Indoor garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent washable materials, shall be kept clean, shall be insect and rodent proof and shall be large enough to store the garbage and refuse that accumulates.

B. Outdoor garbage or refuse storage area surfaces shall be constructed of non-absorbent material such as concrete or asphalt and shall be smooth, durable, and sloped for drainage.

C. Suitable cleaning equipment and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of equipment and receptacles.

D. Liquid waste from the cleaning operation shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from entering the sanitary sewerage system. Dumpster pads may be elevated or curbed, enclosed or covered, and the sanitary sewerage drain protected with a proper cover.

E. If approved by the state health officer, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

F. Outdoor premises used for storage of garbage, rubbish, refuse, recyclables and returnables shall be maintained clean and free of litter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:330 (February 2002), amended LR 28:1424 (June 2002).

Chapter 35. Insects and Rodent Control

§3501. General
[formerly paragraph 22:24-1]

A. Insects and rodents shall be controlled in accordance with Chapter V of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:331 (February 2002), amended LR 28:1425 (June 2002).

§3503. Insect Control Devices
[formerly paragraph 22:24-2]

A. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

B. Insect control devices shall be installed so that:

1. the devices are not located over a food preparation area, and

2. dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:331 (February 2002), amended LR 28:1425 (June 2002).

§3505. Openings
[formerly paragraph 22:24-3]

A. Openings to a portion of the building that is not part of the food establishment, or retail food store/market, or to the outdoors shall be protected against the entry of insects and rodents by:

1. filling or closing holes and other gaps along floors, walls and ceilings;

2. closed, tight-fitting windows;

3. solid, self-closing, tight-fitting doors; or

4. if windows or doors are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects by:

a. 16 mesh to the inch (25.4 mm) screens;

b. properly designed and installed air curtains; or

c. other effective means approved by the department.

B. Establishment location, weather or other limiting conditions may be considered as part of an overall flying insect and other pest control program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:331 (February 2002), amended LR 28:1425 (June 2002).

§3507. Premises
[formerly paragraph 22:24-2]

A. The premises shall be free of:

1. items that are unnecessary to the operation or maintenance of the food establishment, or retail food store/market, such as equipment that is nonfunctional or no longer used; and

2. litter.

B. The premises shall be kept free of pests by:

1. routinely inspecting the premises for evidence of pests; and

2. using methods of control approved by law.

C. Outdoor walking and driving areas shall be surfaced with concrete, asphalt, gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, drain properly and prevent muddy conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:331 (February 2002), amended LR 28:1425 (June 2002).

Chapter 37. Physical Facilities

§3701. Floors
[formerly paragraph 22:25]

A. Floors shall be constructed of smooth, durable, nonabsorbant and easily cleanable material.

B. Closely woven and easily cleanable carpet may be used in certain areas of the food establishment or retail food store/market except where food is prepared and processed.

C. Properly installed floor drains shall be provided in toilet rooms, seafood and meat markets and in all areas where water flush cleaning methods are used. The floor shall be sloped to the floor drain.

D. Floors shall be maintained clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:331 (February 2002), amended LR 28:1425 (June 2002).

§3703. Walls and Ceilings
[formerly paragraph 22:26]

A. Walls and ceilings in the food preparation areas and equipment-utensil washing areas shall be constructed of light colored, smooth, durable and easily cleanable materials.

B. Utility service lines, pipes, exposed studs, joists, rafters and decorative items shall not be unnecessarily exposed in food preparation and processing areas. When exposed in other areas of the food establishment or retail food store/market, they shall be installed so they do not obstruct or prevent cleaning of the walls and ceilings.

C. Walls, ceilings, and any attachments shall be maintained clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:331 (February 2002), amended LR 28:1425 (June 2002).

§3705. Lighting Intensity
[formerly paragraph 22:27-1]

A. The lighting intensity:

1. in walk-in refrigeration units and dry food storage areas, and in other areas or rooms during periods of cleaning, shall be at least 110 lux (10 foot candles) at a distance of 30 inches (75 cm) above the floor.

2. in areas where there is consumer self service, areas used for handwashing, warewashing, equipment and utensil storage, and in toilet rooms, shall be at least 220 lux (20 foot candles) at a distance of 30 inches (75 cm) above the floor.

3. at a surface where a food employee is working with unpackaged potentially hazardous food or with food, utensils, and equipment such as knives, slicers, grinders, or saws where employees' safety is a factor, shall be at least 540 lux (50 foot candles) at a distance of 30 inches (75 cm) above the floor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:332 (February 2002), amended LR 28:1426 (June 2002).

§3707. Light Shielding
[formerly paragraph 22:27-2]

A. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils and linens or unwrapped single-service and single-use articles.

B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:332 (February 2002), amended LR 28:1426 (June 2002).

§3709. Mechanical Ventilation
[formerly paragraph 22:28-1]

A. If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes, mechanical ventilation of sufficient capacity shall be provided exhausting to the outside atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:332 (February 2002), amended LR 28:1426 (June 2002).

§3711. Hood Ventilation [formerly paragraph 22:28-2]

A. Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings and should be equipped with filters to prevent grease from escaping into the outside atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:332 (February 2002), amended LR 28:1426 (June 2002).

§3713. Heating, Air Conditioning, Ventilating System Vents [formerly paragraph 22:28-3]

A. These systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment and utensils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:332 (February 2002), amended LR 28:1426 (June 2002).

Chapter 39. Poisonous or Toxic Materials

§3901. Labeling
[formerly paragraph 22:29-1]

A. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

B. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. This practice is not allowed in a day-care or residential facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:332 (February 2002), amended LR 28:1426 (June 2002).

§3903. Storage and Display
[formerly paragraph 22:29-2]

A. Poisonous or toxic materials shall be stored for use in food establishments or displayed for retail sale or use in retail food stores/markets so they may not contaminate food, equipment, utensils, linens, single-service and single-use articles by:

1. separating the poisonous or toxic materials by spacing or partitioning; and

2. locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, single-service and single-use articles; and

3. storing those properly labeled medicines and first aid supplies necessary for the health of employees or for retail sale in a location or area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles; and

4. storing medicines belonging to employees that require refrigeration (and are stored in a food refrigerator) in a package or container kept inside a covered, leakproof container that is identified as a container for the storage of medicines, or as specified for day care centers and residential facilities in Chapter XXI of this Title; and

5. storing employees' personal care items in lockers or other suitable facilities that are located in an area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:332 (February 2002), amended LR 28:1426 (June 2002).

§3905. Use
[formerly paragraph 22:29-3]

A. Only those poisonous or toxic materials that are required for the operation and maintenance of the food establishment or retail food store/market such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in food preparation and processing areas. This does not apply to approved, packaged poisonous or toxic materials that are for retail sale stored in accordance with §3903 of this Part.

B. Poisonous or toxic materials shall be stored in accordance with §3903 of this Part, and used according to:

1. law;

2. manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions including a statement that the use is allowed in a food preparation or processing area; and

3. any additional conditions that may be established by the regulatory authority.

C. Chemical sanitizers and other chemical antimicrobials applied to food contact surfaces shall meet the requirements specified in §2513.A.2 and §2515.B of this Part.

D. Chemicals used to wash or peel raw, whole fruits and vegetables shall be used in accordance with the manufacturer's label instructions and as specified in 21 CFR 173.315.

E. Restricted use pesticides shall be applied and used according to law and in accord with the manufacturer's label instructions.

F. Rodent bait shall be contained in a covered, tamper-resistant bait station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:332 (February 2002), amended LR 28:1426 (June 2002).

Chapter 41. Miscellaneous

§4101. Prohibitive Acts [formerly paragraph 22:30]

A. Except as specified in Subsection B of this Section, live animals may not be allowed on the premises of food establishments or retail food stores/markets.

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result; such as

1. edible fish or decorative fish in aquariums, shellfish and crustacea in display tank systems;

2. patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

3. service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal, in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas;

4. pets in the common dining areas of group residences at times other than during meals if:

a. effective partitioning and self-closing doors separate the common dining areas from storage or food preparation areas;

b. condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

c. dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

C. Body Art. No employee or any other person shall engage in the practice of "Body art" within the premises of any food establishment or retail food store/market as defined in this Part.

D. Persons unnecessary to the food establishment or retail food store/market operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination.

AUTHORITY NOTE: Promulgated in accordance with RS. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:333 (February 2002), amended LR 28:1427 (June 2002).

§4103. Distressed Merchandise [formerly paragraph 22:32]

A. Products that are held by the food establishment or retail food store/market for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:333 (February 2002), amended LR 28:1427 (June 2002).

§4105. Dressing Areas, Lockers and Employee Break Areas [formerly paragraph 22:33]

A. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

B. Lockers or other suitable facilities shall be provided and used for the orderly storage of employees' clothing and other possessions.

C. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination. Areas where employees use tobacco should be well ventilated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:333 (February 2002), amended LR 28:1427 (June 2002).

§4107. Linen/Laundry, General [formerly paragraph 22:35-1]

A. Clean linens shall be free from food residues and other soiled matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:333 (February 2002), amended LR 28:1427 (June 2002).

§4109. Linen/Laundry, Frequency of Cleaning [formerly paragraph 22:35-2]

A. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

B. Cloth gloves shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

C. Wet wiping cloths shall be laundered before being used with a fresh solution of cleanser or sanitizer.

D. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:333 (February 2002), amended LR 28:1427 (June 2002).

§4111. Wiping Cloths
[formerly paragraph 22:35-3]

A. Cloths that are used for wiping food spills shall be used for no other purpose.

B. Moist cloths used for wiping food spills on food contact surfaces of equipment shall be stored in an approved chemical sanitizing solution between uses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:334 (February 2002), amended LR 28:1428 (June 2002).

§4113. Storage of Soiled Linens
[formerly paragraph 22:35-4]

A. Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils and single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:334 (February 2002), amended LR 28:1428 (June 2002).

§4115. Use of Laundry Facilities
[formerly paragraph 22:35-5]

A. Laundry facilities on the premises of a food establishment or retail food store/market shall be used only for the washing and drying of items used in the operation of the establishment and located away from food preparation areas.

B. Linens which are not laundered on the premises may be sent to an off premise commercial laundry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:334 (February 2002), amended LR 28:1428 (June 2002).

§4117. Living Areas
[formerly paragraph 22:36]

A. Living or sleeping quarters such as a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters, shall not be used for conducting food establishment or retail food store/market operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:72 (January 2002), amended LR 28:1428 (June 2002).

§4119. Maintenance Equipment
[formerly paragraph 22:37]

A. Maintenance tools such as brooms, mops, vacuum cleaners, and similar equipment shall be:

1. stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

2. stored in an orderly manner that facilitates cleaning.

B. Mops should be hung and/or stored in a manner to facilitate air drying.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:334 (February 2002), amended LR 28:1428 (June 2002).

§4121. Reduced Oxygen Packaging Criteria
[formerly paragraph 22:39]

A. A food establishment or retail food store/market that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan as specified in §311 of this Part, which provides the following information:

1. identifies the food to be packaged;

2. limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:

a. has a water activity of (a_w) of 0.91 or less;

b. has a pH of 4.6 or less;

c. is a meat product cured at a food processing plant regulated by the USDA or the Louisiana Department of Agriculture using substances specified in 9 CFR 318.7, Approval of Substances for Use in the Preparation of Products, and 9 CFR 381.147, Restrictions on the Use of Substances in Poultry Products, and is received in an intact package; or

d. is a food with a high level of competing organisms such as raw meat or raw poultry;

3. specifies methods for maintaining food at 41EF (5EC) or below;

4. describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

a. maintain the food at 41EF (5EC) or below, and

b. discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premise consumption;

5. limits the shelf life to no more that 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, which ever occurs first;

6. includes operational procedures that:

a. prohibit contacting food with bare hands;

b. identify a designated area and the method by which:

i. physical barriers or methods of separation of raw foods and ready-to eat foods minimize cross-contamination, and

ii. access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and

c. delineate cleaning and sanitization procedures for food-contact surfaces; and

7. describes the training program that ensures that the individual responsible for reduced oxygen packaging (vacuum packaging) operation understands the:

a. concepts required for a safe operation;

b. equipment and facilities, and

c. procedures specified in Paragraph A.6 of this Subsection and the HACCP plan.

B. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:334 (February 2002), amended LR 28:1428 (June 2002).

§4123. Smoked Meat Preparation, Not Fully Cooked [formerly paragraph 22:40-1]

A. Not fully cooked smoked meats, also referred to as "partially cooked meats," shall be heated to a temperature and time sufficient to allow all parts of the meat to reach between 100EF and 140EF. This product shall be labeled on each retail package "FURTHER COOKING REQUIRED" with lettering of not less than one-half inch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

§4125. Smoked Meat Preparation, Fully Cooked [formerly paragraph 22:40-2]

A. Fully cooked smoked meats shall be heated at a temperature and time sufficient to allow all parts of the meat to reach 155EF except poultry products which shall reach 165EF with no interruption of the cooking process and fish which shall reach 145EF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

§4127. Open Air Markets

A. Markets commonly called "open air markets," "curb markets" or "open front markets" shall store all food products above the floor or ground level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

§4129 Itinerant Food Establishments, Itinerant Retail Food Stores/Markets Permit [formerly paragraph 22:34-1]

A. No itinerant food establishment or itinerant retail food store/market shall operate without first applying for and receiving a permit from the state health officer.

B. Seasonal permits issued to itinerant food establishments or itinerant retail food stores/markets should coincide with the legally set seasons for the products those markets plan to handle or sell and expire the last day of the season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

§4131. Itinerant Food Establishments, Itinerant Food Stores/Markets Plans [formerly paragraph 22:34-2]

A. Plans and specifications for all proposed itinerant food establishments or itinerant retail food stores/markets shall be submitted to the state health officer for review and approval before applying for and receiving a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

Chapter 43. Inspections and Enforcement

§4301. Inspections, Frequency [formerly paragraph 22:42-1]

A. Inspections of food establishments or retail food stores/markets shall be performed by the department as often as necessary for the enforcement of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

§4303. Inspections, Access [formerly paragraph 22:42-2]

A. Representatives of the state health officer, after proper identification, shall be permitted to enter any food establishment or retail food store/market at any time for the purpose of making inspections to determine compliance with this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

§4305. Inspections, Records [formerly paragraph 22:42-3]

A. The state health officer shall be permitted to examine the records of food establishments or retail food stores/markets to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. Such records shall be maintained for a period of not less than six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

§4307. Inspections, Reports [formerly paragraph 22:42-4]

A. Whenever an inspection of a food establishment or retail food store/market is made, the findings shall be recorded on an inspection report form. A copy of the completed inspection report shall be furnished to the person in charge of the food establishment or retail food store/market at the conclusion of the inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:335 (February 2002), amended LR 28:1429 (June 2002).

§4309. Enforcement, General [formerly paragraph 22:43-2]

A. Enforcement procedures shall be conducted in accordance with Part I of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1429 (June 2002).

§4311. Enforcement, Critical Violations
[formerly paragraph 22:43-2]

A. Critical items, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water source, chemical contamination, sewage backup or improper sewage disposal, noted at the time of inspection shall be corrected immediately or by a time set by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

§4313. Enforcement, Noncritical Violations
[formerly paragraph 22: 43-3]

A. Noncritical items noted at the time of inspection shall be corrected as soon as possible or by a time limit set by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

§4315. Enforcement, Adulterated Food
[formerly paragraph 22:43-4]

A. Any food product that is adulterated, misbranded or unregistered is subject to seizure and condemnation by the state health officer according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

Chapter 45. Mobile Food Establishments, Mobile Retail Food Stores/Markets and Pushcarts [formerly paragraph 22:34-3]

§4501. Interior of Vehicles

A. The interior of vehicles where food products are prepared and stored shall be constructed of a smooth, easily cleanable surface and maintained in good repair.

B. The interior of vehicles where food products are prepared and stored shall be kept clean.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

§4503. Packaged Food Products
[formerly paragraph 22:34-4]

A. Trucks or vendors selling packaged food products such as ice cream, frozen novelties, meats, etc. shall operate from a base of operation where leftover products may be properly stored and inspected and the vehicle serviced. Packaged potentially hazardous foods shall be stored in accordance with §1309 and §1313 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

§4505. Produce
[formerly paragraph 22:34-5]

A. Produce venders shall comply with §1101, §1103, §1107, §4101 and Chapter 15 of this Part. The produce should be protected by some type of enclosure or cover on the vehicles. Any produce left at the end of the day should be properly stored and protected from insects and rodents overnight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

§4507. General
[formerly paragraph 23:117-1]

A. Mobile food establishments, mobile retail food stores/markets or pushcarts shall comply with the requirements of this Part, except as otherwise provided in this section and in §4129 of this Part. The department may impose additional requirements to protect against health hazards related to the conduct of the food establishment or retail food store/market as a mobile operation, may prohibit the sale of some or all potentially hazardous food and when no health hazard will result, may modify requirements of this Part relating to physical facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

§4509. Plans Submission
[formerly paragraph 22:34-2]

A. Properly prepared plans and specifications for mobile food establishments, mobile retail food stores/markets and pushcarts shall be submitted to the state health officer for review and approval before construction is begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

§4511. Permit
[formerly paragraph 23:125]

A. No person shall operate a mobile food establishment, mobile retail food store/market or pushcart who does not have a valid permit issued to him by the state health officer. Only a person who complies with the requirements of this Part shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every mobile food establishment, mobile retail food store/market or pushcart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:336 (February 2002), amended LR 28:1430 (June 2002).

§4513. Issuance of Permits
[formerly paragraph 23:126-1]

A. Any person desiring to operate a mobile food establishment, mobile retail food store/market or pushcart shall make written application for a permit on forms

provided by the state health officer. Such application shall include the name and address of each applicant, the location and type of the proposed mobile food establishment, mobile retail food store/market or pushcart, and the signature of each applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:337 (February 2002), amended LR 28:1430 (June 2002).

§4515. Restricted Operations
[formerly paragraph 22:34-6]

A. Boiled peanuts shall be handled in accordance with guidelines set by the state health officer.

B. Hot tamales shall be handled in accordance with guidelines set by the state health officer.

C. Seafood

1. Boiled seafood shall be cooked and handled in accordance with guidelines set by the state health officer.

2. Oysters sold by the sack must be in an enclosed, mechanically refrigerated vehicle and comply with §1101, §1103, §1107, §1109 and §1117 of this Part.

3. Live crabs or crawfish sold by the bushel or sack must be stored either on ice in an enclosed, insulated vehicle or in an enclosed mechanically refrigerated vehicle and comply with §1101, §1103 and §1117 of this Part.

4. Raw shrimp vendors:

a. shall store their shrimp in containers such as ice chests which are smooth, impervious and easily cleanable. The use of styrofoam is prohibited;

b. shall maintain shrimp at a temperature of 41EF (5EC) in accordance with §1309 of this Part;

c. shall provide a minimum one gallon container of sanitizer solution at the proper strength in accordance with §2513.A.2 of this Part to rinse hands, scoops, scales, ice chests, etc., as needed; and

d. shall provide paper hand towels and a waste receptacle.

5. Waste water from any seafood vendor shall be disposed of properly in accordance with §2901 of this Part. Waste water shall be collected in an approved, covered, labeled container for proper disposal. The discharging of waste water onto the ground or into a storm drainage system is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:337 (February 2002), amended LR 28:1431 (June 2002).

§4517. Single-Service Articles
[formerly paragraph 23:119]

A. Mobile food establishments, mobile retail food stores/markets or pushcarts shall provide only single-service articles for use by the consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:337 (February 2002), amended LR 28:1431 (June 2002).

§4519. Water System
[formerly paragraph 23:120]

A. A mobile food establishment or a mobile retail food store/market requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of this regulation. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of Chapter XIV of the State Sanitary Code. An approved gauge shall be provided to determine contents level.

B. Potable water shall come from an approved source in accord with the requirements of Chapter XII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:337 (February 2002), amended LR 28:1431 (June 2002).

§4521. Waste Retention
[formerly paragraph 23:121]

A. If liquid waste results from operation of a mobile food establishment or mobile retail food store/market, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food establishment or mobile retail food store/market is in motion. All connections on the vehicle for servicing mobile food establishment or mobile retail food store/market waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food establishment or mobile retail food store/market. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system. An approved gauge shall be provided to determine content levels.

B. Wastewater from mobile food establishments or mobile retail food stores/markets shall be disposed of in accord with §2901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:337 (February 2002), amended LR 28:1431 (June 2002).

§4523. Base of Operations/Commissary
[formerly paragraphs 23:122, 23:123, 23:124]

A. Mobile food establishments, mobile retail food stores/markets and pushcarts shall operate from a commissary or other fixed food establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

B. The commissary or other fixed food establishments used as a base of operation for mobile food establishments, mobile retail food stores/markets, or pushcarts shall be constructed and operated in compliance with the requirements of this Part.

C. Servicing Area

1. A servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid

wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies.

2. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

3. Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.

4. The liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with §2901of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:337 (February 2002), amended LR 28:1431 (June 2002).

Chapter 47. Temporary Food Service

§4701. General
[formerly paragraph 23A:002]

A. The state health officer or his/her duly authorized representative may impose requirements in addition to those set forth below to protect against health hazards related to the operation of the temporary food service, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of the state sanitary code, in accordance with the Administrative Procedure Act. Nothing in this Part shall be construed to abridge the constitutional rights of the people to peaceably assemble.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:338 (February 2002), amended LR 28:1432 (June 2002).

§4703. Permits
[formerly paragraph 23A:003]

A. A temporary food service permit is not required for those fairs or festivals expressly exempted from regulation by R.S. 40:4.1 thru R.S. 40:4.6 inclusive.

B. When an organizer, promoter, or chairman of an exempted fair or festival makes written request for Office of Public Health inspections and permits and pays applicable fees, he or she shall comply with §4705 of this Part.

C. All fairs or festivals not exempted by Subsection A of this Section, shall not be allowed to operate until applying for, paying applicable fees, and receiving a valid permit to operate from the state health officer or his/her duly authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:338 (February 2002), amended LR 28:1432 (June 2002).

§4705. Written Application
[formerly 23A:003-1]

A. Written application for permit (LHS-31A), signed agreement, and supplemental application (obtainable from the parish health unit) should be received by the state health officer or his/her duly authorized representative at least thirty days in advance of the proposed gathering.

B. A permit to operate shall be required of the festival, fair or other special event organizer or promoter and must be obtained from the local parish health unit. The application for permit shall include the:

1. name and location of the special event;
2. permanent mailing address and phone number;
3. name of the property owner;
4. opening date and closing date;
5. daily hours of operation;
6. size of site (square feet);
7. anticipated maximum attendance at any one time;
8. name of the event organizer or promoter;
9. home address and phone number of the organizer or promoter;
10. business address and phone number of the organizer or promoter;
11. list of each individual food operator/ responsible person, including their home address, home phone number, business phone, and food items to be sold;
12. outline map showing the location of all proposed and existing:
    a. toilets;
    b. lavatory facilities;
    c. water supply sources (including storage tanks) and distribution system;
    d. food service areas (including diagram and description of the types of booths, tents, etc. to be used for the preparation of or dispensing of any food or beverage products);
    e. garbage and refuse storage and disposal areas;
    f. special event command post; and
    g. location of sewage disposal.

C. The following optional information is recommended to be included with the application for permit (on the outline map):

1. areas of assemblage;
2. camping areas (if any);
3. entrance and exits to public roadways;
4. emergency ingress and egress roads;
5. emergency medical and local enforcement command posts;
6. parking facilities;
7. written plan for dust control; and
8. written plan for emergency situations. (e.g. inclement weather, etc).

D. A permit to operate shall be required of each Individual Food Operator/Responsible Person operating a temporary food service unit/booth and must be obtained from the local parish health unit. Permits are not transferrable and shall be issued for each food and/or beverage unit/booth. Permits shall be posted in the temporary food service unit/booth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:338 (February 2002), amended LR 28:1432 (June 2002).

§4707. Ice/Wet Storage
[formerly paragraph 23A:004]

A. Ice shall be made and stored as required by §1907 of this Part and Chapter VI of the State Sanitary Code. Ice scoops must be used. The use of dry ice and/or frozen gel packs are recommended for cold storage. Storage of

packaged food in contact with water or undrained ice is prohibited. Sandwiches shall not be stored in direct contact with ice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1432 (June 2002).

§4709. Equipment

[formerly paragraph 23A:004-1]

A. Equipment and food contact surfaces shall comply with Chapter 21and Chapter 25 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1433 (June 2002).

§4711. Food Source and Protection

[formerly paragraph 23A:005-1]

A. Food shall be obtained, prepared, stored, handled and transported in accordance with Chapter 11, Chapter 13, Chapter 15, Chapter 17 and Chapter 19 of this Part. The sale of potentially hazardous home prepared food is prohibited.

B. The re-use of containers made of paper, wood, wax, or plastic coated cardboard is prohibited. Containers made of glass, metal, or hard plastic may be re-used only after they are properly washed, rinsed and sanitized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1433 (June 2002).

§4713. Personal Hygiene

[formerly paragraph 23A:007]

A. Each person working in a food booth shall comply with Chapter 7 and Chapter 9 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1433 (June 2002).

§4715. Food Stand/Booth Construction

[formerly paragraph 23A:008]

A. [formerly paragraph 23A:008-1] Indoor booths must be constructed with tables, counters, and/or walls on all sides to control patron access. Food service must be from the rear area of the booth or otherwise dispensed to prevent contamination by customers.

B. [formerly paragraph 23A:008-2] Outdoor booths must be constructed to include a roof made of wood, canvas, or other material that protects the interior of the booth from the weather and be enclosed by counters/walls to control patron access.

1. It is recommended that the booth be enclosed on three sides with the fourth, front side encompassing the service area, so constructed as to minimize the entrance of dust, flies and vermin. The use of screen, mosquito netting, or polyurethane for this purpose is acceptable; counter-service openings shall be minimal.

2. Additional protective covering must be provided to completely enclose outer openings in the event of rain, dust storms or other inclement weather.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1433 (June 2002).

§4717. Floors

[formerly paragraph 23X:008-3]

A. Floors shall be kept clean, in good repair and level, so as not to allow the pooling of water. It is recommended that floors be constructed of concrete, asphalt, or similar material. Dirt or gravel, when graded to drain, may be used, however, clean removable pallets, duckboard, plywood, or similar material is recommended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1433 (June 2002).

§4719. Barbecue Places

[formerly paragraph 23A:008-4]

A. Places where barbecue is cooked must be provided with a cover impenetrable by rain or barbecue pits must be provided with covers. All food storage and handling must comply with §4711of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1433 (June 2002).

§4721. Seafood Boils

[formerly paragraph 23A:008-5]

A. Seafood boiling areas must be provided with a cover impenetrable to rain or a covered boiling apparatus. All food storage and handling must comply with §4711of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1433 (June 2002).

§4723. Exception

[formerly paragraph 23A:008-6]

A. Pre-packaged, pre-wrapped and properly labeled (according to the provisions of the Louisiana Food, Drug and Cosmetic Law) foods may be offered for sale in open type food stands, providing such food is properly stored and handled as described in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:339 (February 2002), amended LR 28:1433 (June 2002).

§4725. Sanitizing of Utensils and Equipment

[formerly paragraph 23A:009]

A. All utensils and equipment must be washed, rinsed and sanitized at least daily , or as required in Chapter 25 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:340 (February 2002), amended LR 28:1433 (June 2002).

§4727. Water

[formerly paragraph 23A:010]

A. Enough potable water from an approved source shall be provided for drinking, food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing in

accordance with Chapter 27 and Chapter 31of this Part and Chapter XII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:340 (February 2002), amended LR 28:1433 (June 2002).

§4729. Sewage (Toilets and Waste)
[formerly paragraph 23A:011]

A. Approved facilities shall be provided and maintained for the disposal of all sewage and liquid waste in accordance with §2901of this Part and Chapter XIII of the State Sanitary Code.

B. Toilets shall be provided at the rate of one per 200 persons or fractional part thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:340 (February 2002), amended LR 28:1434 (June 2002).

§4731. Hand Washing
[formerly paragraph 23A:012]

A. When water under pressure is available, a hand washing facility shall be provided in accordance with §3109 of this Part.

B. When water under pressure is not available at the serving or food dispensing booth, two buckets of water shall be provided for each food concessionaire. One bucket containing potable water must be provided to remove extraneous materials or excess food particles; a second bucket containing a sanitizing solution (100 ppm chlorine, or 25 ppm iodine, or 200 ppm quaternary ammonia) must be provided as a hand dip well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:340 (February 2002), amended LR 28:1434 (June 2002).

§4733. Refuse (Garbage and Trash)
[formerly paragraph 23A:013]

A. All garbage and refuse shall be handled in accordance with Chapter 33 of this Part and Chapter XXVII of the State Sanitary Code.

B. A 50 gallon refuse container shall be provided at the rate of one for each 100 persons at peak anticipated attendance. In addition, each food vendor must have a covered refuse container for booth use.

C. Grease containers must be provided and all used grease must be deposited in these containers. Grease must not be poured down any drain.

D. The grounds and immediate surrounding properties shall be cleaned of refuse as soon as possible following the assembly, within and not exceeding 24 hours of closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:340 (February 2002), amended LR 28:1434 (June 2002).

§4735. Miscellaneous
[formerly paragraph 23A:014-1 and 23A:014-2]

A. The grounds of each fair, festival and/or temporary food service site shall be well drained and so arranged to provide sufficient space for people assembled, vehicles, sanitary facilities, and equipment.

B. All tents, cars, trailers, food stands and other appurtenances connected with the fair or festival shall at all times be kept in a clean and sanitary condition; and the grounds on which the fair or festival is located shall be kept in a clean and sanitary condition and, when vacated, left in a clean and sanitary condition.

C. The grounds shall be maintained free from accumulations of refuse, health and safety hazards, and from dust wherever possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:340 (February 2002), amended LR 28:1434 (June 2002).

§4737. Vector Control
[formerly paragraph 23A:014-2]

A. Insects, rodents, and other vermin shall be controlled by proper sanitary practices, extermination, or other safe and effective control methods in accord with applicable sections of Chapter 35 and Chapter 39 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:340 (February 2002), amended LR 28:1434 (June 2002).

§4739. Inspections/Violations/Closure
[formerly paragraph 23A:015]

A. All food operations are subject to at least daily inspections by representatives of the department.

B. Critical violations shall be corrected in accordance with §4311 of this Part.

C. Noncritical violations shall be corrected in accordance with §4313 of this Part.

D. Failure to make the necessary corrections or repeated violations will result in monetary penalties, sanctions, suspension of permit, seizure of food and/or further legal action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:340 (February 2002), amended LR 28:1434 (June 2002).

Part XXIV. Swimming Pools and Natural or Semi-Artificial Swimming or Bathing Places
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XXIV	**Chapter XXIV**
Chapter 1	
§101	24:029
§103	24:001 - 24:003
Chapter 3	
§301	24:004
§303	24:005
§305	24:005-1
§307	24:005-2
§309	24:005-3
§311	24:005-4
§313	24:005-5
§315	24:005-6
§317	24:006
§319	24:007
§321	24:008
§323	24:009
§325	24:010

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§329	24:012
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Part XXIV. Swimming Pools and Natural or Semi-Artificial Swimming or Bathing Places

Chapter 1. General Requirements

§101. Authority
[formerly paragraph 24:029]

A. The state health officer shall decide the maximum number of persons who may utilize an artificial or semi-artificial swimming pool or bathing place; the quantity of fresh water which must be discharged into said pool or place; the treatment, if any, that the water in said pool or place shall receive; and the number, design, and operating conditions of dressing rooms, showers, toilets, and/or any other appurtenances that shall be provided to maintain sanitary conditions at said pool or bathing place. This information shall be stated in the letter of approval of plans after review.

B. [Formerly paragraph 24:030] The state health officer has the authority to decide the design and operating conditions of health related ancillary facilities, at natural swimming places or bathing places, such as Abath houses,@ dressing rooms, showers, and toilets.

C. [Formerly paragraph 24:031] No natural or semi-artificial swimming pool or bathing place shall be operated when the water in said pool or place is determined by the state health officer to be so polluted as to constitute a menace to health if used for swimming or bathing. The owner or operator of any semi-artificial swimming pool or bathing place and the owner or operator of the ancillary facilities at any natural swimming place or bathing place shall conspicuously post the area as Aunsuitable for swimming or bathing,@ whenever the state health officer has determined that the area is so polluted as to constitute a menace to health.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(2)(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1435 (June 2002).

§103. Definitions
[formerly Sub-part A paragraph 24:001]

A. Unless otherwise specifically provided herein the following words or terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

*Natural Swimming Place or Bathing Place***C**any area in any natural watercourse or body of water in which people are immersed, or partially immersed, for swimming, recreational bathing, sporting events, therapeutic treatment, ceremonies, or any other related activities.

*Semi-Artificial Swimming Pool or Bathing Place or Bathing Beach***C**any area in any natural watercourse or body of water, the configuration of which has been altered by human construction, and in which people are immersed, or partially immersed, for swimming, recreational bathing, sporting events, ceremonies, therapeutic treatment, or any other related activities.

*Swimming Pool (Pools)***C**any indoor or outdoor pool or vessel, which is entirely of human construction, and in which people are immersed, or partially immersed, in water, for swimming, therapeutic treatment, recreational bathing, sporting events, ceremonies, or any other related activities. This includes, but is not limited to, hot tubs, medical treatment pools, spas, whirlpools, and water parks.

a. *Permanently Installed Swimming Pool***C**a pool that is constructed in the ground or in a building in such a manner that it cannot be readily disassembled for storage.

b. *Residential Pool***C**a residential pool shall be defined as any constructed pool, permanent or non-portable, that is intended for noncommercial use as a swimming pool by not more than five owner families and their guests and that is over 24 inches in depth, has a surface area exceeding 250 square feet and/or a volume over 3,750 gallons. (Residential pools are excluded from the provisions of these regulations.)

c. *Public Pool***C**any pool, other than a residential pool, which is intended to be used for swimming or bathing and is operated by owner, lessee, operator, licensee or concessionaire, regardless of whether a fee is charged for use. References within the regulations to various types of public pools are defined by the following categories:

i. *Class A: Competition Pool***C**any pool intended for use for accredited competitive aquatic events such as Federation Internationale de Natation Amateur (FINA), U.S. Swimming, U.S. Diving, National Collegiate Athletic Association (NCAA), National Federation of State High School Associations (NFSHSA), etc. The pool may be used for recreation.

ii. *Class B: Public Pool***C**any pool intended for public recreational use.

iii. *Class C: Semi-Public Pool***C**any pool operated solely for and in conjunction with lodgings such as hotels, motels, apartments, condominiums, etc.

iv. *Class D: Other Pool***C**any pool operated for medical treatment, therapy, exercise, lap swimming, recreational play, and other special purposes, including, but not limited to, wave or surf action pools, activity pools, splash pools, kiddie pools and play areas.

d. *Ceremonial Pools***C**pools used for ceremonies and/or religious purposes - *only*. Size not to exceed 10 feet long x 5 feet wide x 5 feet deep and/or 2000 gallons. (Ceremonial pools are excluded from these regulations.)

e. *Wading Pool***C**a pool that has a shallow depth, 24 inches or shallower, used for wading. (There are no requirements for residential wading pools.)

*Waterline***C**the waterline shall be defined in one of the following ways:

a. *Skimmer System***C**the waterline shall be at the midpoint of the operating range of the skimmer when there are no users in the pool or spa.

b. *Overflow System***C**the waterline shall be deemed to be that established by the height of the overflow rim.

*Turnover***C**the ratio of the volume of clean water entering a pool in 24 hours to the total pool volume. The term Aclean water@ means water from an approved source meeting the requirements of Part XII of this Code, or water taken from the pool and returned after filtration and disinfection in accordance with the requirements of this Part.

*Water Park***C**any indoor or outdoor area in any natural water course, body of water or manmade construction which shall include but not be limited to swimming pools, wave pools, water slides, flumes, plunge pools, flotation rides that include immersion or partial immersion with direct or indirect contact with the water (primary and secondary contact).

*Water Slide***C**any slide or flume or group of slides or flumes upon which people and water descend simultaneously, and upon which the same water contacts the bodies of people. This includes the landing and/or recirculating pool at the bottom of the slide, the ascent path or stair, the departure platform or area at the top, and any ancillary health related facilities such as bath houses, dressing rooms, showers, and toilets.

*State Health Officer***C**the legally appointed and/or acting state health officer of the health authority having jurisdiction over the entire State of Louisiana, and includes his/her duly authorized representative, except where the context of these regulations or pertinent statutory language indicates the reference is to the state health officer acting personally. Should legislative action either change the term Astate health officer@ or transfer his/her authority, the successor shall assume the functions delegated to the state health officer in this Sanitary Code.

a. [Formerly paragraph 24:002] The state health officer has jurisdiction (for anything related to health) over the design, construction, and operation of all swimming pools (pools), water parks, and water slides, public or private, including, but not limited to, those owned by clubs, private schools, apartment houses, and condominiums.

b. [Formerly paragraph 24:003] No new swimming pool, water park or water slide shall hereafter be constructed nor shall major alterations be made to existing swimming pools, water parks, or water slides without the prior written approval of, and unless in accordance with plans and specifications approved in advance by, the state health officer. The approval may include certain provisions, which, if violated, may result in revocation of the approval.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1435 (June 2002).

Chapter 3. Design Requirements for Swimming Pools [formerly Sub-Part B]

§301. Materials of Constructions [formerly paragraph 24:004]

A. Swimming pools and all appurtenances thereto shall be constructed of materials which are non-toxic to man and the environment; which are impervious and enduring; which can withstand the design stresses; and which will provide a watertight structure with a smooth and easily cleaned surface without cracks or joints, excluding structural joints, or to which a smooth, easily cleaned surface finish is applied or attached.

B. The floor of all pools shall be white, light colored, or light colored patterns in order to facilitate the identification of any objects within the pool. The color, patterns, or finishes of the pool interior shall not be such as to obscure the existence or presence of objects or surfaces within the pool.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1436 (June 2002).

§303. Dimensional Design [formerly paragraph 24:005]

A. There shall be construction tolerances allowed on all dimensional designs. Overall length, width, and depth in the deep end may vary plus or minus 3 inches. All other overall dimensions may vary plus or minus 2 inches), unless otherwise specified (such as in a Class A pool). The designed waterline shall have a maximum construction tolerance at the time of completion of the work of plus or minus **3** inch for pools with adjustable weir surface skimming systems, and of plus or minus 1/3 inch for pools with non-adjustable surface skimming systems.

B. The size of Class A or Class D pools shall be governed by the requirements of the activities for which the installation is intended.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1436 (June 2002).

§305. Walls [formerly paragraph 24:005-1]

A. Walls in Class B and Class C pools shall not be greater than 11E from plumb for a minimum depth of 2 feet 9 inches from the waterline in deep areas, or for a minimum depth of 2 feet 3 inches in the shallow areas. Below these depths, the wall may be radiused to join the floor. Class A

pools, where racing lanes terminate, shall have plumb walls. (A maximum 1E from plumb construction tolerance shall be allowed.)

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1436 (June 2002).

§307. Floor Slopes
[formerly paragraph 24:005-2]

A. Floor slopes shall, as a minimum, be in compliance with the following:

All slopes shall be uniform.

2. The slope of the floor from the shallow end wall towards the deep end shall not exceed 1foot in 12 feet to the point of the first slope change for Class A and Class B pools, or 1 foot in 10 feet for Class C pools.

3. The slope of the floor from the point of the first slope change to the deep end shall not exceed 1 foot in 3 feet. Such slopes are not intended to provide any less water depth than those specified in the pool if intended for diving.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1437 (June 2002).

§309. Traditional Radius Requirements
[formerly paragraph 24:005-3]

A. Traditional Radius from wall to floor where floor slopes join the wall shall comply with the following.

1. The radius shall have its center no less than 2 feet 9 inches below the waterline in deep areas or no less than 2 feet 6 inches below the waterline in the shallow area.

2. The radius shall be tangent at the point where the radius either meets the wall or the floor.

3. The radius shall be at least equal to, or greater than, the depth of the pool minus the vertical wall depth measured from the waterline (or tolerance allowed in §305) minus 3 inches to allow draining to the main drain.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1437 (June 2002).

§311. Water Depth
[formerly paragraph 24:005-4]

A. At the shallow end of the swimming area the water depth shall be 3 feet minimum, with a 3 feet 6 inches minimum for racing pools. Exceptions may be made in a recessed area of the main swimming pool, outside of the competitive and/or swimming course, when the pool is an irregular shape, with the prior written permission of the state health officer.

B. The beginners' area of a pool shall be visually set apart from, but may be adjoined to, the shallow area and shall not adjoin the deep area.

C. The transition point of the pool from the beginners' area to the shallow area and from the shallow area to the deep area shall be visually set apart with a rope and float line, depth markers, and a 4 inches minimum width row of floor tile, painted line, or by similar means of a color contrasting with the bottom. In diving pools with a constant slope, the shallow area shall be visually set apart from the deep area with a rope and float line, depth markers, and a 4 inches minimum width row of floor tile, painted line, or by similar means of a color contrasting with the bottom.

D. Class A pools intended for competitive diving and swimming shall be designed and constructed so as to provide the water depths specified by Federation Internationale de Natation Amateur (FINA), U.S. Swimming, and U.S. Diving.

E. Diving intended for Class B and Class C pools shall conform to minimum water depths, areas, slopes and other dimensions in §317.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1437 (June 2002).

§313. Diving Boards
[formerly paragraph 24:005-5]:

A. For indoor pools at least 16 feet of headroom above the highest diving board must be provided.

B. The water depth adjacent to diving boards should conform to the following safety standards.

Elevation of diving board above water (feet)	Minimum depth of water under end of board (feet)	Minimum depth of water 6 ft. behind, 20 ft. forward, and 8 ft. to either side of the end of the diving board.
1' to 4'	10'*	10'*
4' to 10'	12'	10'
Above 10' (platforms)	15'	12'

1. *The bottom may not be horizontal but must be sloped to permit drainage.

C. Standard diving boards are mounted 1 meter and 3 meters (approximately 10 feet) above the water and are 16 feet long by 20 inches wide. They shall extend at least 6 feet and no more than 7 feet beyond the edge of the pool.

1. Spring boards, diving platforms and floats shall be covered with non-slip material.

D. Floats or fixed platforms in the water shall be constructed with an air space of at least 1 foot between the water and the platform. All braces, struts, etc., shall be designed to prevent entanglement or trapping of bathers beneath the platform.

E. Public pools with diving facilities in excess of 3 meters in height, or pools designed for platform diving, shall comply with the dimensional design requirements of FINA, U.S. Diving, National Federation of State High School Associations (NFSHSA), etc.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1437 (June 2002).

§315. Turnover
[formerly paragraph 24:005-6]

A. The turnover of clean water entering the pool daily shall not be less than three. Kiddie pools shall turnover once every two hours.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1437 (June 2002).

§321. Wading Pools
[formerly paragraph 24:008]

A. Wading pools shall be separate and physically set apart from beginning or shallow water areas of swimming pools by at least 6 feet of deck at Class B pools or 4 feet of deck at Class C pools. Where a wading pool is adjacent to any deep water area, a minimum 4 feet high barrier shall be installed separating the two pools.

B. The maximum water depth of wading pools, shall not exceed 24 inches. The water depth at the perimeter shall not exceed 18 inches. Water depths may be reduced from the above maximums and brought to zero at the most shallow point.

C. Walls in wading pools shall be vertical or within 11E of vertical except for the lower 6 inches which shall be radiused to the floor. Walls shall not extend more than 6 inches above the waterline at any point.

D. Floors of wading pools shall be uniform, sloped to drain with a maximum slope of 1 foot in 12 feet.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1438 (June 2002).

§323. Decks and Deck Equipment
[formerly paragraph 24:009]

A. Deck (s) shall be designed and installed in accordance with the engineering practices required in the area of installation. This includes the design and quality of subbase when required, concrete mix design, reinforcing, joints, etc. If a concrete deck is selected, in the absence of specific local engineering practices, the work shall be performed in accordance with the recommended practices of American Concrete Institute (ACI) Standard 302.1R-80, AGuide for Concrete Floor and Slab Construction.@

B. Decks, ramps, coping and similar step surfaces shall be slip-resisting and easily cleanable.

C. Special features in or on deck (s) such as markers, brand insignias or similar shall conform to this article.

D. Risers for steps for the deck shall be uniform and have a minimum height of 3 3/4 inches and a maximum height of 7 1/2 inches. The minimum tread depth shall be 10 inches.

E. Excavation areas shall be adequately compacted when they support the deck (s).

F. The minimum continuous, unobstructed deck width, including the coping, shall conform to the following.

1. Class A pool - As recommended by the appropriate activity (FINA, U.S. Swimming, U.S. Diving).
2. Class B pool C 6 feet minimum.
3. Class C pool C 4 feet minimum.
4. Class D pool C 3 feet minimum where possible.
5. A minimum of 4 feet deck width shall be provided on the sides and rear of any diving equipment. A deck clearance of 24 inches shall be provided around any other deck equipment that is 36 inches or less in height above the deck. A deck clearance of 36 inches shall be provided around all other deck equipment.
6. When pools, spas, wading pools, etc. are used and/or constructed adjoining, the requirements for decking shall be additive, i.e., a cumu lative sum of the minimums.

G. The minimum slope of the deck(s) shall be c inch per 1 foot for textured, hand-finished concrete decks; 3 inch per 1 foot for exposed aggregate concrete decks; and 2 inch per 1 foot for indoor/outdoor carpeting decks, unless an alternate drainage method is provided.

H. The maximum slope of all decks, other than wood decks, shall be 1 inch per foot except for ramps. The maximum slope for wood decks shall be 1/3 inch per foot. Gaps shall be based on good engineering practices with respect to the type of wood used.

I. The maximum voids between adjoining concrete slabs, and/or between concrete slabs and expansion joint material, shall be 3/16 inch of horizontal clearance with a maximum difference in vertical elevation of 1/4 inch.

J. Construction joints where pool coping meets concrete deck(s) shall be watertight and shall not allow water to pass to the ground beneath.

K. The areas where the deck(s) join pool coping shall be designed and installed so as to protect the coping and its mortar bed from damage as a result of reasonable movement of adjoining deck(s).

L. Joints in deck(s) shall be provided to minimize the potential for cracks due to a change in elevations, separation of surfaces or movement of the slab.

M. The areas where deck(s) join concrete work shall be protected by expansion joints to protect the pool adequately from the pressures of relative movements.

N. Deck(s) shall be edged, have a radius, or be otherwise relieved to eliminate sharp corners.

O. Deck(s) shall be sloped to effectively drain either to perimeter areas or to deck drains. Drainage shall remove pool splash water, deck cleaning water, and rain water without leaving standing water.

P. Site drainage shall be provided so as to direct all perimeter deck drainage away from the pool. When required, yard drains shall be installed to prevent the accumulation or puddling of site water in the general area of the deck(s) and related improvements.

Q. Circulation system piping, other than that integrally included in the manufacture of the pool, shall be subject to an induced static hydraulic pressure test (sealed system) at 25 pounds per square inch (psi) for 30 minutes. This test shall be performed before the deck is poured, and the pressure shall be maintained through the deck pour.

R. Valves installed in or under any deck (s) shall provide a minimum 10 inches diameter access cover and valve pit to facilitate servicing.

S. A hose bib and a vacuum breaker shall be provided for washing down the entire deck area.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1438 (June 2002).

§325. Entry/Exit
[formerly paragraph 24:010]

A. All pools shall have at least two means of entry/exit located so as to serve both ends of the pool. These shall

consist of ladders, stairs, or recessed treads and may be used in combination. All treads shall have slip-resisting surfaces.

B. Where water depths are 24 inches or less at the pool wall, such areas shall be considered as providing their own natural mode for entry/exit.

C. For pools or water areas over 30 feet in width, both sides of the deep portions of the pool shall have entries/exits provided.

D. A means of entry/exit for the shallow end shall be located between the shallow end wall and the cross section at Point D, while a means of entry/exit for the deep end shall be between the deep end wall and the cross section at point B. (Refer to §317)

E. A means of entry/exit shall be provided at a minimum of every 75 linear feet of pool wall or fraction thereof.

F. Stairs, ladders, and recessed treads shall be located so as not to interfere with racing lanes if applicable.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1438 (June 2002).

§327. Pool Stairs
[formerly paragraph 24:011]

A. The design and construction of protruding and recessed pool stairs shall conform to following.

1. Step treads shall have a minimum unobstructed horizontal depth of 10 inches and a minimum unobstructed surface area of 240 square inches.

2. Risers at the centerline of the treads shall have a maximum uniform height of 12 inches, with the bottom riser height allowed to vary plus or minus 2 inches from the uniform riser height.

3. Each set of stairs shall be provided with at least one handrail to serve all treads and risers. Handrails shall conform to the following:

a. Handrails, if removable, shall be installed in such a way that they cannot be removed without the use of tools.

b. The leading edge of handrails facilitating stairs and pool entry/exit shall be no more than 18 inches plus or minus 3 inches, horizontally from the vertical plane of the bottom riser (where applicable).

c. The outside diameter of handrails shall be between 1 inch and 1 9/10 inches.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1439 (June 2002).

§329. Pool Ladders
[formerly paragraph 24:012]

A. The design and construction of pool ladder(s) shall conform to the following.

1. Pool ladders shall be made entirely of corrosion-resisting materials.

2. Ladders shall provide two handholds or two handrails.

3. Below the water level, there shall be a clearance of not more than 6 inches nor less than 3 inches between any ladder tread edge and the pool wall.

4. The clear distance between ladder handrails shall be a minimum of 17 inches and a maximum of 24 inches.

5. There shall be a uniform height between ladder treads, with a 7-inch minimum distance and a 12-inch maximum distance.

6. Ladder treads shall have a minimum horizontal depth of 1 1/2 inches.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1439 (June 2002).

§331. Pool Appurtenances
[formerly paragraph 24:013]

A. [Formerly paragraph 24:013-1] Recessed Treads: the design and construction of recessed treads in the pool wall shall conform to the following.

1. Recessed treads at the centerline shall have a uniform vertical spacing of 12 inches maximum and 7 inches minimum.

2. The vertical distance between the pool coping edge, deck, or step surface and the uppermost recessed tread shall be a maximum of 12 inches.

3. Recessed treads shall have a minimum depth of 5 inches and a minimum width of 12 inches.

4. Recessed treads shall drain into the pool to prevent the accumulation of dirt.

5. Each set of recessed treads shall be provided with a set of handrails/grabrails/handholds to serve all treads and risers.

B. Support for Diving Equipment [formerly paragraph 24:013-2]

1. Supports, platforms, stairs, and ladders for diving equipment shall be designed to carry the anticipated loads. Stairs and ladders shall be of corrosion-resisting material, easily cleanable and with slip-resisting tread. All diving stands higher than 21 inches measured from the deck to the top butt end of the board shall be provided with stairs and/or a ladder. Step treads shall be self-draining.

2. Platforms and diving equipment of 1 meter or less shall be protected with guard rails which shall be at least 30 inches above the diving board and extend to the edge of the pool wall. All platforms or diving equipment higher than 1 meter shall have guard rails which are at least 36 inches above the diving board and extend to the edge of the pool wall.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1439 (June 2002).

Chapter 5. Circulation Systems
[formerly Sub-part C]

§501. Design Requirements
[formerly paragraph 24:013-3]

A. A circulation system consisting of pumps, piping, return inlets and suction outlets, filters, and other necessary equipment shall be provided for complete circulation of water through all parts of the pool.

B. The equipment shall be of adequate size to turn over the entire pool water capacity at least once every eight hours. This system shall be designed to give the proper turnover rate based on the manufacturer's recommended maximum pressure flow of the filter in clean media condition of the filter. Water clarity shall be maintained. When standing at

the pool's edge at the deep end, the deepest portion of the pool floor shall be visible.

C. Circulation system components which require replacement or servicing shall be accessible for inspection, repair, or replacement, and shall be installed in accordance with the manufacturer's instructions.

D. Where equipment sizing falls within the scope of National Sanitation Foundation (NSF) testing, materials and equipment used in the circulation system shall comply with the appropriate requirements of NSF Standard 50.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1439 (June 2002).

§503. Water Velocity
[formerly paragraph 24:013-4]

A. The water velocity in the pool piping shall not exceed 10 feet per second for discharge piping, (except for copper pipe where the velocity should not exceed 8 feet per second, and 6 feet per second for suction piping, unless summary calculations are provided to show that the greater flow is possible with the pump and piping provided. Pool piping shall be sized to permit the rated flows for filtering and cleaning without exceeding the maximum head of the pump.

1. A wading pool shall have a separate circulation system of adequate size to turn over the entire pool water capacity at least once every two hours.

B. Piping and Fittings: The circulation system piping and fittings shall be non-toxic, shall be considered to be process piping, and shall be of material able to withstand operating pressures and operating conditions.

1. Pool piping subject to damage by freezing shall have a uniform slope in one direction equipped with valves for adequate drainage. Pool piping shall be supported at sufficient intervals to prevent entrapment of air, water or dirt. Provisions shall be made for expansion or contraction of pipes.

C. System Condition: A pressure or vacuum gauge or other means of indicating system condition shall be provided in the circulation system in an easily readable location.

1. Class A, Class B, and Class C public pools shall be provided with an indicator measuring the rate of flow through the filter system with an appropriate range readable in gallons per minute and accurate within 10 percent actual flow.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1440 (June 2002).

§505. Filters
[formerly paragraph 24:013-5]

A. Design: Filters shall be designed so that after cleaning per manufacturer's instructions the system can provide the required water clarity.

1. Filters shall be designed so that filtration surfaces can be inspected and serviced.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1440 (June 2002).

§507. Pumps and Motors
[formerly paragraph 24:013-6]

A. A pump motor shall be provided for circulation of the pool water. Performance of all pumps shall meet or exceed the conditions of flow required for filtering and cleaning (if applicable) the filters against the total dynamic head developed by the complete system.

B. All motors shall have, as minimum, an open, drip-proof enclosure (as defined by the latest National Electrical Manufacturers Association [NEMA] Standard ANSI/NEMA-MGI) and be constructed electrically and mechanically to perform satisfactorily and safely under the conditions of load and environment normally encountered in swimming pool installations.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1440 (June 2002).

§509. Return Inlets and Suction Outlets
[formerly paragraph 24:013-7]

A. Return inlet(s) and suction outlet(s) shall be provided and arranged to produce a uniform circulation of water and maintain a uniform disinfectant residual throughout the pool. Where skimmers are used, the return inlet(s) shall be located so as to help bring floating particles within range of the skimmer.

B. A public pool shall have a minimum of two return inlets regardless of pool size. The number of return inlets shall be based on two inlets per 600 square feet of pool surface area, or fraction thereof.

C. The pool shall not be operated if the outlet grate is missing, broken, or secured in such a way that it can be removed without the use of tools.

1. All pools shall be provided with main drain suction outlet(s) in the lowest point of the pool floor. The spacing of the main drain(s) for suction outlet(s) shall not be greater than 20 feet on centers nor more than 15 feet from each side wall.

2. In large pools with outlets more than 5 feet from the end wall, inlets shall be placed on equidistant centers around the entire perimeter of the pool. The maximum distance between inlets shall be 20 feet. Pools more than 30 feet wide shall have bottom inlets, or other demonstrably effective means to provide uniform distribution of disinfectant throughout the pool.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1440 (June 2002).

§511. Inlets and Outlets
[formerly paragraph 24:013-8]

A. Design. Return water inlets shall be adjustable so that water can be distributed evenly.

B. Number and Location

1. All inlets shall discharge at a depth of at least 10 to 15 inches below pool overflow level to prevent loss of disinfectant.

2. In large pools, with outlets more than 5 feet from the end wall, inlets shall be placed on 20 foot centers entirely around the perimeter of the pool or in the bottom. Pools more than 30 feet wide shall have bottom inlets.

3. In smaller pools when the distance across the shallow end is as great as 15 feet, multiple inlets at the shallow end shall be provided. These inlets must serve not more than 15 linear feet each. In spoon-shaped rectangular pools where outlets are located more than 5 feet from the end walls, inlets must be placed at both ends of the pool.

C. Main Drain

1. The main drain outlet grating shall have an area of openings four times the area of the discharge pipe to prevent objectionable suction effects.

2. The main drain outlet system, located in the deepest section of the pool, shall be provided with more than one outlet point if the pool width exceeds 20 feet. These outlets shall be no farther apart than 20 feet on center and no closer than 10 feet from the side walls.

3. The grating of the main drain outlet shall be easily visible. Drains not constructed of shiny metal shall be marked with a dark colored circle.

D. Back Siphonage: Water discharged from the pool to waste must pass through an air gap to preclude back-siphonage.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1440 (June 2002).

§513. Suction Outlet
[formerly paragraph 24:013-9]

A. If the suction outlet system, such as a filtration system, booster system, automatic cleaning system, solar system, etc., has a single suction outlet, or multiple suction outlets which can be isolated by valves, each suction outlet shall protect against user entrapment by either:

1. an antivortex cover;
2. a 12 inch by 12 inch grate or larger;
3. Section 511.C main drain;
4. other means approved by the state health officer

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1441 (June 2002).

§515. Surface Skimmer Systems
[formerly paragraph 24:013-10]

A. A surface skimming system shall be provided on all public swimming pools, and shall be designed and constructed to skim the pool surface when the water level is maintained within the operational parameters of the system=s rim or weir device.

B. Where automatic surface skimmers are used as the sole overflow system, at least one surface skimmer shall be provided for each 500 square feet or fraction thereof of the water surface area.

C. Where a perimeter-type surface skimming system is used as the sole surface skimming system, this system shall extend around a minimum 50 percent of the perimeter of the pool.

1. Where perimeter surface skimming systems are used, they shall be connected to the circulation system with a system surge capacity of not less than 1 gallon for each square foot of pool surface.

D. Overflow Gutter and Skimmers: an overflow gutter, if utilized, shall extend completely around the pool. The overflow gutter shall be designed so as to be easily cleanable and so that material entering it will not be washed out by a sudden surge of entering water, and so that the danger of bathers catching arms or feet in it may be reduced to a minimum. A sufficient number of drainage outlets shall be provided to carry away water entering the overflow gutter during surface flushing.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1441 (June 2002).

§517. Heaters
[formerly paragraph 24:013-12]

A. Installation. The heater(s) shall be installed in accordance with all federal, state, and local codes as well as the manufacturer=s recommendations.

B. Heaters shall be tested and shall comply with the requirements of ANSI-Z21.56a-1990 for gas applications, or UL 1261 for electrical applications. Heat pumps shall comply with the UL 559 specifications and be accepted by a recognized testing facility.

C. Owner/operator shall routinely check the in-pool water to ensure that the temperature does not exceed 93E F. If adjustments are necessary, those adjustments shall be performed in accordance with manufacturer=s instructions.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1441 (June 2002).

Chapter 7. General Standards

§701. Depth Markers
[formerly paragraph 24:013-13]

A. Depth markers shall conform to the following.

1. Depth of water in feet shall be plainly and conspicuously marked at or above the waterline on the vertical pool wall and on the top fo the coping or edge of the deck or walk next to the pool.

2. Depth markers on the vertical pool wall shall be positioned to be read from the water side.

3. Depth markers on the deck shall be within 18 inches of the water edge and positioned to be read while standing on the deck facing the water.

4. Depth markers shall be slip-resisting.

5. Depth markers shall be installed at the maximum and minimum water depth and at all points of slope change.

6. Depth markers shall be installed at intermediate increments of water depth not to exceed 2 feet, nor spaced at distances greater than 25 foot intervals.

7. Depth markers shall be arranged uniformly on both sides and both ends of the pool.

8. Depth markers on irregularly shaped pools shall designate depths at all major deviations in shape as well as conform to the foregoing articles.

9. Depth markers shall have a 4 inch minimum height. Numbers shall be of contrasting color to the background on which they are applied, and the color shall be of a permanent nature.

10. A rope and float line shall be provided between 1 foot and 2 feet on the shallow side of the break in grade between the shallow and deep portions of the swimming

pool, with its position marked with visible floats at not greater than 7 feet intervals.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1441 (June 2002).

§703. Lifesaving Equipment
[formerly paragraph 24:013-14]

A. Class A, Class B, and Class C swimming pools shall have lifesaving equipment conspicuously and conveniently on hand at all times including the following:

1. a light, strong pole not less than 12 feet long, including a body hook;

2. a minimum 1/4 inch diameter throwing rope as long as 1 1/2 times the maximum width of the pool or 50 feet, whichever is less, to which has been firmly attached a ring buoy with an outside diameter of approximately 15 inches or a similar flotation device;

3. a telephone with posted names and phone numbers of nearest available police, fire, ambulance service and/or rescue unit, and/or 911, if available;

4. it is recommended that Class B and Class C pools with over 1800 square feet of water surface area shall have at least one elevated lifeguard chair for each 3000 square feet of pool surface or fraction thereof. Where a pool is provided with more than one lifeguard chair, and pool width is 45 feet or more, they shall be located on each side of the pool.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1442 (June 2002).

§705. Barriers
[formerly paragraph 24:013-15]

A. Barriers shall conform with the requirements of the following.

1. Class A or Class B public swimming pools shall be protected by a fence, wall, building, enclosure, or solid wall of durable material of which the pool itself may be constructed, or any combination thereof. Natural or artificial barriers shall be provided so as to afford no external handholds or footholds, be at least 4 feet in height, and be equipped with a self-closing and positive self-latching closure mechanism at a height of at least 45 inches above the ground and provided with hardware for locking.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1442 (June 2002).

§707. Interconnections
[formerly paragraph 24:014]

A. There shall be no physical connection between a potable public or private water supply system and a pool structure at a point below the maximum flow line of the pool, or to the recirculation system of the swimming pool, unless such physical connection is so installed and operated that no pool water can be discharged or siphoned into a potable water supply system.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1442 (June 2002).

§709. Water Supply
[formerly paragraph 24:015]

A. The water supply serving the pool shall be from an approved water supply.

B. No direct mechanical connection shall be made between the potable water supply and the swimming pool, chlorinating equipment, or the system of piping for the pool, unless it is protected against backflow and back-siphonage in a manner approved by the state and local authority, or through an air gap meeting the latest American National Standards Institute Standard A112.1.2, or other equivalent means approved by the state health officer.

C. An over-the-rim spout, if used, shall be located under a diving board, adjacent to a ladder, or otherwise properly shielded so as not to create a hazard. Its open end shall have no sharp edges and shall not protrude more than 2 inches beyond the edge of the pool.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1442 (June 2002).

§711. Waste Water Disposal
[formerly paragraph 24:016]

A. Backwash water may be discharged into a sanitary sewer through an approved air gap, or into an approved subsurface disposal system or by other means approved by the state health officer.

B. Sewage disposal shall be of a manner conforming to the provisions of Part XIII of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S.40:5(3) (16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1442 (June 2002).

§713. Electrical Requirements
[formerly paragraph 24:013-11]

A. The requirements of the latest National Electrical Code of the National Fire Protection Agency shall be complied with.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1442 (June 2002).

§715. Lighting
[formerly paragraph 24:022]

A. Whenever swimming pools, bathing places, or water slides are to be operated at night, illumination shall be provided as follows.

1. Where night activities are permitted and underwater lighting is used, not less than 0.5* watts shall be provided per square foot of pool area. Area lighting shall be provided for the deck areas and directed toward the deck areas away from the pool surface insofar as practical. 0.6 watts per square foot of deck area shall be used.

a. *Values of Efficiency for incandescent lamps assumed to be 20 lamp lumens per watt.

2. Where night swimming is permitted and underwater lighting is used, area pool lighting combined

shall be provided at not less than 2 watts per square foot of deck area.

3. In either case, lighting shall be provided in such concentration so as to permit a black circle 6 inches in diameter on a white field, when placed on the bottom of the pool at the deepest point, to be clearly visible from the deck around the pool at all distances up to 10 yards measured from a line drawn across the pool through said disk.

4. Semi-Artificial and Natural Swimming Pools and Bathing Places

a. minimum foot candles (F-C) (measured vertically on the surface);

b. all water areas utilized if a large body of water is involved: (this amount of light must be present out to 150 feet from the shore): Three F-C;

c. adjacent land areas utilized during swimming or bathing activities: One F-C.

5. Stairs from lower to upper areas of water slides shall be provided with at least 10-foot candles of illumination (measured on the surface).

6. All areas used or traversed by people, inside of all ancillary buildings, shall be provided with at least 10-foot candles of illumination (measured 3 feet above the floor).

7. Various of the lighting requirements, which do not alter maximum safety considerations of the need for lighting, may be approved by the state health officer, on a case by case basis.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1442 (June 2002).

§717. Ventilation
[formerly paragraph 24:023]

A. All indoor pools, including dressing rooms and all other rooms that are used or traversed by people (except restrooms, bathrooms, water closet combination rooms, and toilet rooms) in any pool buildings or ancillary buildings, shall be ventilated by methods including, but not limited to, one or more of the following: windows, air conditioning, or forced air ventilation.

B. Every restroom, bathroom, water closet combination room, and toilet room, shall be provided with ventilation in accordance with Ventilation Section, Part XIV, Louisiana State Plumbing Code (LSPC) as published October 2000, this Code.

C. Chlorine Room: a separate chlorine room at or above grade is required if gas chlorination is used. There shall be direct access to the room from outside the building, and it shall have one or more observation windows for viewing the interior from the outside and from the filter room without entering. The room shall be large enough to house the chlorinator and chlorine storage tanks as required. Provision must be made in this room for chaining storage tanks to a wall or post, for installation of scales to weigh chlorine tanks, and for a spark-proof ventilation fan capable of producing a complete exchange of air in two minutes. The fan shall exhaust from floor level. Provision must be made to store an approved gas mask, for emergency access, directly outside one entrance to the chlorine room. The floor should be of non-slip material, and a separate drain, that is not connected to others in the building, shall be provided. A hose connection is also required.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1443 (June 2002).

§719. Visitors Gallery
[formerly paragraph 24:024]

A. There shall be a separation of the space used by spectators from that used by bathers. Galleries for spectators shall not overhang any portion of the pool surface. Floor and foot rail of the gallery shall be of tight construction to prevent dirt which is tracked in from getting into the pool. The drainage from the spectators area shall in no case be allowed to drain upon the area used exclusively by bathers. A curb or other arrangement shall be used to prevent litter and dirt from being kicked or scuffed by spectators into the pool or pool area.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1443 (June 2002).

§721. Dressing Rooms
[formerly paragraph 24:025]

A. Dressing rooms shall be provided. Floor shall be well drained, impervious to moisture and constructed of non-slip material. Walls and partitions shall be constructed of smooth, impervious material, without open cracks or joints.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1443 (June 2002).

§723. Plumbing Fixtures
[formerly paragraph 24:026]

A. One water closet and one urinal shall be provided for each 60 males or fraction thereof. One water closet shall be provided for each 30 females or fraction thereof. Female urinals, if provided, may be used in the same proportion as for men above. One lavatory with hot and cold water, under pressure delivered through a mixing faucet and soap shall be provided for each 60 patrons or fraction thereof. Circular foot-operated lavatories, serving several persons at one time, may be used in some situations, such as in schools. One shower shall be provided for each 40 persons or fraction thereof. One drinking fountain shall be provided for each 100 persons or fraction thereof. Number of persons shall be calculated on the basis of pool load as described in §319 (Maximum User Load). (An equal distribution of males and females will be assumed unless otherwise indicated.)

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1443 (June 2002).

§725. Experimental and Innovative Processes and Equipment
[formerly paragraph 24:027]

A. Experimental units must be submitted to the state health officer for review. Additional information may be required. Approval of experimental units by the state health officer will be based on the merit and need of proposed experimental unit(s). Bonding may be required.

B. Experimental units and treatment chemicals such as, but not limited to, Ion generators, bactericides, and alternative disinfectants will be evaluated on a case by case basis, and require prior approval of the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1443 (June 2002).

§727. Abandoned Pools
[formerly paragraph 24:028]

A.1. A pool that is not in use and/or not intended for use that presents a situation endangering the public health as deemed by the state health officer, shall be either:

a. emptied;

b. filled with inert material;

c. covered and anchored; or

d. addressed by other methods submitted to and approved by the state health officer.

2. The owner and/or lessee shall jointly be held liable

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1444 (June 2002).

§729. Food Service for Class A and B Public Pools
[formerly paragraph 24:032]

A. Eating, drinking, and smoking shall not be permitted within the pool deck enclosure.

B. Exception to §729.A may be made to allow food and beverage(s) in the visitor and spectator area or in a similarly separated snack bar area for users which has been approved by the state health officer.

C. Food and beverage(s) shall only be served in non-breakable containers.

D. Trash containers shall be provided where food and/or beverage(s) are available.

E. All food service establishments must be in compliance with Part XXIII of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1444 (June 2002).

§731. Operation and Maintenance
[formerly paragraph 24:033]

A. Lifeguards and safety assistants shall be attired so that they are readily identifiable as members of the lifeguard staff. Individuals shall be considered qualified in life-saving and first aid if they hold the appropriate Red Cross certificate or equivalent.

B. Instructions: Rules and regulations for users shall be posted in a conspicuous place to inform pool patrons.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1444 (June 2002).

§733. Emergency Equipment
[formerly paragraph 24:034]

A. Pole-hooks, ropes, buoys and other necessary lifesaving equipment shall be provided and be readily accessible at all pools and bathing places. A first-aid kit completely equipped shall be provided for emergency use at all pools and bathing places.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1444 (June 2002).

Chapter 9. Disinfection and Bacteriological Quality

§901. Disinfectant Equipment and Chemical Feeders
[formerly paragraph 24:017]

A. Disinfectant equipment and chemical feeders, hereinafter referred to jointly as Aequipment,@ shall comply with the requirements of NSF Standard 50. The disinfection equipment shall be capable of precisely introducing a sufficient quantity of an approved disinfecting agent to maintain the appropriate recommended guidelines required concentrations as per §§902 and 905.

1. Every pool shall be required to have at least one unit of disinfectant agent equipment in compliance with §901(A)(2). Additional units may be required to maintain chemical and physical parameters of the pool water.

2. The pool water shall be continuously disinfected by a disinfecting agent that imparts an easily measured residual. The disinfecting agent used shall be subject to field testing procedures that are simple and accurate.

B. Chemical Feeders: The installation and use of chemical feeders shall conform to the following:

1. When using chemical feeders, it is extremely important that they be installed downstream from the filter and heater. Erosion-type feeders shall be allowed to feed their solution to the suction side of the pump.

2. If the chemical feeder is equipped with its own pump, it shall be installed so it introduces the gas or solution downstream from the heater and, if possible, at a position lower than the heater outlet fitting.

3. Swimming pools and wading pools which are equipped with gaseous or liquid chlorination feeders must be equipped with a mechanical chemical feeder to continuously control pH. Hand batch feeding of any pH chemical into the pool is expressly prohibited.

C. Test Kit: All pools shall be supplied with chemical test kits for the determination of pH, chlorine or bromide residuals, cyanuric acid (if used), total alkalinity, and calcium hardness. The test kit shall be capable of at least measuring pH and disinfectant residual ranges, as required. The method used in determining the free available chlorine residual shall be such that chloramines or other chlorine compounds that may be present in the pool do not affect the determination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1444 (June 2002).

§903. Disinfection
[formerly paragraph 24:018]

A. Disinfection shall be employed in all swimming pools. The disinfection of the water shall be continuous and when chlorine alone is used, the water shall contain at least 0.4 parts per million residual chlorine; or 0.7 parts per million residual chlorine when chlorine with ammonia is used, as determined by the N, N diethel-p-phenylene-diamine (DPD) test.

B. On innovative processes, the state health officer may allow new and innovative means of disinfection so long as the disinfection residuals can be measured easily, accurately, and reliably. See §725.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1444 (June 2002).

§905. Chemical and Physical Quality of Swimming Pool Water [formerly paragraph 24:019]

A. Chlorination. Whenever chlorine, calcium hypochlorite, or other chlorine compounds, without the use of ammonia, are used for swimming pool disinfection, the amount of available or free chlorine in the water at all times when the pool is in use shall not be less than 0.4 ppm., nor more than 0.6 ppm. Whenever chlorine or chlorine compounds are used with ammonia, the amount of available or free chlorine shall not be less than 0.7 ppm., nor more than 1.0 ppm.

B. pH Control

1. Swimming Pools and Wading Pools. The pH shall be maintained in an alkaline condition as indicated by a pH of not less than 7.2 nor greater than 7.8 at any time the facility is in use.

2. Bathing Beaches. When the pH is less than 6.5 or greater than 8.5, the beach should not be used for bathing.

C. Clearness. At times when the pool is in use the water shall be sufficiently clear to permit a black disk 6 inches in diameter on a white field, when placed on the bottom of the pool at the deepest point, to be clearly visible from the deck around the pool at all distances up to 10 yards measured from a line drawn across the pool through said disk.

D. Temperatures. The water in any swimming pool shall not be artificially heated to a temperature above 93EF (34EC). The temperature of the air at any artificially heated indoor swimming pool should not become more than 8EF (4E - 5EC) warmer nor more than 2EF (1EC) colder than the water in the pool at any time when the pool is in use.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1445 (June 2002).

§907. Cleanliness [formerly paragraph 24:020]

A. The bottom and sides of pools shall be kept free from sediment and visible dirt. Visible scum or floating matter on the surface of the pool shall be removed at least once each day.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1445 (June 2002).

§909. Bacterial Quality [formerly paragraph 24:021]

A. Swimming pools. Not more than 15 percent of the samples collected on each two consecutive occasions shall contain more than 200 bacteria per ml. nor shall such samples show positive test (confirmed) for the coli-aerogenes group, in any of 5, 10 ml. portions of water at times when the pool is in use. All primary fermentation tubes showing gas should be confirmed. The state health officer may approve other EPA approved methods for bacteriological and the coli-aerogenes group testing.

B. Bathing Beaches/Places. The coliform group is not to exceed 1,000 per 100 ml. as a monthly geometric average value, nor exceed this number in 20 percent of the samples examined during any month nor exceed 2,400 per 100 ml. on any day. The fecal coliform (either MPN or MF) count shall not exceed 200 per 100 ml. as a 30-day geometric mean based on not less than five samples during any 30-day period nor exceed 400 per 100 ml. in more than 10 percent of all samples during any 30-day period.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(11) and R.S. 40:5(3)(16)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1445 (June 2002).

Part XXV. Mass Gatherings
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XXV	**Chapter XXV**
Chapter 1	
§101	25:001
§103	25:002 - 25:005
§105	25:006
§107	25:007 - 25:009
§109	25:010 & 25:013
§111	25:011
§113	25:012-1 - 25:012-4
§115	25:014 - 25:014-2
§117	25:015 - 25:017
Chapter 3	
§301	25:018
§303	25:019 & 25:020
§305	25:021 & 25:022
Chapter 5	
§501	25:023 - 25:026
§503	25:027-1 & 25:027-2
§505	25:028 - 25:032
§507	25:033

Part XXV. Mass Gatherings

Chapter 1. General Requirements

§101. Definitions [formerly paragraph 25:001]:

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Mass Gatherings—a group of 500 or more persons assembled together at any one time, for four or more hours, for a meeting, festival, fair, social gathering, or other similar purposes at a site other than a permanent place of assembly.

Mass Gathering Area—any place maintained, operated, or used for a mass gathering, or assemblage, except an established permanent stadium, athletic field, arena, auditorium, coliseum, fairground or other similar permanent place of assembly.

Nuisance—annoyance; anything which would cause harm, inconvenience or damage; anything that interferes with the enjoyment of life or property, and includes

inadequate and insanitary sewerage or plumbing facilities or any insanitary condition.

*Operator*Cthe person responsible for managing the mass gathering area. In the event that no Amanager@ exists, the owner, or in the event of his unavailability, the lessee of the ground encompassing the mass gathering area, shall be deemed to be the Aoperator@ under these regulation.

*Refuse*Cas defined in Part XXVII §101 of this Code, includes all combustible or noncombustible, putrescible or non-putrescible solid or liquid wastes.

*Sanitary Facilities*Ctoilets, lavatories, showers, urinals, drinking fountains, and the service building or room provided for installation and use of these units.

AUTHORITY NOTE: The first note of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1445 (June 2002).

§103. Permits
[formerly paragraph 25:002]

A. *Application for Permit*Cwritten application for permit must be received by the local health unit at least 30 days in advance of the proposed mass gathering.

B. [Formerly paragraph 25:003] The following shall be included with the application for permit, when applicable: an outline map of the area to be used showing the location of all proposed toilets to be used, lavatory and bathing facilities, water supply sources, areas of assemblage, camping areas, food service areas, emergency egress roads, refuse disposal, and collection facilities. Also included must be detailed drawing of toilet facilities, sewage disposal system, lavatory and bathing facilities, and water supply system. An anticipated attendance figure shall also be included.

C. [Formerly paragraph 25:004] The operator shall meet all provisions of the State Sanitary Code and obtain the necessary permit at least 72 hours prior to the starting date of the mass gathering.

D. [Formerly paragraph 25:005] The operator shall be responsible for meeting the provisions of these standards and regulations to serve the maximum number of people to be assembled, for operational maintenance, and for the clean, safe, and sanitary condition of the grounds, sanitary facilities, and other service equipment.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1446 (June 2002).

§105. Access
[formerly paragraph 25:006]

A. Each mass gathering area shall be provided with convenient and safe access for the ingress and egress of pedestrian and vehicular traffic.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1446 (June 2002).

§107. Grounds
[formerly paragraph 25:007]

A. Each mass gathering area shall be well drained and so arranged as to provide sufficient space for people assembled, vehicles, sanitary facilities, and appurtenant equipment.

B. [Formerly paragraph 25:008] Trees, underbrush, large rocks, and other natural features shall be left intact and undisturbed whenever possible. Natural vegetative cover shall be retained, protected, and maintained so as to facilitate drainage, prevent erosion, and preserve the scenic attributes of the area.

C. [Formerly paragraph 25:009] The grounds shall be maintained free from dust whenever possible, accumulations of refuse and other health and safety hazards constituting a nuisance as defined.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1446 (June 2002).

§109. Size
[formerly paragraph 25:010]

A. The size of the mass gathering should be limited to the number of persons for which the facilities are designed to accommodate the provisions should be made to prevent people in excess of the maximum permissible number from gaining access to the mass gathering area.

B. [Formerly paragraph 25:013] At least 20 square feet per person will be provided at the site for daytime assemblage and at least 40 square feet per person shall be provided for overnight assemblage.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1446 (June 2002).

§111. Lighting
[formerly paragraph 25:011]

A. Illumination shall be provided, at night, to protect the safety of the persons at the assembly. The mass gathering area shall be adequately lighted but shall not unreasonable reflect beyond the assembly area boundaries, unless adjacent properties are uninhabited. Light level intensities shall be at least 5-foot candles.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1446 (June 2002).

§113. Parking Space
[formerly paragraph 25:012-1]

A. On site parking space shall be provided where persons arrive at the group gathering area by vehicular means.

B. [Formerly paragraph 25:012-2] Service road and parking spaces shall be so located as to permit convenient and safe movement of vehicular and pedestrian traffic and free passage of emergency vehicles.

C. [Formerly paragraph 25:012-3] Width of service roads shall be not less than the following: one traffic lane-11 feet; two traffic lanes - 22 feet; parallel parking lane- 7 feet.

D. [Formerly paragraph 25:012-4] Parking space shall be provided at the rate of at least one parking space for every four persons. The density shall not exceed 100 passenger cars or 30 busses per usable acre.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1446 (June 2002).

§115. Water
[formerly paragraph 25:014]

A. An adequate, safe supply of potable water, under pressure (not less than 20 psi), easily accessible and meeting requirements of Part XII of the Louisiana State Sanitary Code shall be provided.

B. [Formerly paragraph 25:014-1] If water is to be provided only for drinking and washing, it should be supplied at a rate of at least 5 gallons per person per day.

C. [Formerly paragraph 25:014-2] If water is used for drinking, washing, flushing toilets, and showers when required, then water shall be provided at a rate of at least 15 gallons per person per day.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1447 (June 2002).

§117. Sanitary Facilities
[formerly paragraph 25:015]

A. Sanitary facilities shall be provided and installed in the minimum numbers as required by the following schedule.

B. [Formerly paragraph 25:015-1] Toilets - at the rate of one for each 200 persons or fractional part thereof.

C. [Formerly paragraph 25:015-2] Urinals. Urinals (men=s) and sanistands (women=s) may be substituted for up to one-third of the required number of toilets. Twenty-four inches of trough urinals in a men=s room shall be considered the equivalent of one urinal or toilet (or as outlined in Part XIV, Section 14:082-1 through 14:083 of this Code).

D. [Formerly paragraph 25:016] Required sanitary facilities shall be conveniently accessible and well identified.

E. [Formerly paragraph 25:017] Each toilet shall have a continuous supply of toilet paper.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1447 (June 2002).

Chapter 3. Construction and Design Requirements

§301. Buildings
[formerly paragraph 25:018]

A. Service buildings or rooms housing required plumbing fixtures, shall be constructed of easily cleanable, non-absorbent materials. The buildings, service rooms, and required plumbing fixtures located therein shall be maintained in good repair and in a clean and sanitary condition.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1447 (June 2002).

§303. Water Facilities
[formerly paragraph 25:019]

A. Water points or drinking fountains shall be of approved type, conveniently accessible, and well identified.

B. [Formerly paragraph 25:020] Showers shall be provided at the rate of not less than one per 200 and 50 persons at gatherings when those in attendance are expected to remain for 48 hours or longer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1447 (June 2002).

§305. Disposal Systems
[formerly paragraph 25:021]

A. Approved facilities shall be provided and properly maintained for the disposal or treatment and disposal of all sewage and liquid waste.

B. [Formerly paragraph 25:022] Where a public sewer system is available, all plumbing fixtures and all building sewers shall be connected thereto. If a public sewer system is not available, a private sewage disposal facility meeting the requirements of Part XIII of this Code shall be installed and connected to all plumbing fixtures and building sewers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1447 (June 2002).

Chapter 5. Operations and Maintenance

§501. Refuse
[formerly paragraph 25:023]

A. The storage, collection, transportation, and disposal of refuse shall be so conducted as to prevent odor, insect, rodent and other nuisance conditions.

B. [Formerly paragraph 25:024] One 50-gallon refuse container or its equivalent shall be provided for each 100 persons anticipated. Refuse containers shall be readily accessible.

C. [Formerly paragraph 25:025] All refuse shall be collected from the assemble area at least once each day of the assembly, and disposed of at a disposal site approved by the state health officer.

D. [Formerly paragraph 25:026] The grounds and immediate surrounding properties shall be cleaned of refuse within 24 hours following the mass gathering.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1447 (June 2002).

§503. Vector Control
[formerly paragraph 25:027-1]

A. Insects, rodents, and other vermin shall be controlled by proper sanitary practices and/or approved chemical or biological extermination.

B. [Formerly paragraph 25:027-2] To avoid health hazard, animal ecto-parasites and other disease transmitting and nuisance insects shall be controlled.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1447 (June 2002).

§505. Medical and Emergencies
[formerly paragraph 25:028]

A. Emergency medical services shall be provided under the supervision of a licensed physician.

B. [Formerly paragraph 25:029] An enclosed covered structure shall be provided for emergency medical treatment and care.

C. [Formerly paragraph 25:030] Adequate medical supplies and medicines shall be provided and made available for emergency treatment of sick and injured persons.

D. [Formerly paragraph 25:031] Adequate vehicles suitable for emergency use shall be available.

E. [Formerly paragraph 25:032] Telephone or radio communications shall be provided and kept available for emergency purposes.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1448 (June 2002).

§507. Food Service
[formerly paragraph 25:033]

A. *Food Service*Call food service operations shall comply with applicable portions of the Louisiana State Sanitary Code (Part XXIII) and the Louisiana Food, Drug and Cosmetic law (R.S. 40:601 et seq.).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:5(16).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1448 (June 2002).

Part XXVI. Burial, Transportation, Disinterment or Other Disposition of Dead Human Bodies
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XXVI	**Chapter XXVI**
Chapter 1	
§101	26:001-1 - 26:002
§103	26:003-1 & 26:003-2
§105	26:004
§107	26:005-1 - 26:005-3 & 26:007
§109	26:006

Part XXVI. Burial, Transportation, Disinterment or Other Disposition of Dead Human Bodies

Chapter 1. General Requirements

§101. Permits
[formerly paragraph 26:001-1]

A. The state health officer shall provide a permit for the burial, cremation, entombing, removal, transportation by common carrier or other disposition of dead human bodies as defined by R.S. 40:32; to be known as the burial- transit permit, and no other permit, and no other permit shall be necessary for any other the above dispositions.

B. [Formerly paragraph 26:001-2] The burial-transit permit shall consist of three sections: The first section shall be executed by the State Registrar of Vital Records or his designated agent to whom the certificate of death is presented and shall contain the following information: full name, race, age and sex of the deceased, the place of death, date of death and a space for a statement by the registrar that a certificate of death has been filed and that permission is granted to a stated party to dispose of the corpse. The second section of the permit shall be filled out and signed by the funeral director or other person designated as custodian of the body, and shall contain a statement as to the method of embalming or preparation for final disposition and date thereof. The third section shall be filled out and signed by the sexton or person in charge of burial or other final disposal, and shall contain a statement as to the method of final disposal, date, and name and location of cemetery or crematory, and lot number if burial is in a cemetery.

C. [Formerly paragraph 26:001-3] When dead bodies are shipped by common carrier, the burial-transit permit shall be securely attached to the shipping case in an envelope and shall accompany the remains to their destination.

D. [Formerly paragraph 26:001-4] Within 10 days after burial, cremation or other disposal, the sexton of the cemetery, or other such person in charge of the disposal, shall execute the third section of the burial-transit permit, transcribe the date thereon to the record of the cemetery, and shall forward the permit to the registrar of the parish where the burial or other such disposal occurred.

E. [Formerly paragraph 26:001-5] The burial-transit permits of the other states (including foreign countries) shall be accepted as authorization for burial in the same manner as if the permit had been issued by the State Registrar of Vital Records.

F. [Formerly paragraph 26:002] The local registrar shall file and preserve the executed burial-transit permits which are returned to him by the sexton or other such persons.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(3) and R.S. 40:5(14).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1448 (June 2002).

§103. Embalming
[formerly paragraph 26:003-1]

A. Embalming of dead human bodies shall be performed in accordance with R.S. 37:831-861 relating to embalming.

B. [Formerly paragraph 26:003-2] If the body is to be held longer than 30 hours without refrigeration as specified, it shall be embalmed. If a dead human body is to be held longer than 30 hours in the custody of a Louisiana licensed hospital, Louisiana medical school, the Louisiana Anatomical Board or a certified coroner, it shall be refrigerated at all times at a temperature not to exceed 45E prior to its release to the authorized licensed funeral establishment for final disposition under R.S. 37, Chapter 10. If the body is not refrigerated or embalmed, it shall be buried, cremated, or otherwise disposed of within 30 hours after death or as soon as possible after its release to the authorized licensed funeral establishment.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(3) and R.S. 40:5(14).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1448 (June 2002).

§105. Construction and Alterations
[formerly paragraph 26:004]

A. No new funeral establishments shall hereafter be constructed nor major alterations be made to existing funeral establishments without the prior written approval of, and unless in accordance with the plumbing plans and specifications approved in advance by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(3) and R.S. 40:5(14).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1449 (June 2002).

§107. Transportation
[formerly paragraph 26:005-1]

A. The transportation of dead human bodies by a common carrier shall conform to the following requirements:

1. [Formerly paragraph 26:005-2] A burial-transit permit shall accompany the body in accordance with §101(C).

2. [Formerly paragraph 26:005-3] The body shall be placed in a coffin or casket. It shall be enclosed in a strong outer box unless it is transported in a closed vehicle designed exclusively for the transportation of dead human bodies.

B. [Formerly paragraph 26:007] The state health officer reserves the right to prescribe additional requirements regarding transportation and handling of dead human bodies in accordance with the general powers and jurisdiction, where cases warrant such, pursuant to R.S. 40:5.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(3) and R.S. 40:5(14).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1449 (June 2002).

§109. Burial
[formerly paragraph 26:006]

A. Human bodies shall be buried only in a duly authorized cemetery or burying place as defined or set forth in R.S. Title 8.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(3) and R.S. 40:5(14).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1449 (June 2002).

Part XXVII. Management of Refuse, Infectious Waste,Medical Waste, and Potentially Infectious Biomedical Waste
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XXVII	**Chapter XXVII**
Chapter 1	
§101	27:001
§103	27:002 - 27:005
§105	27:006
§107	27:007
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Chapter 3	
§301	27:020
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§1101	27:025 - 27:025-8
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§1301	27:026 - 27:026-2
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§1501	27:027 - 27:027-2
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§1701	27:028 -27:029-1

Part XXVII. Management of Refuse, Infectious Waste, Medical Waste, and Potentially Infectious Biomedical Waste

Chapter 1. Refuse Management
[formerly Chapter XXVII Part 1]

§101. Definitions
[formerly paragraph 27:001]

A. Unless otherwise specifically provided herein, the following words and terms used in Part XXVII of the Sanitary Code and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

Ashes—include the solid residue resulting from the combustion of all fuels, including those used for heating, cooking, and the production of energy in any public or private establishment, institution, or residence.

Garbage—the putrescible components of refuse which are subject to spoilage, rot, or decomposition. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

Offal—waste parts especially of a butchered animal including, but not limited to, bones, cartilage, fatty tissue and gristle.

Refuse—any garbage, rubbish, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility. It also includes other discarded material such as solid, liquid, semi-solid, or contained gaseous material resulting from either industrial, commercial, mining, or agricultural operations, or from community activities. It does not include solid or dissolved material in domestic sewage, irrigation return flows, industrial discharges which are point sources, or radioactive wastes.

Rubbish—includes all non-putrescible waste matter, except ashes, from any public or private establishments, institution, or residence. It also includes construction and demolition wastes.

Stable Refuse—includes animal feces and urine, any material contaminated by animal body discharges, and waste feed stuff.

Trash—rubbish.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1449 (June 2002).

§103. Accumulation and Collection of Refuse
[formerly paragraph 27:002]

A. No owner or lessee of any public or private property or premises nor agent of such owner or lessee shall permit garbage to accumulate upon the property or premises except in tightly covered containers constructed of such material and in such a manner as to be strong, watertight, not easily corroded, and rodent and insect-proof. When garbage and other types of refuse are collected separately, separate containers may be required by the state health officer.

B. [Formerly paragraph 27:003] Refuse shall not be allowed to remain in any house or other building, cellar, or outhouse, or on any premises long enough to cause a nuisance or health hazard.

C. [Formerly paragraph 27:004] The bodies of vehicles used for the collection and transportation of garbage shall be watertight and easily cleaned. Such bodies shall be covered except when being loaded and unloaded.

D. [Formerly paragraph 27:005] No person shall throw, deposit, or allow to fall upon any public or private property any refuse of any kind.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1450 (June 2002).

§105. Swine Feeding
[formerly paragraph 27:006]

A. No garbage, either cooked or raw, shall be disposed of by feeding said garbage to swine.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1450 (June 2002).

§107. Disposal of Carcasses
[formerly paragraph 27:007]

A. Animal offal and the carcasses of animals shall be buried or cremated or shall be cooked (rendered) at minimum temperature of 250 degrees Fahrenheit, which temperature shall be maintained for at least 30 minutes. The apparatus and method or methods used in rendering shall be approved by the Livestock Sanitary Board and the state health officer, and rendering shall not be carried out in any establishment except as required in the Louisiana Administrative Code, Title 7, Volume 2, Louisiana Department of Agriculture and Animals, and under the provisions of a permit issued by such representative, as required in Part XI of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1450 (June 2002).

§109. Stable Refuse
[formerly paragraph 27:008]

A. Every owner, lessee, manager (or other agent of an owner or lessee) of any stable, barn, stall, or any other establishment in the built-up part of any community, in which horses, cattle, dogs, fowl, or any other animals are quartered or in which stable refuse may accumulate shall cause such stable refuse to be removed therefrom, and shall at all times keep, or cause to be kept, such stable, barn, stall, or quarters, and the yards, drains, and appurtenances in a clean and sanitary condition so that no offensive odors shall be allowed to escape therefrom. Manure shall be kept in covered containers, or shall be treated to prevent the breeding of flies.

B. [Formerly paragraph 27:009] It shall be the duty of every owner, lessee, manager (or other agent of an owner or lessee) of any stable, barn, stall, or other establishment used for quartering animals or fowl to cause all stable refuse to be removed daily from such stable, or stable premises, unless the refuse is pressed bales, barrels or boxes. The removal and disposal of stable refuse without a written permit from the state health officer is prohibited.

C. [Formerly paragraph 27:010] Vehicles used for the removal of stable refuse shall be loaded within the premise, and not upon the street or sidewalk.

D. [Formerly paragraph 27:011] No stable refuse vault or receptacle shall be built, or used, on any premises except pursuant to the terms of a permit granted therefore by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1450 (June 2002).

Chapter 3. Management of Infectious Waste, Medical Waste and Potentially Infectious Biomedical Waste
[formerly Chapter XXVII Part 2]

§301. Definitions
[formerly paragraph 27:020]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code are defined for the purposes thereof as follows.

Generator—any person or facility that produces Potentially Infectious Biomedical Waste.

Health Care and Medical Facilities—shall include, but not be limited to hospitals, clinics, dialysis facilities, birthing centers, emergency medical services, mental health facilities, physicians' offices, outpatient surgery centers, nursing and extended care facilities, podiatry offices, dental offices and clinics, veterinary medical facilities, medical laboratories, home health care services, diagnostic services, mortuaries, and blood and plasma collection centers and mobile units.

Infectious Waste—that portion of Potentially Infectious Biomedical Waste which contains pathogens with sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

Labeling—to pre-print, mold an impression, write on or affix a sign to a package that is water resistant, legible and readily visible.

Large Health Care and Medical Facility Generator—a health facility generating 25 or more kilograms (55 pounds) of Potentially Infectious Biomedical Waste, not including sharps, or 5 or more kilograms (11 pounds) of sharps per month.

Medical Waste—that portion of Potentially Infectious Biomedical Waste that is generated from the operation of medical programs, offices and facilities.

Packaging—containing of Potentially Infectious Biomedical Waste in disposable or reusable containers in such a manner as to prevent exposure to the waste material.

Potentially Infectious Biomedical Waste—includes medical waste, infectious waste as defined herein, and as may be defined in other Louisiana law or code, and waste considered likely to be infectious by virtue of hat it is or how it may have been generated in the context of health care or health care like activities. It includes, but is not limited to the following:

a. cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, from research and industrial laboratories;

b. human pathological wastes including tissue, organs, body parts and fluids that are removed during surgery or autopsy;

c. human blood, human blood products, blood collection bags, tubes and vials;

d. sharps used or generated in health care or laboratory settings;

e. bandages, diapers, "blue pads", and other disposable materials *if* they have covered infected wounds or have been contaminated by patients isolated to protect others from the spread of infectious diseases;

f. any other refuse which has been mingled with Potentially Infectious Biomedical Waste.

B. For purposes of these regulations, eating utensils are excluded from the definition of Potentially Infectious Biomedical Waste.

C. Also excluded are animal carcasses and bedding as regulated under §§107.A through 109.D of these regulations, and very small quantities of uninfected human and animal surgical waste as specified in §303E.

D. Once treated in accordance with the provisions of §1101 of these regulations, the waste shall be deemed not to be potentially infectious, and may be handled and treated in accordance with those regulations governing the management of other municipal and industrial waste.

Sharps—are needles, syringes, scalpels, scalpel blades, pipettes and other medical instruments capable of puncturing or lacerating skin. This definition also includes glass fragments and other health care and laboratory waste capable of puncturing or lacerating skin.

Small Health Care and Medical Facility Generator—a health facility generating less than 25 kilograms (55 pounds) of Potentially Infectious Biomedical waste, not including sharps, or less than 5 kilograms (11 pounds) of sharps per month.

Small Quantity of Potentially Infectious Biomedical Waste—a single package containing less than 5 kilograms (11 pounds) of such waste not including sharps, or less than 1 kilogram (2.2 pounds) of sharps.

Storage—the containment of Potentially Infectious Biomedical Waste until treated or transported from the premises of a generator or treatment facility while the material is still potentially infectious.

Transport—the movement of Potentially Infectious Biomedical Waste from the premises of a generator or others involved over more than 0.1 mile of public streets or roadways to places for storage, treatment or disposal.[1]

Transporter—any person or firm who transports large quantities of Potentially Infectious Biomedical Waste or who transports any quantity of such waste generated by another. This definition shall not apply to municipal waste haulers who transport such waste disposed of in household waste under the provisions of §501(D).

Treatment, in the case of Potentially Infectious Biomedical Wastes other than human bodies; gross anatomical parts such as limbs, torsos and heads; fetal remains; and sharps—any method, technique, or process designed to change the character or composition of any Potentially Infectious Biomedical Waste so as to render the waste non-infectious. Treatment of human bodies, anatomical parts and fetal remains shall be by cremation, burial, or other means specifically authorized by law or regulation. Sharps shall be treated by incineration, encapsulation, or other means by which they are rendered unrecognizable as Potentially Infectious Biomedical Waste or otherwise unusable.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1450 (June 2002).

§303. Requirements for Large Health Care and Medical Facility Generators of Potentially Infectious Biomedical Waste [formerly paragraph 27:021]

A. [Formerly paragraph 27:021-1] If Potentially Infectious Biomedical Waste is not segregated from other wastes at the point of origin, all wastes commingled with the Potentially Infectious Biomedical Waste must be managed as Potentially Infectious Biomedical Waste.

B. [Formerly paragraph 27:021-2] Potentially Infectious Biomedical Waste must be packaged as defined in §301(A). Liquid wastes require sturdy, leak resistant containment. For sharps, this is to be a break resistant, rigid, puncture resistant container, the openings of which must be tightly closed prior to storage or transport. Plastic bags and other containers used for Potentially Infectious Biomedical Waste must be clearly labeled, impervious to moisture and have a strength sufficient to preclude ripping, tearing, or bursting under normal conditions of usage. Such containers must be securely closed so as to prevent leakage or other loss of contents during storage and transport. Potentially Infectious Biomedical Wastes to be stored outside prior to treatment require a second level of containment. The outer containers must be constructed of such material and in such a manner as to be strong, watertight, not easily corroded, and rodent and insect-proof.

C. [Formerly paragraph 27:021-3] Liquid or liquefied Potentially Infectious Biomedical Waste may be directly disposed into a sewage system meeting the requirements of Part XIII.

D. [Formerly paragraph 27:021-4] Animal cadavers, and tissue and waste from large animals (e.g. livestock and horses) that are potentially infectious to human hosts may be disposed of in accordance with Livestock Sanitary Board Regulations, or treated and disposed as Potentially Infectious Biomedical Waste. Cadavers, tissues and waste from companion animals (e.g. cats and dogs) that are potentially infectious to human hosts may be buried, rendered, incinerated or otherwise appropriately treated in accordance with these regulations by, or on the order of, a licensed veterinarian involved with the case.

E. [Formerly paragraph 27:021-5] Very small quantities of human or animal tissue, reasonably estimated as less than

250 grams (about half a pound) and associated surgical dressings and non-sharp surgical wastes from clean surgical procedures from persons or animals not known or suspected to be infected with a disease communicable to humans, need not be disinfected prior to disposal, but must be disposed of in tightly closed plastic bags or other impervious containers.

F. [Formerly paragraph 27:021-6] Sharps shall be packaged as defined in §303(B). Every sharps container shall be labeled as defined in §301(A) and as specified in §303(G). The contents of the container will be treated as specified in §1101 prior to disposal.

G. [Formerly paragraph 27:021-7] All bags and other containers of Potentially Infectious Biomedical Waste shall be labeled as defined in §301(A) and as follows:

1. Each package shall be prominently identified as "Potentially Infectious Biomedical Waste", "Medical Waste", or "Infectious Waste", with or without the universal biohazard symbol.

2. Untreated, Potentially Infectious Biomedical Waste that leaves the premises of the generator must bear the name and address of the generator or transporter. If not labeled as to generator, the transporter must maintain a tracking system that can identify the generator of every package of Potentially Infectious Biomedical Waste.

3. Treated, but still recognizable Potentially Infectious Biomedical Waste shall carry a supplemental label or marking to specify the treatment method used and the name or initials of the person responsible for assurance of treatment.

H. [Formerly paragraph 27:021-8] Storage of Potentially Infectious Biomedical Waste shall be in a secure manner and location which affords protection from theft, vandalism, inadvertent human and animal exposure, rain and wind. It shall be managed so as not to provide a breeding place or food for insects or rodents, and not generate noxious odors.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1451 (June 2002).

§305. Transportation of Potentially Infectious Biomedical Waste [formerly paragraph 27:021-9]

A. Transportation of potentially infectious biomedical waste shall be as follows:

1. A generator who transports large quantities of untreated or treated but still recognizable Potentially Infectious Biomedical Waste off site must register as a transporter and meet all the requirements specified in §701 of these regulations.

2. Generators shall transfer custody of Potentially Infectious Biomedical Waste only to transporters who are registered with the state health officer for this purpose as set forth in §701.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1452 (June 2002).

§307. Disposal of Potentially Infectious Biomedical Wastes [formerly paragraph 27021-10]

A. Disposal of Potentially Infectious Biomedical Wastes shall be in accordance with the provisions of §1301.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1452 (June 2002).

§309. Contingency Plans [formerly paragraph 27:021-11]

A. Generators who normally depend upon on site incineration or other on site treatment and destruction of Potentially Infectious Biomedical Waste shall prepare and annually update written contingency plans for management of such waste when the incinerator or other means of on site destruction becomes inoperative for any reason. Such contingency plans shall be developed for periods of one day, seven to 29 days, and more than 30 days.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1452 (June 2002).

Chapter 5. Requirements for Small Health Care and Medical Facilities, Household and Other Small Quantity Generators of Potentially Infectious Medical Waste [formerly paragraph 27:022]

§501. General Provisions [formerly paragraph 27:022-1]

A. A physician, dentist, veterinarian or nurse or, in the case of households, patient or family member, is authorized to transport small quantities of properly packaged sharps and other Potentially Infectious Biomedical Waste, generated as a result of professional or self administered health care services, from the place of original generation of the waste to an approved large quantity generator, permitted storage facility, or permitted treatment facility without having to meet the requirements of §701 or 1101 of these regulations.

B. [Formerly paragraph 27:022-2] Small quantity generators shall package, label and store Potentially Infectious Biomedical Wastes as defined and specified in §303 of these regulations.

C. [Formerly paragraph 27:022-3] Small quantity generators may handle liquid, animal and very small quantity wastes as specified in §303(C), (D), and (E).

D. [Formerly paragraph 27:022-4] Small quantities of Potentially Infectious Biomedical Waste generated as a result of self-administered or non-professional health care or veterinary care services in a household or other non health-care facility may be disposed of in ordinary municipal waste without treatment, provided that such waste is packaged to assure no loss of contents, should the integrity of the original package be violated. This shall generally be interpreted to mean placing the original plastic bag or rigid container into a second bag or rigid disposal container. Sharps must be encased as specified in §1101 or placed in a

sharps disposal container of standard manufacture or other similar container of a type approved by the state health officer. This sharps container should then be placed within another bag or rigid container containing a greater volume of non-infectious waste.[1]

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1452 (June 2002).

Chapter 7. Transportation

§701. Requirements for Transporters of Potentially Infectious Biomedical Waste [formerly paragraph 27:023]

A. [Formerly paragraph 27:023-1] This section shall apply to all transportation of Potentially Infectious Biomedical Waste within, into, out of or through the State of Louisiana.

B. [Formerly paragraph 27:023-2] A generator that transports large quantities of untreated, or treated but still recognizable Potentially Infectious Biomedical Waste must secure a permit as required in this section.

C. [Formerly paragraph 27:023-3] Arrangements between a generator and transporter for the transport of Potentially Infectious Biomedical Waste must be in the form of written contract which specifies that both parties fully understand and are fully committed to compliance with the provision of these regulations.

D. [Formerly paragraph 27:023-4] Potentially Infectious Biomedical Waste to be transported from the point of generation to an off-site treatment or disposal facility must meet the packaging and labeling requirements specified in §303.

E. [Formerly paragraph 27:023-5] The transporter shall deliver Potentially Infectious Biomedical Waste only to facilities that are permitted to transfer, store, treat or otherwise receive such wastes in accordance with these regulations. In the event that Potentially Infectious Biomedical Waste is transported out of state, the transporter shall deliver such waste to a facility demonstrating full compliance with all pertinent federal, state and local laws, rules and regulations.

F. [Formerly paragraph 27:023-6] Vehicles used by transporters shall meet the following minimum requirements:

1. The vehicle must have a fully enclosed cargo carrying body or compartment which is an integral part of the vehicle or firmly attached thereto and which affords protection from theft, vandalism, inadvertent human and animal exposure, rain, rodents and insects. The cargo body or compartment shall be separated by a solid barrier from the driver and passengers.

2. Provision shall be made for the containment within the body or compartment of any liquid which might leak from the packaged waste.

3. The cargo body or compartment shall be maintained in good sanitary condition and must be secured if left unattended.

4. The cargo body or vehicle containing the cargo compartment shall be identified on both sides with the name of the transporter and on both sides and the rear with the words "Medical Waste", "Infectious Waste", "Regulated Medical Waste", or "Potentially Infectious Biomedical Waste" in letters at least 3 inches high on contrasting background. In addition, a current permit decal issued by the Department of Health and Hospitals shall be affixed to the lower front section of the left side of the cargo body or to the driver's side door of the vehicle.[1]

G. [Formerly paragraph 27:023-7] Any person transporting Potentially Infectious Biomedical Waste for a generator other than himself shall secure a permit from the state health officer or his duly authorized representative by submitting each of the following:

1. [Formerly paragraph 27:023-7(1)] A completed and signed permit application form provided by the Louisiana Department of Health and Hospitals. The forms shall contain the following:

a. a statement certifying that the permittee understands and will comply with the applicable requirements of this Part;

b. a list of all vehicles and containers to be used by the permittee for transporting potentially infectious medical waste, and

c. a copy of a certificate of insurance;

d. a commitment that insurance coverage will be fully maintained for the duration of the permit.

2. [Formerly paragraph 27:023-7(2)] An operation plan for the handling and transport of Potentially Infectious Biomedical Waste. The operation plan shall include the following, each of which shall be subject to approval by the state health officer or his designee.

a. The method(s) to be used for handling Potentially Infectious Biomedical Waste separately from other waste which prevents unauthorized persons from having access to or contact with the waste;

b. The method(s) to be used for labeling each package of Potentially Infectious Biomedical Waste, and, if needed, the method(s) for tracking such waste, if the name, address and phone number of the generator is not to appear on the outer package, as specified in §303(G)(2) of these regulations.

c. The method(s) to be used for loading and unloading of such wastes which limits the number of persons handling the wastes and minimizes the possibility of exposure of employees and the public to Potentially Infectious Biomedical Waste;

d. The method(s) to be used for decontaminating emptied reusable Potentially Infectious Biomedical waste containers, transport vehicles and facility equipment which are known or believed to have been contaminated with Potentially Infectious Biomedical Waste;

e. The provision and required use of clean protective gloves and uniforms for persons manually loading or unloading containers of Potentially Infectious Biomedical Waste on or from transport vehicles. Soiled protective gear shall be laundered or otherwise properly treated;

f. The management of any person having had bodily contact with Potentially Infectious Biomedical Waste.

g. Except as specified in §501, and single small quantity packages of Potentially Infectious Biomedical Waste, Compactor vehicles shall not be used for the transport of Potentially Infectious Biomedical Waste.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1453 (June 2002).

Chapter 9. Storage

§901. Storage of Potentially Infectious Biomedical Waste [formerly paragraph 27:024]

A. [Formerly paragraph 24:024-1] Storage of Potentially Infectious Biomedical Waste shall be in a secure manner and location which affords protection from theft, vandalism, inadvertent human and animal exposure, rain and wind. It shall be managed so as not to provide a breeding place or food for insects or rodents, and not generate noxious odors.

B. [Formerly paragraph 24:024-2] Compactors shall not be used for the storage of Potentially Infectious Biomedical Waste.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1454 (June 2002).

Chapter 11. Treatment

§1101. Treatment of Potentially Infectious Biomedical Waste [formerly paragraph 27:025]

A. Treatment shall be by one of the following.

1. [Formerly paragraph 27:025-1] *Incineration*-to consume waste by burning under conditions in conformance with the standards prescribed by the Louisiana Department of Environmental Quality and other laws, rule and regulations as may apply.

2. [Formerly paragraph 27:025-2] *Steam Sterilization*-autoclaving at a temperature of at least 120E C., (248E F.), and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water and the type of container used. Alternate patterns of temperature, pressure and time may be used if compatible with the sterilization equipment being used and demonstrably sufficient to kill disease causing microorganisms.

3. [Formerly paragraph 27:025-3] Disposal as a liquid, with or without other treatment, into a sewage treatment system meeting the requirements of Part XIII of this Code.

4. [Formerly paragraph 27:025-4] *Thermal Inactivation*-dry heat of at least 160E C., (320E F.), at atmospheric pressure for at least two hours. This relates to time of exposure after attaining the specific temperature and does not include lag time.

5. [Formerly paragraph 27:025-5] *Chemical Disinfection*-the use of a chemical agent only in accordance with the written approval of the state health officer, except for hypochlorite bleach, diluted with water to no less than 5,000 ppm of chlorine (generally one part liquid household bleach, nine parts water). If chemically disinfected wastes are to be disposed into a sewage treatment system, the written permission of the operating authority of the sewage treatment system must be secured.

6. [Formerly paragraph 27:025-6] *Irradiation Sterilization*-the use of gamma rays, x-rays, or other forms of radiation to treat Potentially Infectious Biomedical Waste may be used only with the written approval of the state health officer.

7. [Formerly paragraph 27:025-7] Treatment and disposition of human bodies, gross anatomical parts and fetal remains shall be by burial, cremation, or other means specifically authorized in law or regulation. Extracted human teeth may be disposed of by these means, or as sharps.

8. [Formerly paragraph 27:025-8] Treatment and disposition of sharps shall be by incineration, encasement in plaster within a tightly closed container, encasement in other substances within a tightly closed container, as approved by the state health officer or by other treatment that renders them unrecognizable as medical sharps, and, for all practical purposes, precludes the release of recognizable needles and syringes if compacted. Small health care and medical facility generators, as defined in §301 of these regulations may dispose of sharps by encasement, as described above, without prior sterilization, inactivation or disinfection. Large health care and medical facility generators, as defined in §301of these regulations may apply to the state health officer for authority to dispose of sharps by encasement without prior sterilization, inactivation or disinfection.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1454 (June 2002).

Chapter 13. Disposal

§1301. Disposal of Potentially Infectious Biomedical Waste [formerly paragraph 27:026]

A. [Formerly paragraph 27:026-1] Once treated, as specified in §1101, Potentially Infectious Biomedical Waste may be disposed as non-infectious waste in a permitted sanitary landfill in accordance with the Solid Waste Regulations of the Department of Environmental Quality.

B. [Formerly paragraph 27:026-2] Treated, but still recognizable Potentially Infectious Biomedical Waste shall carry a supplemental label or marking to specify the treatment method used, date and name or initials of the person responsible for assurance of treatment.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1454 (June 2002).

Chapter 15. Treatment Facilities

§1501. General Provisions [formerly paragraph 27:027]

A. [Formerly paragraph 27:027-1] A generator may store its own Potentially Infectious Biomedical Wastes without a separate permit as otherwise required in this section, but must fully comply with all other provisions of this section.

B. [Formerly paragraph 27:027-2] Any generator operating its own incinerator or any other person operating a storage or treatment facility shall secure a permit from the state health officer by submitting each of the following.

1. A completed and signed permit application form provided by the State Health Officer. The forms shall contain the following:

a. a statement certifying that the permittee understands and will comply with the applicable requirements of this chapter; and

b. proof of all appropriate permits as required by the Louisiana Department of Environmental Quality and other state and federal agencies;

c. written arrangements between the storage and treatment facility and transporters which specify that both parties fully understand and are fully committed to compliance with the provisions of these regulations.

2. An operation plan for the management of Potentially Infectious Biomedical Waste. The operation plan shall include the following:

a. Methods of receiving wastes, unloading, storing and processing them, which ensure that all requirements specified in §§303.A, 303.H, 901, 1101, and 1301are fully addressed.

b. A proposed method of decontaminating emptied reusable Potentially Infectious Biomedical Waste containers, transport vehicles and facility equipment which are known or believed to have been contaminated with Potentially Infectious Biomedical Waste.

c. The provision and required use of protective gloves and uniforms to protect employees against exposure to Potentially Infectious Biomedical Waste. Soiled protective gear shall be laundered or otherwise appropriately treated.

d. The management of any person having had bodily contact with Potentially Infectious Biomedical Waste.

C. Section 1501 shall not apply to municipal and other sewage treatment facilities permitted in accordance with Part XIII.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1454 (June 2002).

Chapter 17. Enforcement
[formerly paragraph 27:028]

§1701. General Provisions

A. The Office of Public Health shall enforce the provisions of this Part in accordance with the provisions of the State Sanitary Code.

B. [Formerly paragraph 27:029] Effective Dates

1. [Formerly paragraph 27:029-1] These regulations shall take effect July 1, 1990.

C. Notes

1. [1]Sections revised July 20, 1991

2. [Sections 27:025-9, 27:026-3, 27:029-2 were deleted July 20, 1991]

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(b) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1455 (June 2002).

Part XXVIII. Commercial Body Art
Cross Reference

Current LAC Section	Former Sanitary Code Codification
Part XXVIII	**Chapter XXVIII**
Chapter 1	
§101	28:001
§103	28:001 - 28:002-10
§105	28:003 - 28:003-19
§107	28:004 - 28:004-12
§109	28:005 - 28:005-3
§111	28:006 - 28:006-3
§113	28:007 - 28:007-4
§115	28:008 - 28:008-2
§117	28:009 - 28:009-2
§119	28:010 - 29:010-4
§121	28:011 - 28:011-3
§123	28:012 - 28:012-6
§125	28:013 - 28:013-3
§127	28:014 & 28:014-1
§129	28:015 - 28:015-5
§131	28:016 - 28:016-12
§133	28:017 - 28:017-8
Chapter 3	
§301	28:018 - 28:018-8
§303	28:019 & 28:019-1
§305	28:020 & 28:020-1
§307	28:021 - 28:021-4
§309	28:022 - 28:022-3
§311	28:023 - 28:023-7
§313	28:024 - 28:024-7
§315	28:025 & 28:025-1
§317	28:026 & 28:026-1
Chapter 5	
§501	28:027 & 28:027-1
§503	28:029 - 28:029-5
§505	28:030 - 28:030-2
§507	28:031
Chapter 7	
§701	28:028 - 28:028-2

Part XXVIII. Commercial Body Art

Chapter 1. Commercial Body Art Regulation

§101. Definitions
[formerly paragraph 28:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

Antiseptic—an agent that destroys disease causing microorganisms on human skin or mucosa.

Aftercare—written instructions given to the consumer, specific to the body art procedure(s) rendered, on caring for the body art and surrounding area. These instructions will include information when to seek medical treatment, if necessary.

Body Art—the practice of physical body adornment by registered establishments and operators utilizing, but not limited to, the following techniques: tattooing, cosmetic tattooing, body piercing, branding and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin, and shall not be performed in a commercial body art facility. This definition does not include the piercing of the lobe of the ear using pre-sterilized single use stud and clasp ear piercing system.

Body Piercing—puncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening, except puncturing the lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system shall not be included in this definition.

Branding—inducing a pattern of scar tissue development by means of a heated instrument.

Client—a consumer requesting the application of a tattoo, body piercing services or permanent cosmetic application services

*Commercial Body Art Facility***C**as defined herein and in R.S. 40:2831(1) means any location, place, area, or business, whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear;

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

*Contaminated Waste***C**any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens."

*Consumer***C**any individual who is provided access to a commercial body art facility which is required to be registered pursuant to the provisions of this Part.

*Disinfection***C**the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

*Department***C**the Department of Health and Hospitals.

*Ear Piercing***C**the puncturing of the lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system following manufacturers instructions.

*Equipment***C**all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a commercial body art facility.

*Hand Sink***C**a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms or other portions of the body.

*Invasive***C**entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

*Jewelry***C**any personal ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel, solid l4k or l8k white or yellow gold, niobium, titanium or platinum, a dense, low-porosity plastic and which is free of nicks, scratches or irregular surfaces and which has been properly sterilized prior to use.

*Manager***C**any individual designated by the owner to manage the daily business of a commercial body art facility.

*Operator***C**any individual designated by the registrant to apply or to assist in the performance of body art procedures upon the consumer for remuneration. The term includes technicians who work under the operator and perform body art activities.

*Owner***C**any person who operates a commercial body art facility.

*Person***C**any natural person, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

*Protective Gloves***C**gloves made of vinyl or latex.

*Registrant***C**any person who is registered with the department as required by R.S. 40:2832.

*Sanitize***C**to adequately treat equipment by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms without adversely affecting the equipment or its safety for the consumer.

*Sharps***C**any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized, single use needles, scalpel blades and razor blades.

*Sharps Container***C**a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the international 'biohazard" symbol.

*Single Use***C**products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

*Sterilization***C**a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

*Tattooing***C**any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

*Temporary Commercial Body Art Facility***C**any place or premise operating at a fixed location where an operator performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

*Temporary Demonstration Registration***C**the registration issued by the Department to a *temporary commercial body art facility*, as defined herein, as required by Chapter 3 of this Part and R.S. 40:2832 for a period of time not to exceed 14 consecutive calendar days.

*Temporary Operator Registration***C**the registration issued by the Department to an *operator*, as defined herein, to perform body art procedures at a temporary commercial body art facility approved and registered by the Department.

*Universal Precautions***C**a set of guidelines and controls, published by the Center for Disease Control (CDC) as "guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers" in Morbidity and Mortality

Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures," in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4, R.S. 40:5 and R.S. 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1455 (June 2002).

§103. Facility Standards
[formerly paragraph 28:002]

A. All commercial body art facilities shall meet the following criteria.

1. [Formerly paragraph 28:002-1] All areas shall be kept clean and in good repair.

2. [Formerly paragraph 28:002-2] All procedure surfaces, including counters, tables, equipment, chairs, or recliners, that are in treatment and sterilization areas shall be made of smooth, nonabsorbent, and nonporous materials.

3. [Formerly paragraph 28:002-3] All wall, floor, and ceiling surfaces within each procedure area shall be smooth, free of open holes or cracks, light colored, washable and in good repair. Walls, floors and ceilings shall be maintained in a clean condition.

4. [Formerly paragraph 28:002-4] Surfaces or blood spills shall be cleaned using an EPA registered, hospital-grade disinfectant

5. [Formerly paragraph 28:002-5] Each facility shall provide a hand washing sink to be used solely for hand washing in body art procedure area for the exclusive use of the operator. A separate restricted area away from public access shall be provided in each facility for the purpose of handling contaminated equipment, instruments and sterilization operations. Also, a separate instrument sink shall be provided for the sole purpose of cleaning instruments and equipment prior to sterilization in addition to the sink that is located in the restrooms. These sinks shall be provided with hot (120 degrees Fahrenheit minimum) and cold running water under pressure dispensed from a mixing valve. There shall also be available at all sinks and lavatories, powdered or liquid soap in a soap dispenser, disposable single use towels or automatic hand drying device, and a refuse container.

6. [Formerly paragraph 28:002-6] Toilet facilities shall be kept clean and in good repair and in working order at all times. If only one restroom is provided, it must contain a water closet and a hand washing sink equipped with a powdered or liquid soap dispenser and disposable single use towels or automatic hand drying device, as must all restrooms.

7. [Formerly paragraph 28:002-7] The facility shall be provided with adequate and sufficient artificial or natural lighting equivalent to at least 20-foot candles 3 feet off the floor, except that at least 100-foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.

8. [Formerly paragraph 28:002-8] The facility shall be well ventilated with natural or mechanical methods that remove or exhaust fumes, vapors, or dust in order to prevent hazardous conditions from occurring or to allow the free flow of air in a room in proportion to the size of the room and the capacity of the room.

9. [Formerly paragraph 28:002-9] If a room used for any business purposes other than body art procedures is the same room or is adjacent to a room used for body art procedures, then the department may require that one or more of the following requirements be satisfied if there are conditions that the department considers a possible threat to the health of the employees, the customers, or the public:

a. A solid partition shall separate the premises used for other business purposes from the commercial body art area. The partition may contain a door, provided it remains closed except for entering and leaving.

b. A separate outside entrance shall be provided for the facility.

10. [Formerly paragraph 28:002-10] Pets or other animals shall not be permitted in the commercial body art facility. This prohibition shall not apply to trained guide animals for the disabled, sightless, or hearing impaired; or fish in aquariums.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1457 (June 2002).

§105. Required Equipment
[formerly paragraph 28:003]

A. Articles and Materials. Commercial body art facility registrants and operators shall provide and maintain the following tattooing and/or piercing equipment and supplies at the place of business:

1. [Formerly paragraph 28:003-1] Tattoo machine or hand pieces, of non porous material which can be sanitized;

2. [Formerly paragraph 28:003-2] Stainless steel or carbon needles and needle bars;

3. [Formerly paragraph 28:003-3] Stainless steel, brass or lexan tubes that can be sanitized;

4. [Formerly paragraph 28:003-4] Stencils, plastic acetate or single use disposable carbon paper;

5. [Formerly paragraph 28:003-5] Sterilization bags with color strip indicator;

6. [Formerly paragraph 28:003-6] Disposable protective gloves;

7. [Formerly paragraph 28:003-7] Single use or disposable razors, tongue depressors, lubricants or medicines.

8. [Formerly paragraph 28:003-8] Single use towels, tissues or paper products;

9. [Formerly paragraph 28:003-9] Sharps container and BIOHAZARD waste bags;

10. [Formerly paragraph 28:003-10] Commercially purchased inks, dyes and pigments;

11. [Formerly paragraph 28:003-11]A trash receptacle(s).

12. [Formerly paragraph 28:003-12] Commercially available spore tests performed monthly.

13. [Formerly paragraph 28:003-13] Single-use hollow piercing stainless steel needles;

14. [Formerly paragraph 28:003-14] Approved equipment for cleaning and sterilizing instruments;

15. [Formerly paragraph 28:003-15] All tables or chairs made of nonporous material that can be cleaned and sanitized;

16. [Formerly paragraph 28:003-16] All piercing instruments shall be made of stainless steel.

17. [Formerly paragraph 28:003-17] Bleach or hard-surface disinfectants, or both;

18. [Formerly paragraph 28:003-18] Antibacterial hand soap; and

19. [Formerly paragraph 28:003-19] Minimum of 10 pre-sterilized needle/tube packs or 10 single use needle/tube packs per artist in respect to tattooist.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1457 (June 2002).

§107. Practice Standards; Restrictions [formerly paragraph 28:004]

A. [Formerly paragraph 28:004-1] Prior to any body art procedure, a consent form shall be completed and signed by each client. Aftercare instructions shall be given to the client both verbally and in writing after every service. The written care instructions shall advise the client to consult the body art operator or a qualified health care professional at the first sign of abnormal inflammation/swelling or possible infection.

B. [Formerly paragraph 28:004-2] Registrants may obtain advice from physicians regarding medical information needed to safeguard consumers and body art operators.

C. [Formerly paragraph 28:004-3(a)] Registrants shall keep an individual written record of each client. That record shall include the name and address of the client; the date of each service; description of service; the color, manufacturer and lot number of each of each pigment used for each tattoo or permanent cosmetic procedure performed.

1. [Formerly paragraph 28:004-3(b)] The following information should be requested by the registrant or operator and recorded on the client=s written record required in §107.C. In order to promote proper healing of the body art procedure performed, we ask that you disclose if you have, or have had, any of the following conditions which may affect the healing process:

a. diabetes;

b. history of hemophilia (bleeding);

c. history of skin diseases, skin lesions or skin sensitivities to soap, disinfectants, etc.;

d. history of allergies or adverse reactions to pigments, dyes or other skin sensitivities;

e. history of epilepsy, seizures, fainting or narcolepsy;

f. pregnancy or breast-feeding/nursing;

g. immune disorders;

h. scarring (keloid).

D. [Formerly paragraph 28:004-3(c)] Each commercial body art facility shall display a sign clearly visible to each client which bears the following wording:

1. AThere may be risks associated with the procedures of commercial body art, which includes permanent tattoos, body piercing and permanent cosmetic application, that may adversely affect the healing process if you have, or have had, any of the following conditions:

a. diabetes;

b. history of hemophilia (bleeding);

c. history of skin diseases, skin lesions or skin sensitivities to soap, disinfectants, etc.;

d. history of allergies or adverse reactions to pigments, dyes or other skin sensitivities;

e. history of epilepsy, seizures, fainting or narcolepsy.

f. pregnancy or breast-feeding/nursing;

g. immune disorders;

h. scarring (keloid).@

2. The sign required in this sub-section shall be printed in upper and lower case letters which are at least 2 inch and 1/4 inch in height respectively.

E. [Formerly paragraph 28:004-4] For permanent cosmetic procedures, operators shall take photographs for corrective procedures before and after the procedure and retain such photographs.

F. [Formerly paragraph 28:004-5] Records shall be kept for a minimum of three years.

G. [Formerly paragraph 28:004-6] Inks, dyes, or pigments shall be purchased from a commercial supplier or manufacturer. Products banned or restricted by the Food and Drug Administration shall not be used.

H. [Formerly paragraph 28:004-7] Registrants or operators shall not perform tattooing and body piercing for any of these individuals:

1. On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;

2. On persons who show signs of intravenous drug use;

3. On persons with sunburn or other skin diseases or disorders such as open lesions, rashes, wounds, puncture marks in areas of treatment;

4. On persons with psoriasis or eczema present in the treatment area;

5. On persons under 18 years of age without the presence, consent and proper identification of a parent, legal custodian parent or legal guardian as prescribed in R.S. 14:93.2(A) and (B). Nothing in this section is intended to require an operator to perform any body art procedure on a person under 18 years of age with parental or guardian consent.

I. [Formerly paragraph 28:004-8] Use of a piercing gun to pierce shall be prohibited on all parts of the body, including the outer cartilage perimeter of the ear with the exception of the ear lobe.

J. [Formerly paragraph 28:004-9] Use of personal client jewelry or any apparatus or device presented by the client for use during the initial body piercing shall be sterilized prior to use. Each facility shall provide pre-sterilized

jewelry, apparatus, or devices, which shall be of metallic content recognized as compatible with body piercing.

K. [Formerly paragraph 28:004-10] No person afflicted with an infectious or communicable disease that may be transmitted during the performance of body art procedures shall be permitted to work or train in a commercial body art facility.

L. [Formerly paragraph 28:004-11] No commercial body art facility shall require an operator to knowingly work upon a person suffering from any infectious or communicable disease that may be transmitted during the performance of permanent color, tattoo application, or body piercing.

M. [Formerly paragraph 28:004-12] Nothing shall prohibit a commercial body art facility operator from refusing to provide services to anyone under the age of 18.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1458 (June 2002).

§109. Operator Training
[formerly paragraph 28:005]

A. [Formerly paragraph 28:005-1] Each commercial body art facility registrant shall establish and maintain procedures to ensure that all operators that perform commercial body art procedures receive adequate training and hold a current certificate in CPR, first aid, blood borne pathogens and disease transmission prevention.

B. [Formerly paragraph 28:005-2] Commercial Body Art Trainer means any person who provides training in the commercial body art field to students for a fee. The training facility shall be a fully accredited educational institution and the curriculum shall include training specified in §109.A.

C. [Formerly paragraph 28:005-3] Commercial body art facility registrants and owners must only hire operators who have registered with the department and have received training as required in §109.A and B.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1459 (June 2002).

§111. Hand Washing and Protective Gloves
[formerly paragraph 28:006]

A. [Formerly paragraph 28:006-1] Prior to and immediately following administering services to a client, all registrants and operators shall thoroughly wash their hands and nails in hot, running water with soap and rinse them in clear, warm water.

B. [Formerly paragraph 28:006-2] All registrants and operators shall wear protective gloves during services. Protective gloves shall be properly disposed of immediately following service.

C. [Formerly paragraph 28:006-3] Protective gloves will be changed during a procedure if the need of additional supplies are needed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1459 (June 2002).

§113. Preparation and Aftercare of Treatment Area on Clients
[formerly paragraph 28:007]

A. [Formerly paragraph 28:007-1] Body art operators shall cleanse the client's skin, excluding the areas surrounding the eyes, by washing with an EPA-approved antiseptic solution applied with a clean, single-use paper product, before placing the design on the client's skin or beginning tattooing or permanent cosmetic work.

B. [Formerly paragraph 28:007-2] If the area is to be shaved, the operator shall use a single-use disposable safety razor and then rewash the client's skin.

C. [Formerly paragraph 28:007-3] Substances applied to the client's skin to transfer the design from stencil or paper shall be single use.

D. [Formerly paragraph 28:007-4] Aftercare shall be administered to each client following service, as stated in §107(A) and 131(L) of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1459 (June 2002).

§115. Cleaning Methods Prior to Sterilization
[formerly paragraph 28:008]

A. [Formerly paragraph 28:008-1] Each operator shall clean all non-electrical instruments prior to sterilizing by brushing or swabbing to remove foreign material or debris, rinsing, and then performing either of the following steps:

1. Immersing them in detergent and water in an ultrasonic unit that operates at 40 to 60 hertz, followed by a thorough rinsing and wiping; or

2. Submerging and soaking them in a protein-dissolving detergent or enzyme cleaner, followed by a thorough rinsing and wiping.

B. [Formerly paragraph 28:008-2] For all electrical instruments, each operator shall perform the following:

1. First remove all foreign matter; and

2. Disinfect with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity used according to manufacturer's instructions.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1459 (June 2002).

§117. Instrument Sterilization Standards
[formerly paragraph 28:009]

A. [Formerly paragraph 28:009-1] Commercial body art facility operators shall place cleaned instruments used in the practice of tattooing, permanent cosmetics or piercing in sterile bags, with color strip indicators, and shall sterilize the instruments by exposure to one cycle of an approved sterilizer, in accordance with the approved sterilization modes in §119 of this Part.

B. [Formerly paragraph 28:009-2] The provisions of this Part shall not apply to electrical instruments.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1459 (June 2002).

§119. Approved Sterilization Modes
[formerly paragraph 28:010]

A. [Formerly paragraph 28:010-1] Instruments used in the practice of commercial body art services shall be sterilized, using one of the following methods:

1. in a steam or chemical autoclave sterilizer, registered and listed with the Federal Food and Drug Administration (FDA), and used, cleaned, and maintained according to manufacturer's directions; or

2. with single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers.

B. [Formerly paragraph 28:010-2] Facility registrants and operators shall sterilize all piercing instruments that have or may come in direct contact with a client's skin or be exposed to blood or body fluids. Piercing needles shall not be reused. All piercing needles shall be single use.

C. [Formerly paragraph 28:010-3] All sterilizing devices shall be tested on a monthly basis for functionality and thorough sterilization by use of the following means:

1. Chemical indicators that change color, to assure sufficient temperature and proper functioning of equipment during the sterilization cycle; and

2. A biological monitoring system using commercially prepared spores, to assure that all microorganisms have been destroyed and sterilization has been achieved. This testing shall be performed on a monthly basis for tattoo and body piercing facilities.

D. [Formerly paragraph 28:010-4] Sterilization device test results shall be made available at the facility at all times for inspection by the state health officer for a minimum of three years.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1460 (June 2002).

§121. Waste Receptacles
[formerly paragraph 28:011]

A. [Formerly paragraph 28:011-1] Following body art procedures for each client, the registrant or operator shall deposit all waste material related to treatment in a container of the type specified in §121.C of this Part.

B. [Formerly paragraph 28:011-2] Waste disposed in a reception area and restrooms shall be limited only to materials that are not used in providing body art services to clients or are practice related.

C. [Formerly paragraph 28:011-3] Waste disposal containers shall be constructed of non-absorbent and readily cleanable materials, shall have smooth surfaces and shall be kept clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1460 (June 2002).

§123. Linens
[formerly paragraph 28:012]

A. [Formerly paragraph 28:012-1] Each registrant or operator shall use clean reusable linens or disposable linens for each client.

B. [Formerly paragraph 28:012-2] A common towel shall be prohibited.

C. [Formerly paragraph 28:012-3] Air blowers may be substituted for hand towels.

D. [Formerly paragraph 28:012-4] Each registrant or operator shall store clean linens, tissues, or single-use paper products in a clean, enclosed storage area until needed for immediate use.

E. [Formerly paragraph 28:012-5] Each registrant or operator shall dispose of or store used linens in a closed or covered container until laundered.

F. [Formerly paragraph 28:012-6] Each registrant or operator shall launder used linens either by a regular, commercial laundering or by a noncommercial laundering process that includes immersion in water at 160 degrees Fahrenheit for-not less than 15 minutes during the washing and rinsing operations.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1460 (June 2002).

§125. Clean Instruments and Products Storage
[formerly paragraph 28:013]

A. [Formerly paragraph 28:013-1] Before use, disposable products that come in contact with the areas to be treated shall be stored in clean containers that can be closed between treatments.

B. [Formerly paragraph 28:013-2] Clean, sterilized reusable instruments that come in contact with the areas to be treated shall be packed in self-sealing sterilization packages and stored in clean, dry covered containers.

C. [Formerly paragraph 28:013-3] Clean, sterilized reusable transfer instruments, including forceps, trays, and tweezers, shall be packed in self-sealing sterilization packages and stored in clean, dry covered containers.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1460 (June 2002).

§127. Chemical Storage
[formerly paragraph 28:014]

A. [Formerly paragraph 28:014-1] Each registrant or operator shall store chemicals in labeled, closed containers in an enclosed storage area. All bottles containing poisonous or caustic substances shall be additionally and distinctly marked as such and shall be stored in an area not open to the public.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1460 (June 2002).

§129. Handling Disposable Materials
[formerly paragraph 28:015]

A. [Formerly paragraph 28:015-1] All potentially infectious waste materials shall be handled, stored and disposed of in a manner specified in Part XXVII of the State Sanitary Code.

B. [Formerly paragraph 28:015-2] Each registrant or operator shall dispose of disposable materials coming into contact with blood, body fluids, or both, in a sealable plastic bag that is separate from sealable trash or garbage liners or

in a manner that protects not only the registrant or operators and the client, but also others who may come into contact with the material, including sanitation workers. Waste materials shall be kept secured from public access. Waste dumpsters shall be kept locked.

C. [Formerly paragraph 28:015-3] Disposable, sharp objects that come in contact with blood or body fluids shall be disposed of in a sealable, rigid, puncture-proof container that is strong enough to protect the registrant or operators, clients, and others from accidental cuts or puncture wounds that could happen during the disposal process.

D. [Formerly paragraph 28:015-4] Registrants or operators shall have both sealable plastic bags or sealable rigid containers available at the facility.

E. [Formerly paragraph 28:015-5] Each registrant or operator shall follow universal precautions in all cases.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1460 (June 2002).

§131. Tattoo and Permanent Cosmetic Procedures; Preparation and Aftercare [formerly paragraph 28:016]

A. [Formerly paragraph 28:016-1] During preparation, performance of service, and aftercare phases all substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Use of a covered spray bottle to apply liquid to skin is acceptable and will enhance the prevention of cross-contamination. Single use tubes or containers and applicators shall be discarded following tattoo service.

B. [Formerly paragraph 28:016-2] The client=s skin shall be cleansed, excluding the areas surrounding the eyes, by washing with a Food and Drug Administration (FDA) compliant antiseptic solution applied with a clean single-use paper product before placing the design on the client=s skin or beginning tattooing work.

C. [Formerly paragraph 28:016-3] If the area is to be shaved, the operator shall use a single use disposable safety razor and then rewash client=s skin.

D. [Formerly paragraph 28:016-4] Substances applied to client=s skin to transfer design from stencil or paper shall be single use. Paper stencils and skin scribes shall be single-use and disposed of immediately following service.

E. [Formerly paragraph 28:016-5] Body pencils used during a tattoo and permanent cosmetic service shall have the tip removed, the body and tip of the pen disinfected, and the tip sharpened to remove exposed edge after use on a client and prior to use on another client.

F. [Formerly paragraph 28:016-6] The plastic or acetate stencil used to transfer the design to the client=s skin shall be throughly cleansed and rinsed in an Environmental Protection Agency (EPA) approved high-level disinfectant according to the manufacturers instructions and then dried with a clean single-use paper product.

G. [Formerly paragraph 28:016-7] Individual portions of inks, dyes, or pigments dispensed from containers or bottles into single-use containers shall be used for each client. Any remaining unused ink, dye or pigments shall be discarded immediately following service and shall not be re-used on another client.

H. [Formerly paragraph 28:016-8] Excess ink, dye, or pigment applied to the client=s skin shall be removed with clean single-use paper product.

I. [Formerly paragraph 28:016-9] Use of styptic pencils or alum solids to check any blood flow is prohibited.

J. [Formerly paragraph 28:016-10] Upon completion of tattooing, the operator shall deanse the skin, excluding the area surrounding the eyes, with a clean, single-use paper product saturated with an EPA-approved antiseptic solution.

K. [Formerly paragraph 28:016-11] A sanitary covering shall be placed over designs and adhered to the skin with suitable medical skin tape.

L. [Formerly paragraph 28:016-12] Each operator shall provide aftercare, which shall consist of both verbal and written instructions concerning proper care of the tattooed skin. Instructions shall specify the following information:

1. care following the procedure;
2. advise clients to contact the body art operator or a qualified health care professional at the first sign of abnormal inflamation, swelling or possible infection; and
3. restrictions.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1461 (June 2002).

§133. Body Piercing Procedures [formerly paragraph 28:017]

A. Body piercing operators shall be responsible for adhering to the following standards while serving clients in the commercial body art facility.

1. [Formerly paragraph 28:017-1] Each operator shall observe and follow thorough hand washing procedures with soap and water or an equivalent hand washing product before and after serving each client and as needed to prevent cross contamination or transmission of body fluids, infections or exposure to service-related wastes or chemicals.

2. [Formerly paragraph 28:017-2] Each operator shall cleanse the client's skin, excluding the areas surrounding the eyes, by washing it with an FDA registered antiseptic solution applied with a clean, single-use paper product before and after piercing the client's skin.

3. [Formerly paragraph 28:017-3] All substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Single use swabs, applicators, lubricants, cups, skin scribes or marking instruments shall be discarded following the piercing service.

4. [Formerly paragraph 28:017-4] Any type of marking pen used by the operator shall be applied on cleansed skin only or shall be a surgical marking pen sanitized by design, including alcohol-based ink pens. The operator shall remove the tip of each body pencil used during a piercing, shall disinfect the body and the tip of the pencil, and shall sharpen the tip to remove the exposed edge prior to disinfection.

5. [Formerly paragraph 28:017-5] Use of styptic pencils or alum solids to control blood flow shall be prohibited.

6. [Formerly paragraph 28:017-6] Aftercare shall be administered to each client following service. Aftercare shall

consist of both verbal and written instructions concerning proper care of the pierced area. Instructions shall specify the following information:

a. care following service;

b. advise clients to contact the body art operator or a qualified health care professional at the first sign of abnormal inflamation, swelling or possible infection; and

c. restrictions.

7. [Formerly paragraph 28:017-7] Operators who have open sores or bleeding lesions on their hands shall not have client contact until the lesions have healed to the scab phase. Each operator shall cover them with protective gloves or impervious bandages prior to contact with clients.

8. [Formerly paragraph 28:017-8] Operators shall wear eye goggles, shields, or masks if spattering is likely to occur while providing services.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1461 (June 2002).

Chapter 3. Registration [formerly paragraph 28:018]

§301. Procedures [formerly paragraph 28:018-1]

A. Each person owning or operating a commercial body art facility or facilities within the State of Louisiana on January 1, 2000 shall register each facility with the department no later than March 1, 2000.

B. [Formerly paragraph 28:018-2] Each person acquiring or establishing a commercial body art facility within the State of Louisiana after January 1, 2000, shall register the facility with the department prior to beginning operation of such a facility.

C. [Formerly paragraph 28:018-3] No person shall operate a commercial body art facility without first having registered that facility as provided by §301.A and B of this Section. The application for registration of commercial body art facilities shall be submitted on forms provided by the department and shall contain all the information required by such forms and any accompanying instructions.

D. [Formerly paragraph 28:018-4] Each person managing a commercial body art facility and each person acting as an operator as defined in §101 of this Part on January 1, 2000, shall register with the department no later than March 1, 2000.

E. [Formerly paragraph 28:018-5] Each person who begins to act as a manager or operator in a commercial body art facility after January 1, 2000, shall register the facility as required in this Part prior to beginning operation of such a facility.

F. [Formerly paragraph 28:018-6] No person shall act as a manager or operator in a commercial body art facility without having first registered as provided in §301.D and E of this Section. The applications for registration shall be submitted on forms provided by the department and shall contain all of the information required by such forms and any accompanying instructions.

G. [Formerly paragraph 28:018-7] Any person or facility approved by the department for training commercial body art operators pursuant to R.S. 37:2743(A)(4) shall register with the department upon approval. The applications for registration shall be submitted on forms provided by the department and shall contain all of the information required by such forms and any accompanying instructions.

H. [Formerly paragraph 28:018-8] As part of the application for registration process, owners of commercial body art facilities shall submit a scale drawing and floor plan of the proposed establishment to the department for a review. This shall apply to new construction and to renovation of any existing property.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1462 (June 2002).

§303. Registration Application Form [formerly paragraph 28:019]

A. [Formerly paragraph 28:019-1] The department shall require at least the following information for registration:

1. name, physical address, mailing address and telephone number and normal business hours of each commercial body art facility;

2. name, residence address, mailing address and telephone number of the owner of each commercial body art facility;

3. for each manager or operator: name, residence address, mailing address, telephone number, place(s) of employment as a manger or operator, training and/or experience, proof of attendance of an approved operator training course as specified in §109 of this Part;

4. name, mailing address, telephone number and owner, manager or contact person for each operator training facility.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1462 (June 2002).

§305. Registration Fees [formerly paragraph 28:020]

A. [Formerly paragraph 28:020-1] The following fees shall accompany each application for initial registration.

Registrant	Fee
Owner of facility	$1,000.00
Manager of facility	$200.00
Operator	$100.00
Training Facility or Person	$3,000.00

1. Make check or money orders payable to the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1462 (June 2002).

§307. Issuance of Certificate of Registration [formerly paragraph 28:021]

A. [Formerly paragraph 28:021-1] A certificate of registration shall be issued upon receipt of an application and the required registration fee provided that no certificate of registration will be issued until an inspection has been made of the commercial body art facility and it has been found to be operating in compliance with the provisions of R.S. 40:2831 through 40:2834 and the provisions of this Part of the Sanitary Code.

B. [Formerly paragraph 28:021-2] Certificates of registration shall be displayed in an open public area of the commercial body art facility.

C. [Formerly paragraph 28:021-3] Certificates of registration shall expire annually on December 31.

D. [Formerly paragraph 28:021-4] Certificates of registration shall be issued only to the applicants and shall not be transferable.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1462 (June 2002).

§309. Renewal of Certificate of Registration [formerly paragraph 28:022]

A. [Formerly paragraph 28:022-1] Each registrant shall file applications for renewal of certificate of registration annually on forms provided by the department. The renewal application shall be forwarded to the mailing address of the registrant as listed on the last application for registration submitted to the department.

B. [Formerly paragraph 28:022-2] The following fees shall accompany each application for registration renewal.

Registrant	Renewal Fee
Owner of facility	$500.00
Manager of facility	$150.00
Operator	$60.00
Training Facility or Person	$1,000.00

1. Make check or money orders payable to the Department of Health and Hospitals.

C. [Formerly paragraph 28:022-3] Provided that a registrant files a required application with the department in proper form not less than 30 days prior to the expiration date stated on the certificate of registration, the certificate

shall not expire pending final action on the application by the department.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1463 (June 2002).

§311. Temporary Commercial Body Art Facility/Operator Registration [formerly paragraph 28:023]

A. [Formerly paragraph 28:023-1] Temporary commercial body art facilities and, when required, operator registrations may be issued for body art services provided outside of the physical site of a registered permanent facility for the purposes of product demonstration, industry trade shows or for educational reasons.

B. [Formerly paragraph 28:023-2] Temporary commercial body art facility and/or operator registrations will not be issued unless:

1. The applicant furnishes proof of compliance with Chapter 3 of this Part relating to operator's registration.

2. The applicant is currently affiliated with a permanent fixed location or permanent facility which, is registered by the department.

3. Applicants who reside outside of Louisiana must demonstrate to the department that they hold a valid registration or license to operate a commercial body art facility at a permanent fixed location issued by the state or local regulatory authority within their respective state.

4. The temporary site complies with §315 of this Part.

C. [Formerly paragraph 28:023-3] In lieu of attendance at a bloodborne pathogens training program approved by the Department within the past year as specified in §109 of this Part, the applicant may furnish proof of attendance at equivalent training which is acceptable to the Department.

D. [Formerly paragraph 28:023-4] Temporary registrations expire after 14 consecutive calendar days or at the conclusion of the special event, whichever is less.

E. [Formerly paragraph 28:023-5] Temporary commercial body art facility and/or operator registrations will not be issued unless the applicant has paid a reasonable fee as set by the Department.

F. [Formerly paragraph 28:023-6] The temporary commercial body art facility and/or operator registration(s) shall not be transferable from one place or person to another.

F. [Formerly paragraph 28:023-7] The temporary commercial body art facility and/or operator registrations shall be posted in a prominent and conspicuous area where they may be readily seen by clients.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1463 (June 2002).

§313. Temporary Commercial Body Art Facility/Operator Registration Requirements [formerly paragraph 28:024]

A. [Formerly paragraph 28:024-1] A temporary registration may be issued by the Department for educational, trade show or product demonstration purposes only. The registration may not exceed 14 calendar days.

B. [Formerly paragraph 28:024-2] A person who wishes to obtain a temporary demonstration registration must submit the request in writing for review by the Department, at least 30 days prior to the event. The request should specify:

1. The purpose for which the registration is requested.

2. The period of time during which the registration is needed (not to exceed 14 consecutive calendar days per event), without re-application;

3. The fulfillment of operator requirements as specified in §109 of this Part;

4. The location where the temporary demonstration registration will be used;

C. [Formerly paragraph 28:024-3] The applicant's demonstration project must be contained in a completely enclosed, non-mobile facility (e.g. inside a permanent building).

D. [Formerly paragraph 28:024-4] Compliance with all of the requirements of this Code, including but not limited to:

1. Conveniently located hand washing facilities with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Antiseptic single use hand wipes, approved by the Department, to augment the hand washing requirements of this section must be made readily available to each operator;

2. A minimum of 80 square feet of floor space;

3. At least 100-foot candles of light at the level where the body art procedure is being performed;

d. Facilities to properly sterilize instruments - evidence of spore test performed on sterilization equipment 30 days or less prior to the date of the event, must be provided; or only single use, prepackaged, sterilized equipment

obtained from reputable suppliers or manufacturers will be allowed;

4. Ability to properly clean and sanitize the area used for body art procedures.

E. [Formerly paragraph 28:024-5] The facility where the temporary demonstration registration is needed must be inspected by the Department and a certificate of registration issued prior to any body art procedures being performed.

F. [Formerly paragraph 28:024-6] Temporary demonstration registrations issued under the provisions of §313(E) of this Part may be suspended by the Department for failure of the holder to comply with the requirements of this Part.

G. [Formerly paragraph 28:024-7] All temporary demonstration registrations and the disclosure notice must be readily seen by clients.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1463 (June 2002).

§315. Report of Changes
[formerly paragraph 28:025]

A. [Formerly paragraph 28:025-1] The registrant shall notify the department in writing before making any change which would render the information contained in the application for registration inaccurate. Notification of changes shall include information required Chapter 3 of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1464 (June 2002).

§317. Transfer of Registrations
[formerly paragraph 28:026]

A. [Formerly paragraph 28:026-1] Certificates of registration issued to commercial body art facilities, facility managers, body art operators and operator trainers shall not be transferrable.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1464 (June 2002).

Chapter 5. Enforcement
[formerly paragraph 28:027]

§501. General Provisions
[formerly paragraph 28:027-1]

A. The Office of Public Health shall enforce the provisions of this Part in accordance with Part I of this Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1464 (June 2002).

§503. Suspension or Revocation of Approval
[formerly paragraph 28:029]

A. [Formerly paragraph 28:029-1] The department may suspend or revoke the approval and registration of a commercial body art facility at any time the department determines that the business is being operated in violation of the provisions of R.S. 40:2831 through 2834, or the provisions of R.S. 14:93.2, which prohibits the tattooing and body piercing of minors without parental or custodial consent.

B. [Formerly paragraph 28:029-2] In addition to suspension or revocation of approval and registration by the department, if a commercial body art facility violates the provisions of R.S. 14:93.2, it shall be subject to the penalties provided therein.

C. [Formerly paragraph 28:029-3] The department may suspend or revoke the registration of a manager or operator at a commercial body art facility or the registration of a registered training facility at any time the department determines that the registrant is operating in violation of the provisions of R.S. 40:2831 through 2834 or the provisions of R.S. 14:93.

D. [Formerly paragraph 28:029-4] In addition to suspension or revocation of registration by the department, a registrant who violates the provisions of R.S. 14:93.2 shall be subject to the penalties provided therein.

E. [Formerly paragraph 28:029-5] The department may suspend or revoke the approval and registration of a commercial body art facility for any of the following reasons:

1. failure to pay a registration fee or an annual registration renewal fee;

2. the applicant obtained or attempted to obtain an approval or registration by fraud or deception;

3. a violation of any of the provisions of this Part of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1464 (June 2002).

§505. Injunctive Relief
[formerly paragraph 28:030]

A. [Formerly paragraph 28:030-1] If the department or state health officer finds that a person has violated, is violating, or threatening to violate the provisions of R.S. 40:2831 through 2834 or the provisions of this Part of the Sanitary Code and that violation or threat of violation creates an immediate threat to the health and safety of the public, the department or state health officer may petition the district court for a temporary restraining order to restrain the violation or threat of violation. If a person has violated, is violating, or threatening to violate provisions of R.S. 40:2831 through 2834 or the provisions of this Part of the Sanitary Code, the department or state health officer may, after sending notice of said alleged violation to the alleged violator via certified mail and the lapse of ten days following receipt of the notice by the alleged violator may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

B. [Formerly paragraph 28:030-2] On application for injunctive relief and a finding that a person is violating or

threatening to violate provisions of R.S. 40:2831 through 2834 or the provisions of this Part of the Sanitary Code, the district court may grant any injunctive relief warranted by the facts. Venue for a suit brought under provisions of this section shall be in the parish in which the violation is alleged to have occurred.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1464 (June 2002).

§507. Severability
[formerly paragraph 28:031]

A. See State Sanitary Code, Part I, §103.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1465 (June 2002).

Chapter 7. Facility Inspections
[formerly paragraph 28:028]

§701. General Provisions
[formerly paragraph 28:028-1]

A. The department shall conduct at least one inspection of a commercial body art facility prior to approving the business to offer body art application services under provisions of this Part and R.S. 40:2831 through 2834. The department may conduct additional inspections as necessary for the approval process, and may inspect a registered commercial body art facility at any time the department considers necessary.

B. [Formerly paragraph 28:028-2] In an inspection, the department shall be given access to the business= premises and to all records relevant to the inspection.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1465 (June 2002).

0206#075

RULE

Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services

Home and Community Based Services Waiver Program
Children's ChoiceCNon-Crisis Provisions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services (BCSS) adopts the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services (BCSS) amends the December 20, 2000 Rule to adopt the following provisions governing the restoration of a Children's Choice Waiver recipient's name to the Mentally Retarded/Developmentally Disabled (MR/DD) request for services registry for non-crisis Agood cause@ circumstances.

I. General Provisions

A. Restoring the recipient to the MR/DD request for services registry under non-crisis "good cause" provisions will allow that individual to be placed in the next available waiver slot that will provide the appropriate services, provided the recipient is still eligible when a slot becomes available. The fact that the recipient is being restored to the request for services registry does not require that the department immediately offer him/her a waiver slot f all slots are filled or to make a slot available to this recipient for which another recipient is being evaluated, even though that other recipient was originally placed on the request for services registry on a later date. Waiver services will not be terminated as a result of a recipient's name being restored to the registry.

B. If another MR/DD waiver would provide the recipient with the services at issue, the department may place the recipient in any waiver that would provide the appropriate services.

C. In the event that the waiver eligibility, other than for the MR/DD waiver, of a person who elected or whose legal representative elected that they receive services under the Children's Choice Waiver is terminated based on inability to assure health and welfare of the waiver participant, the department will restore him/her to the request for services registry for the MR/DD Waiver in the date order of the original request.

D. If and when a new "capped" adult waiver is adopted, a Children's Choice participant aging out of that program will be evaluated for both the capped waiver and the MR/DD Waiver, and transferred to the waiver whose services are most appropriate for them at that time, with a right of appeal of the department's decision.

II. Non-Crisis ProvisionsCGood Cause

A. A person who has elected or whose legal representative has elected that they receive services under Children's Choice Waiver shall be allowed to restore his or her name to the request for services registry for the MR/DD Waiver in original date order, when they meet all of the following criteria:

1. he/she would benefit from the services that are available in the MR/DD Waiver, but are not actually available to him or her through their current waiver or through Medicaid State Plan services; and

2. he/she would qualify for those services under the standards utilized for approving and denying the services to the MR/DD Waiver participants; and

3. there has been a change in circumstances since his or her enrollment in the Children's Choice Waiver that causes these other services to be appropriate. The change does not have to be a change in the recipient's medical condition, but can include loss of in-home assistance through a caretaker's decision to take on or increase employment, or to obtain education or training for employment. (Note: The temporary absence of a caretaker due to a vacation is not considered "good cause".); and

4. the person's original request date for the MR/DD Waiver has been passed on the request for services registry.

III. Determination Responsibilities and Appeals

The BCSS shall have the responsibility for making the determinations as to the matters set forth above. Persons who have elected or whose legal representatives have elected that they receive services under the Children's Choice Waiver have the right to appeal any determination of the department as to matters set forth above, under the regulations and procedures applicable to Medicaid fair hearings.

David W. Hood
Secretary

0206#059

RULE

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

Hospice (LAC 50:XV.Chapters 31 - 43)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following Rule as LAC 50:XV.Chapters 31-43 under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act effective July 1, 2002. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTHC MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 3. Hospice

Chapter 31. General Provisions

§3101. Introduction

A. Hospice care is an alternative treatment approach that is based on a recognition that impending death requires a change from curative treatment to palliative care for the terminally ill patient and supporting family. Palliative care focuses on comfort care and the alleviation of physical, emotional and spiritual suffering. Instead of hospitalization, its focus is on maintaining the terminally ill patient at home with minimal disruptions in normal activities and with as much physical and emotional comfort as possible.

B. The bureau will implement a pilot project for hospice care under the Medicaid State Plan for persons who are eligible for Medicaid benefits. The pilot project will terminate two years after the effective date of this rule unless the department, prior to the termination date, promulgates an additional rule to either continue the pilot project or to establish hospice care as an ongoing Medicaid service program. During the two-year period, the bureau will monitor and evaluate the pilot project on an ongoing basis in order to determine whether or not to extend it.

C. The bureau will continue to make Medicaid payments under certain circumstances for specified services provided in conjunction with Medicare hospice care for dually eligible individuals who reside in Medicaid reimbursed nursing facilities as provided in §4307 of this Subpart and in accordance with §1905(o)(3) of the Social Security Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002).

Chapter 33. Provider Participation

§3301. Conditions for Participation

A. Coverage of Medicaid hospice care under the pilot project shall be in accordance with 42 U.S.C. 1396d(o), the Medicare Hospice Program guidelines as set forth in 42 CFR Part 418, and §4305-4308.2 of the Federal Centers for Medicare and Medicaid Services' *State Medicaid Manual*, except in so far as they clearly conflict, in which case the *State Medicaid Manual* will be followed.

B. In order to participate in the pilot project, a hospice shall maintain compliance with the Medicare conditions of participation for hospices as set forth in 42 CFR Part 418.50-418.100 and shall have a valid Medicaid provider agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002).

Chapter 35. Recipient Eligibility

§3501. Election of Hospice Care

A. In order to be eligible to elect hospice care under Medicaid, a recipient must be terminally ill. An individual is considered to be terminally ill if the individual has a medical prognosis that his or her life expectancy is six months or less if the illness runs its normal course.

B. An election statement must be filed with a particular hospice for the individual who meets the eligibility requirements as set forth in §3501.A above.

1. The election must be filed by the eligible individual or by a person authorized by law to consent to medical treatment for such individual.

2. For dually eligible recipients, hospice care must be elected for both the Medicaid and Medicare programs at once.

C. Duration (Periods). Subject to the conditions set forth in §3501, an individual may elect to receive hospice care during one or more of the following election periods:

1. an initial 90-day period;

2. subsequent 90-day period; and

3. subsequent periods of 60 days each. These periods require prior authorization as outlined in §4101 of these Rules.

D. Order of Election. The periods of care are available in the order listed and may be used consecutively or at different times during the recipient's life span. The hospice interdisciplinary team shall help manage the patient's hospice election periods by continually assessing the patient's appropriateness for Medicaid hospice care, especially before the patient enters a new election period.

E. An individual may designate an effective date for the election period that begins with the first day of hospice care or any subsequent day of hospice care, but an individual may not designate an effective date that is earlier than the date that the election is made.

F. Loss of Remaining Days in Period. When a recipient revokes or is discharged alive during an election period, the recipient loses any remaining days in the election period.

G. Election Statement Requirements. The election statement must include:

1. identification of the particular hospice that will provide care to the individual;

2. the individual's or his/her representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness;

3. acknowledgment that certain Medicaid services, as set forth in §3503 are waived by the election;

4. the effective date of the election, which may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement; and

5. the signature of the individual or his/her representative.

H. Duration of Election. An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual:

1. remains in the care of a hospice; and

2. does not revoke the election under the provisions of §3505.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1466 (June 2002).

§3503. Waiver of Payment for Other Services

A. For the duration of an election of hospice care, an individual waives all rights to Medicaid payments for:

1. hospice care provided by a hospice other than the hospice designated by the individual;

2. any Medicaid services that are related to the treatment of the terminal condition for which hospice care was elected or a related condition or that are equivalent to hospice care, except for services provided by:

a. the designated hospice;

b. another hospice under arrangements made by the designated hospice; and

c. the individual's attending physician if that physician is not an employee of the designated hospice or receiving compensation from the hospice for those services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002).

§3505. Revoking the Election of Hospice Care/Discharge

A. An individual or his/her representative may revoke the individual's election of hospice care for a particular election period at any time during an election period.

1. Required Statement of Revocation. To revoke the election of hospice care, the individual or his/her representative must file a statement with the hospice that includes:

a. a signed statement that the individual or his/her representative revokes the individual's election for Medicaid coverage of hospice care for the remainder of that election period;

b. the date that the revocation is to be effective. (An individual or his/her representative may not designate an effective date earlier than the date that the revocation is made.)

2. If a recipient is eligible for Medicare as well as Medicaid and elects hospice care, it must be revoked simultaneously under both programs.

3. Discharge

a. The hospice benefit is available only to individuals who are terminally ill; therefore, a hospice must discharge a patient if it discovers that the patient is not terminally ill.

b. Patients shall be discharged only in the circumstances as detailed in the Licensing Standards for Hospices (LAC 48:I.8229).

4. Service Availability upon Revocation or Discharge. An individual, upon discharge or revocation of the election of Medicaid coverage of hospice care for a particular election period:

a. is no longer covered under Medicaid for hospice care; and

b. resumes Medicaid coverage of the benefits waived as provided under §3503.

5. Re-election of Hospice Benefits. If an election has been revoked in accordance with the provisions of this §2505 the individual or his/her representative may at any time file an election, in accordance with §3501, for any other election period that is still available to the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002).

§3507. Change of Designated Hospice

A. An individual or his/her representative may change, once in each election period, the designation of the particular hospice from which hospice care will be received. The change of the designated hospice is not a revocation of the election for the period in which it is made. To change the designation of hospice programs, the individual or his/her representative must file, with the hospice from which care has been received and with the newly designated hospice, a statement that includes:

1. the name of the hospice from which the individual has received care and the name of the hospice from which he or she plans to receive care; and

2. the date the change is to be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002).

Chapter 37. Provider Requirements

§3701. Requirements for Coverage

A. To be covered, a Certification of Terminal Illness must be completed as set forth in §3703, the Election of Hospice Care Form must be completed in accordance with §3501, and a plan of care must be established in accordance with §3705. Prior authorization requirements stated in Chapter 41 of these rules are applicable to all election periods beyond the initial 90-day period and one subsequent 90-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002).

§3703. Certification of Terminal Illness

A. The hospice must obtain written certification of terminal illness for each of the periods listed in §3501.C, even if a single election continues in effect for two, three, or more periods.

1. Timing of Certification

a. These certifications may be completed no earlier than two weeks before the beginning of each election period.

b. For the first 90-day period of hospice coverage, the hospice must obtain, no later than two calendar days after hospice care is initiated (that is, by the end of the third calendar day), certification of the terminal illness. If written certification is not obtained within two calendar days following the initiation of hospice care, a verbal certification must be made within two calendar days following the initiation of hospice care, with a written certification obtained before billing for hospice care. If these requirements are not met, no payment is made for the days prior to the certification. Instead, payment begins with the day of certification, i.e., the date verbal certification is obtained.

c. For the subsequent periods, a written certification must be on file in the recipient's record prior to the submission of a claim.

2. Content of Certification

a. The certification must specify that the individual's prognosis is for a life expectancy of six months or less if the terminal illness runs its normal course.

b. The certification of terminal illness shall be based on the physician's clinical judgment regarding the normal course of the individual's illness.

c. The written certification must include the signature(s) of the physician(s).

d. If verbal certification is made, the referral from the physician shall be received by a member of the hospice Interdisciplinary Group (IDG). The entry in the patient's clinical record of the verbal certification shall include at a minimum:

i. the patient's name;

ii. physician's name;

iii. terminal diagnosis(es);

iv. prognosis; and

v. the name and signature of the IDG member taking the referral.

3. Sources of Certification

a. For the initial 90-day period, the hospice must obtain written certification statements (and oral certification statements if required) as provided in §3703.A.1 from:

i. the hospice's medical director or physician member of the hospice's interdisciplinary group; and

ii. the individual's attending physician if the individual has an attending physician. The attending physician is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

b. For subsequent periods, the only requirement is certification by either the medical director of the hospice or the physician member of the hospice interdisciplinary group.

4. Maintenance of Records. Hospice staff must make an appropriate entry in the patient's clinical record as soon as they receive an oral certification; and file written certifications in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1468 (June 2002).

§3705. Plan of Care

A. A written plan of care must be established and maintained for each individual admitted to a hospice program in accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), and the care provided to an individual must be consistent with the plan and be reasonable and necessary for the palliation or management of the terminal illness as well as related conditions.

B. The plan of care must be established before services are provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002).

§3707. Record Keeping

A. The hospice must maintain and retain the business and professional records sufficient to document fully and accurately the nature, scope, and details of the health care provided.

B. In accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), the hospice must establish and maintain a clinical record for every individual receiving care and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002).

§3709. Self-Assessment

A. In accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82) the hospice must conduct an ongoing, comprehensive, integrated, self-assessment of the quality and appropriateness of care provided, including inpatient care, home care and care provided under arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002).

Chapter 39. Covered Services

§3901. Medical and Support Services

A. Hospice is a package of medical and support services for the terminally ill individual. The following services are covered hospice services.

1. Nursing care provided by or under the supervision of a registered nurse.

2. Medical social services provided by a social worker who has at least a master's degree from a school of social work accredited by the Council on Social Work Education, and who is working under the direction of a physician.

3. Physicians' services performed by a physician (as defined in 42 CFR 410.20). In addition to palliation and management of the terminal illness and related conditions, physician employees of the hospice and physicians under contract to the hospice, including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the patients to the extent that these needs are not met by the attending physician. The medical director of the hospice is to assume overall responsibility for the medical component of the hospice's patient care program.

4. Counseling services must be available to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other care-giver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death. Counseling includes bereavement counseling, provided after the patient's death as well as dietary, spiritual and any other counseling services for the individual and family provided while the individual is enrolled in the hospice.

a. There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, as well as a clear delineation of services to be provided and the frequency of service delivery (up to one year following the death of the patient).

i. Bereavement counseling is a required hospice service, but it is not reimbursable.

b. Dietary counseling, when required, must be provided by a qualified individual.

c. The hospice must make reasonable efforts to arrange for visits of clergy and other members of religious organizations in the community to patients who request such visits and must advise patients of this opportunity.

d. Additional counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the hospice.

5. Short-term inpatient care provided in a participating hospice inpatient unit, or a participating hospital or nursing facility that additionally meets the special hospice standards regarding staffing and patient areas. Services provided in an inpatient setting must conform to the written plan of care. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. Medical appliances and supplies, including drugs and biologicals. Only drugs as defined in §1861(t) of the Social Security Act and which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered. Appliances may include covered durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness. Equipment is provided by the hospice for use in the patient's home while he or she is under hospice care. Medical supplies include those that are part of the written plan of care.

a. The hospice must have a policy for the disposal of controlled drugs maintained in the patient's home when those drugs are no longer needed by the patient.

b. Drugs and biologicals shall be administered only by a licensed nurse or physician, an employee who has completed a state-approved training program in medication administration, the patient if his or her attending physician has approved, or any other individual in accordance with applicable state and local laws. The persons and each drug and biological they are authorized to administer must be specified in the patient's plan of care.

7. Home Health Aide Services Furnished by Qualified Aides and Homemaker Services. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Aide services must be provided under the general supervision of a registered nurse. Written instructions for patient care are to be prepared by a registered nurse. A registered nurse must visit the home site at least every 14 days when aide services are being provided, and the visit must include an assessment of the aide services.

8. Physical therapy, occupational therapy and speech-language pathology services provided for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

9. Any other item or service which is included in the plan of care and for which payment may otherwise be made under Medicaid is a covered service. The hospice is responsible for providing any and all services indicated in the plan of care as necessary for the palliation and management of the terminal illness and related conditions.

10. Core Services

a. Nursing care, physicians' services, medical social services and counseling are core hospice services and must routinely be provided directly by hospice employees, except that physicians' services and counseling services may be provided through contract. Supplemental services may be contracted for during periods of peak patient loads and to obtain physician specialty services. The hospice may contract for a physician to be a member of the hospice's interdisciplinary group. Also, the hospice's Medical Director does not have to be an employee of the hospice. If contracting is used for any core services, professional, financial and administrative responsibility for the services must be maintained and regulatory qualification requirements of all staff must be assured.

b. If located in a non-urbanized area, a hospice may apply for a waiver of the core nursing, physical therapy, occupational therapy, speech language pathology, and dietary counseling requirements in accordance with 42 U.S.C. §1395x(dd).

11. Level of Care. Hospice care is divided into four categories of care rendered to the hospice patient.

a. Routine Home Care Day. A routine home care day is a day on which an individual who has elected to receive hospice care is at home and is not receiving continuous care.

b. Continuous Home Care Day. A continuous home care day is a day on which an individual who has elected to

receive hospice care is not in an inpatient facility and receives hospice care consisting predominantly of nursing care on a continuous basis at home. Continuous home care is only furnished during brief periods of crisis and only as necessary to maintain the terminally ill patient at home.

i. If less skilled care is needed on a continuous basis to enable the person to remain at home, this is covered as routine home care.

ii. A period of crisis is a period in which a patient requires continuous care which is primarily nursing care to achieve palliation or management of acute medical symptoms. Nursing care must be provided by either a registered nurse or a licensed practical nurse and a nurse must be providing care for more than half of the period of care.

iii. A minimum of eight hours of care must be provided during a 24-hour day which begins and ends at midnight. This care need not be continuous, i.e., four hours could be provided in the morning and another four hours provided in the evening of that day.

iv. Homemaker and aide services may also be provided to supplement the nursing care.

c. Inpatient Respite Care Day. An inpatient respite care day is a day on which the individual receives care in an approved facility on a short-term basis to relieve the family members or other persons caring for the individual at home. An approved facility is one that meets the standards as provided in 42 CFR '418.98(b).

d. General Inpatient Care Day. A general inpatient care day is a day on which an individual receives general inpatient care in an inpatient facility that meets the standards as provided in 42 CFR §418.98(a) and for the purpose of pain control or acute or chronic symptom management which cannot be managed in other settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002).

Chapter 41. Prior Authorization

§4101. Prior Authorization of 60-day Periods

A. Prior authorization is not required for the initial 90-day election period or the subsequent 90-day election period. However, prior authorization is required for all subsequent 60-day election periods as specified in §3501.C of this Subpart. The prognosis of terminal illness will be reviewed. A patient must have a terminal prognosis and not just certification of terminal illness. Authorization will be made on the basis that a patient is terminally ill as defined in federal regulations. These regulations require certification of the patient's prognosis, rather than diagnosis. Authorization will be based on objective clinical evidence contained in the clinical record about the patient's condition and not simply on the patient's diagnosis.

B. Written Notice of Denial. In the case of a denial, a written notice of denial shall be submitted to the hospice.

C. Reconsideration and Appeals. If the hospice does not agree with the denial of a subsequent period the hospice can request an informal reconsideration by the intermediary. The hospice has 30 days from the date of denial on the denial letter to submit a written request for reconsideration of the initial denial. All appeals will be reviewed within 30 days from receipt of the written request. If the denial is upheld upon reconsideration and the hospice disagrees with the decision, the hospice has the right to request a fair hearing with the department's Bureau of Appeals, which will be in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002).

Chapter 43. Reimbursement

§4301. General

A. With the exception of payment for physician services, Medicaid reimbursement for hospice care is made at one of four predetermined rates, as detailed in §4305, for each day in which a Medicaid recipient is under the care of the hospice. The four rates are prospective rates; there are no retroactive adjustments other than the limitation on payments for inpatient care. The rate paid for any particular day varies depending on the level of care furnished to the recipient. The limitation on payment for inpatient care is described in §4309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002).

§4303. Levels of Care for Payment

A. Routine Home Care. The routine home care rate is paid for each day the patient is under the care of the hospice and not receiving one of the other categories of hospice care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day and is also paid when the patient is receiving hospital care for a condition unrelated to the terminal condition. This rate is also paid in the following situations:

1. if the patient is in a hospital that is not contracted with the hospice; or

2. if the patient is receiving outpatient services in the hospital; or

3. for the day of discharge alive from general inpatient care or respite care level of care.

B. Continuous Home Care. Continuous home care is to be provided only during a period of crisis (see §3901.A.11.b). If less skilled care is needed on a continuous basis to enable the person to remain at home, this is covered as routine home care.

1. The continuous home care rate is divided by 24 hours in order to arrive at an hourly rate.

2. A minimum of eight hours must be provided.

3. For every hour or part of an hour of continuous care furnished, the hourly rate is paid for up to 24 hours a day.

C. Inpatient Respite Care. The inpatient respite care rate is paid for each day the recipient is in an approved inpatient facility and is receiving respite care (see §3901.A.11.c). Respite care may be provided only on an occasional basis and payment for respite care may be made for a maximum of five days at a time including the date of admission but not counting the date of discharge.

1. Payment for the sixth and any subsequent days is to be made at the routine home care rate.

2. Respite care may not be provided when the hospice patient is a nursing home resident.

D. General Inpatient Care. Payment at the inpatient rate is made when an individual receives general inpatient care in an inpatient facility for pain control or acute or chronic symptom management which cannot be managed in other settings. General inpatient care and nursing home or intermediate care facility for the mentally retarded room and board cannot be reimbursed for the same recipient on the same covered days of service.

1. For the day of discharge from an inpatient unit, the appropriate home care rate is to be paid unless the patient dies as an inpatient.

2. When the patient is deceased, the inpatient rate (general or respite) is to be paid for the discharge date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002).

§4305. Hospice Payment Rates

A. The payment rates for each level of care will be those used under Part A of Title XVIII (Medicare), adjusted to disregard cost offsets attributable to Medicare coinsurance amounts. For routine home care, continuous home care, and inpatient respite care, only one rate is applicable for each day. For continuous home care, the amount of payment is determined based on the number of hours of continuous care furnished to the recipient on that day.

1. Local Adjustment of Payment Rates. The payment rates referred to in §4301 and this §4305 are adjusted for regional differences in wages. The bureau will compute the adjusted rate based on the geographic location at which the service was furnished to allow for the differences in area wage levels, using the same method used under Part A of Title XVIII.

a. The hospice program shall submit claims for payment for hospice care only on the basis of the geographic location at which the services are furnished.

b. The nursing facility shall be considered an individual's home if the individual usually lives in the nursing facility.

2. Payment for Physician Services. The four basic payment rates for hospice care are designed to reimburse the hospice for the costs of all covered services related to the treatment of the recipient's terminal illness. This includes the administrative and general supervisory activities performed by physicians who are employees of or working under arrangements made with the hospice. These activities are generally performed by the physician serving as the medical director and the physician member of the hospice interdisciplinary group. Group activities include participation in the establishment of plans of care, supervision of care and services, periodic review and updating of plans of care, and establishment of governing policies. The costs for these services are included in the reimbursement rates for routine home care, continuous home care, and inpatient respite care.

a. The hospice is paid for other physicians' services, such as direct patient care services, furnished to individual patients by hospice employees and for physician services furnished under arrangements made by the hospice unless the patient care services were furnished on a volunteer basis.

b. The hospice is reimbursed in accordance with the usual Medicaid reimbursement policy for physicians' services. This reimbursement is in addition to the daily rates.

c. Physicians who are designated by recipients as the attending physician and who also volunteer services to the hospice are, as a result of their volunteer status, considered employees of the hospice in accordance with 42 CFR 418.3. All direct patient care services rendered by these physicians to hospice patients are hospice physician services, and are reimbursed in accordance with the procedures outlined in §4305.A.1. Physician services furnished on a volunteer basis are excluded from Medicaid reimbursement. The hospice may be reimbursed on behalf of a volunteer physician for specific services rendered which are not furnished on a volunteer basis (a physician may seek reimbursement for some services while furnishing other services on a volunteer basis). The hospice must have a liability to reimburse the physician for those physician services rendered. In determining which services are furnished on a volunteer basis and which services are not, a physician must treat Medicaid patients on the same basis as other patients in the hospice.

d. An independent attending physician is reimbursed in accordance with the usual Medicaid reimbursement methodology for physician services.

i. The only services billed by the attending physician are the physician's personal professional services. Costs for services such as lab or x-rays are not included on the attending physician's bill.

ii. Services provided by an independent attending physician must be coordinated with any direct care services provided by hospice physicians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002).

§4307. Payment for Long Term Care Residents

A. Instead of any payment otherwise made with respect to the facility's services, the hospice program will be paid an additional amount on routine home care and continuous home care days to take into account the room and board furnished by the facility for a Medicaid recipient:

1. who is residing in a nursing facility or intermediate care facility for the mentally retarded (ICF-MR);

2. who would be eligible under the State Plan for nursing facility services or services in an ICF-MR if he or she had not elected to receive hospice care;

3. who has elected to receive hospice care; and

4. for whom the hospice program and the nursing facility or ICF-MR have entered into a written agreement in accordance with the provisions set forth in the Licensing Standards for Hospices (LAC 48:I.Chapter 82), under which the hospice program takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual.

B. This amount is determined in accordance with the rates established under the Social Security Act §1902(a)(13)(B).

C. This rate is designed to cover "room and board" which includes performance of personal care services, including assistance in the activities of daily living, administration of medication, maintaining the cleanliness of the patient's environment, and supervision and assistance in the use of durable medical equipment and prescribed therapies.

D. The rate of reimbursement is 100 percent of the per diem rate that would have been paid to the facility for that recipient in that facility under the State Plan, except that any Patient Liability Income (PLI) determined by the bureau will be deducted from the payment amount. It is the responsibility of the nursing facility or ICF-MR to collect the recipient's PLI.

E. Under those circumstances, payment to the nursing facility is discontinued, and payment is made to the hospice, which must then reimburse the nursing facility for room and board.

F. This rate is in addition to the routine home care rate or the continuous home care rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1471 (June 2002).

§4309. Limitation on Payments for Inpatient Care

A. Payments to a hospice for inpatient care are limited according to the number of days of inpatient care furnished to Medicaid patients.

1. During the 12-month period beginning November 1 of each year and ending October 31, the aggregate number of inpatient days (both for general inpatient care and inpatient respite care) may not exceed 20 percent of the aggregate total number of days of hospice care provided to all Medicaid recipients during that same period.

2. Once each year at the end of the hospices' "cap period" the bureau calculates a limitation on payment for inpatient care to ensure that Medicaid payment is not made for days of inpatient care in excess of 20 percent of the total number of days of hospice care furnished to Medicaid patients.

a. Medicaid recipients afflicted with acquired immunodeficiency syndrome (AIDS) are included in the calculation of this inpatient care limitation.

b. Any excess reimbursement is refunded by the hospice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1472 (June 2002).

§4311. Coinsurance for Medicare

A. For dually eligible recipients for whom Medicare is the primary payer for hospice services, Medicaid will also provide for payment of any coinsurance amounts imposed under §1813(a)(4) of the Social Security Act.

1. Drugs and Biologicals. The coinsurance amount for each prescription approximates 5 percent of the cost of the drug or biological to the hospice, determined in accordance with the drug copayment schedule established by the hospice, except that the coinsurance amount for each prescription may not exceed $5. The cost of the drug or biological may not exceed what a prudent buyer would pay in similar circumstances.

2. Respite Care. The coinsurance amount for each respite care day is equal to 5 percent of the payment made under Medicare for a respite care day. The amount of the individual's coinsurance liability for respite care during a hospice coinsurance period may not exceed the inpatient hospital deductible applicable for the year in which the hospice coinsurance period began.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1472 (June 2002).

§4313. Services Not Related to Terminal Illness

A. Any covered Medicaid services not related to the treatment of the terminal condition for which hospice care was elected, that are provided during a hospice election period, are billed to the bureau for non-hospice Medicaid payment. Prior authorization is required for any covered Medicaid services not related to the treatment of the terminal condition if such prior authorization is required by the bureau for non-hospice recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1472 (June 2002).

Implementation of this Rule shall be subject to the approval of the federal Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0206#061

RULE

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

Nursing Facilities—Reimbursement Methodology
(LAC 50:VII.1301-1309)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended the following Rule under the Medical Assistance Program as authorized by R.S. 46:2742 and R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the June 20, 1984 Rule and establishes a system of prospective payment for nursing facilities based on recipient care needs that incorporates acuity measurements as determined under the Resource Utilization Group III (RUG III) resident classification methodology. This system establishes a facility specific price for the Medicaid nursing facility residents served. It also provides for enhanced reimbursement for Medicaid residents who require skilled nursing services for an infectious disease and technology dependent care. Facilities may furnish any or all of these levels of care to

residents. Every nursing facility must meet the requirements for participation in the Medicaid Program.

Title 50
PUBLIC HEALTHC MEDICAL ASSISTANCE
Part VII. Long Term Care Services
Subpart 1. Nursing Facilities
Chapter 13. Reimbursement
§1301. Definitions

*Administrative and Operating Cost Component*Cthe portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

*Base Resident-Weighted Median Costs and Prices*Cthe resident-weighted median costs and prices calculated in accordance with §1305 during rebase years.

*Capital Cost Component*Cthe portion of the Medicaid daily rate that is:

1. attributable to depreciation;
2. capital related interest;
3. rent;
4. lease and amortization expenses.

*Care Related Cost Component*Cthe portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

*Case Mix*Ca measure of the intensity of care and services used by similar residents in a facility.

*Case-Mix Index*Ca numeric score within a specific range that identifies the relative resources used by similar residents and represents the average resource consumption across a population or sample.

*Cost Neutralization*Crefers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

*Direct Care Cost Component*Cthe portion of the Medicaid daily rate that is attributable to:

1. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;
2. a proportionate allocation of allowable employee benefits; and
3. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

*Facility Cost Report Period Case-Mix Index*Cthe average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians.

1. Example: a January 1, 2001 - December 31, 2001 cost report period would use the facility-wide average case-mix indices for quarters beginning January 1, 2001, April 1, 2001, July 1, 2001 and October 1, 2001.
2. When this system is implemented, if four quarters of acuity data are not available that coincide with the cost report period, a two quarter average of acuity data that most closely matches the cost reporting period will be used.

*Facility-Wide Average Case-Mix Index*Cthe simple average, carried to four decimal places, of all resident case-mix indices based on the first day of each calendar quarter.

*Index Factor*Cwill be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

*Pass-Through Cost Component*Cincludes the cost of property taxes and property insurance.

*Rate Year*Ca one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

*Resident-Day-Weighted Median Cost*Ca numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002).

§1303. Cost Reports

A. Nursing facility providers under Title XIX are required to file annual cost reports as follows.

1. Providers of nursing facility level of care are required to report all reasonable and allowable cost on a regular nursing facility cost report. Effective for periods ending on or after June 30, 2002, the regular nursing facility cost report will be the skilled nursing facility cost report adopted by the Medicare program. This cost report is frequently referred to as the Health Care Financing Administration (HCFA) 2540.
2. In addition to filing the Medicare cost report, nursing facility providers must also file supplemental schedules designated by the bureau.
3. Providers of skilled nursing-infectious disease (SN-ID) and skilled nursing-technology dependent care (SN-TDC) services must file additional supplemental schedules designated by the bureau documenting the incremental cost of providing SN-ID and SN-TDC services to Medicaid recipients.
4. Separate cost reports must be submitted by central/home offices when costs of the central/home office are reported in the facility's cost report.

B. Cost reports must be prepared in accordance with the cost reporting instructions adopted by the Medicare Program using the definition of allowable and nonallowable cost contained in the Medicare/Medicaid provider reimbursement manual, with the following exceptions.

1. Cost reports must be submitted annually. The due date for filing annual cost reports is the first day of the fourth month following the facility's fiscal year end.
2. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension request must be submitted to the bureau prior to the cost report due date. Facility's filing a reasonable extension request will be granted an additional 60 days to file their cost report. Unreasonable or repeated extension requests will be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002).

§1305. Rate Determination

A. For dates of service on or after July 1, 2002, each nursing facility's daily rate shall be the day-weighted average rate of their skilled nursing (SN), intermediate care I (IC-I) and intermediate care II (IC-II) daily rates in effect on June 30, 2002 as adjusted by legislative appropriations for State Fiscal Year 2003. The days used to determine the day-weighted average rate shall be the Medicaid days (as desk reviewed or audited) on the cost report for cost reporting periods ending July 1, 2000 through June 30, 2001. The Medicaid days used shall exclude SN/ID and SN/TDC days.

B. For dates of service on or after January 1, 2003, the Medicaid daily rates shall be based on a case-mix price-based reimbursement system. Rates shall be calculated from cost report and other statistical data. Effective January 1, 2003, the cost data used in rate setting will be from cost reporting periods ending July 1, 2000 through June 30, 2001. Effective July 1, 2005, and every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recently audited or desk reviewed cost reports that are available as of the April 1 prior to the July 1 rate setting. For rate periods between rebasing, an index factor shall be applied to the base resident-day weighted medians and prices.

C. Each facility's Medicaid daily rate is calculated as:

1. the sum of the facility's direct care and care related price;
2. the statewide administrative and operating price;
3. each facility's capital rate component;
4. each facility's pass-through rate component; and
5. the provider fee component.

D. Determination of Rate Components

1. Facility Specific Direct Care and Care Related Component. This portion of a facility's rate shall be determined as follows.

a. The per diem direct care cost for each nursing facility is determined by dividing the facility's direct care cost during the base year cost reporting period by the facility's actual total resident days during the cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor. The per diem neutralized direct care cost is calculated by dividing each facility's direct care per diem cost by the facility cost report period case-mix index.

b. The per diem care related cost for each nursing facility is determined by dividing the facility's care related cost during the base year cost reporting period by the facility's actual total resident days during the base year cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

c. The per diem neutralized direct care cost and the per diem care related cost is summed for each nursing facility. Each facility's per diem result is arrayed from low to high and the resident-day-weighted median cost is determined. Also for each facility, the percentage that each of these components represents of the total is determined.

d. The statewide direct care and care related price is established at 110 percent of the direct care and care related resident-day-weighted median cost.

e. The statewide direct care and care related floor is established at 90 percent of the direct care and care related resident-day-weighted median cost.

f. For each nursing facility, the statewide direct care and care related price shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in Subsection D.1.c of this §1305. On a quarterly basis, each facility's specific direct care component of the statewide price shall be multiplied by each nursing facility's average case-mix index for the prior quarter. Effective January 1, 2003 through June 30, 2005, the direct care component of the statewide price will be adjusted quarterly to account for changes in the facility-wide average case-mix index. Effective July 1, 2005 and thereafter, the direct care component of the statewide price will be adjusted quarterly to account for changes in the Medicaid average case-mix index. Each facility's specific direct care and care related price is the sum of each facility's case mix adjusted direct care component of the statewide price plus each facility's specific care related component of the statewide price.

g. For each nursing facility, the statewide direct care and care related floor shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in Subparagraph D.1.c of this §1305. On a quarterly basis, each facility's specific direct care component of the statewide floor shall be multiplied by each facility's average case-mix index for the prior quarter. Effective January 1, 2003 through June 30, 2005, the direct care component of the statewide floor will be adjusted quarterly to account for changes in the facility-wide average case-mix index. Effective July 1, 2005 and thereafter, the direct care component of the statewide floor will be adjusted quarterly to account for changes in the Medicaid average case-mix index. Each facility's specific direct care and care related floor is the sum of each facility's case mix adjusted direct care component of the statewide floor plus each facility's specific care related component of the statewide floor.

h. Effective with cost reporting periods ending on or after January 1, 2003, a comparison will be made between each facility's direct care and care related cost and the direct care and care related floor. If the cost the facility incurred is less than the floor, the facility shall remit to the bureau the difference between these two amounts times the number of Medicaid days paid during the portion of the cost reporting period after December 31, 2002.

2. The administrative and operating component of the rate shall be determined as follows.

a. The per diem administrative and operating cost for each nursing facility is determined by dividing the facility's administrative and operating cost during the base year cost reporting period by the facility's actual total resident days during the base year cost reporting period. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

b. Each facility's per diem administrative and operating cost is arrayed from low to high and the resident-day-weighted median cost is determined.

c. The statewide administrative and operating price is established at 107.5 percent of the administrative and operating resident-day-weighted median cost.

3. The capital component of the rate for each facility shall be determined as follows.

a. The capital cost component rate shall be based on a fair rental value (FRV) reimbursement system. Under a FRV system, a facility is reimbursed on the basis of the estimated current value of its capital assets in lieu of direct reimbursement for depreciation, amortization, interest, and rent/lease expenses. The FRV system shall establish a nursing facility's bed value based on the age of the facility and its total square footage.

b. Effective January 1, 2003, the new value per square foot shall be $97.47. This value per square foot shall be increased by $9.75 for land plus an additional $4,000 per licensed bed for equipment. This amount shall be trended forward annually to the midpoint of the rate year using the change in the per diem unit cost listed in the three-fourths column of the R.S. Means Building Construction Data Publication, adjusted by the weighted average total city cost index for New Orleans, Louisiana. The cost index for the midpoint of the rate year shall be estimated using a two-year moving average of the two most recent indices as provided in this Subparagraph. A nursing facility's fair rental value per diem is calculated as follows.

i. Each nursing facility's actual square footage per bed is multiplied by the January 1, 2003 new value per square foot, plus $9.75 for land. The square footage used shall not be less than 300 square feet or more than 450 square feet per licensed bed. To this value add the product of total licensed beds times $4,000 for equipment, sum this amount and trend it forward using the capital index. This trended value shall be depreciated, except for the portion related to land, at 1.5 percent per year according to the weighted age of the facility. Bed additions, replacements and renovations shall lower the weighted age of the facility. The maximum age of a nursing facility shall be 30 years. Therefore, nursing facilities shall not be depreciated to an amount less than 55 percent or [100 percent minus (1.5 percent*30)] of the new bed value. There shall be no recapture of depreciation.

ii. A nursing facility's annual fair rental value (FRV) is calculated by multiplying the facility's current value times a rental factor. The rental factor shall be the 20-year Treasury Bond Rate as published in the *Federal Reserve Bulletin* using the average for the calendar year preceding the rate year plus a risk factor of 2.5 percent with an imposed floor of 8.5 percent and a ceiling of 10 percent.

iii. The nursing facility's annual fair rental value shall be divided by the greater of the facility's annualized actual resident days during the cost reporting period or 70 percent of the annualized licensed capacity of the facility to determine the FRV per diem or capital component of the rate.

iv. The initial age of each nursing facility used in the FRV calculation shall be determined as of January 1, 2003, using each facility's year of construction. This age will be reduced for replacements, renovations and/or additions that have occurred since the facility was built provided there is sufficient documentation to support the historical changes. The age of each facility will be further adjusted each July 1 to make the facility one year older, up to the maximum age of 30 years, and to reduce the age for those facilities that have completed and placed into service major renovation or bed additions. This age of a facility will be reduced to reflect the completion of major renovations and/or additions of new beds. If a facility adds new beds, these new beds will be averaged in with the age of the original beds and the weighted average age for all beds will be used as the facility's age. If a facility performed a major renovation/replacement project (defined as a project with capitalized cost equal to or greater than $1,000 per bed), the cost of the renovation project will be used to determine the equivalent number of new beds that project represents. The equivalent number of new beds would then be used to determine the weighted average age of all beds for this facility. The equivalent number of new beds from a renovation project will be determined by dividing the cost of the renovation/replacement project by the average FRV of the facility's existing beds immediately before the renovation project.

4. Pass-Through Component of the Rate. The pass-through component of the rate is calculated as follows.

a. The nursing facility's per diem property tax and property insurance cost is determined by dividing the facility's property tax and property insurance cost during the base year cost reporting period by the facility's actual total resident days. These costs shall be trended forward from the midpoint of the facility's base year cost report period to the midpoint of the rate year using the index factor.

5. Provider Fee Component of the Rate. The nursing facility's provider fees component of the rate shall be determined by the Department of Health and Hospitals.

6. Adjustment to the Rate. Adjustments to the Medicaid daily rate may be made when changes occur, that will eventually be recognized in updated cost report data (such as a change in the minimum wage, a change in FICA or a utility rate change). These adjustments would be effective until the next rebasing of cost report data or until such time as the cost reports fully reflect the change. Adjustments to rates may also be made when legislative appropriations would increase or decrease the rates calculated in accordance with this Rule. The secretary of the Department of Health and Hospitals makes the final determination as to the amount and when adjustments to the rates are warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1474 (June 2002).

§1307. Case-Mix Index Calculation

A. The Resource Utilization Groups-III (RUG-III) Version 5.12b, 34 group, index maximizer model shall be used as the resident classification system to determine all case-mix indices, using data from the minimum data set (MDS) submitted by each facility. Standard Version 5.12b case-mix indices developed by the Centers for Medicare and Medicaid Services (CMS) shall be the basis for calculating

average case-mix indices to be used to adjust the direct care cost component. Resident assessments that cannot be classified to a RUG-III group will be excluded from the average case-mix index calculation.

B. Each resident in the facility, with a completed and submitted assessment, shall be assigned a RUG-III 34 group on the first day of each calendar quarter. The RUG-III group is calculated based on the resident's most current assessment, available on the first day of each calendar quarter, and shall be translated to the appropriate case-mix index. From the individual resident case-mix indices, two average case-mix indices for each Medicaid nursing facility shall be determined four times per year based on the first day of each calendar quarter.

C. The facility-wide average case-mix index is the simple average, carried to four decimal places, of all resident case-mix indices. The Medicaid average case-mix index is the simple average, carried to four decimal places, of all indices for residents where Medicaid is known to be the per diem payor source on the first day of the calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with RS. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1475 (June 2002).

§1309. State-Owned or Operated and Nonstate Government-Owned or Operated Facilities

A. Nonstate government-owned or operated nursing facilities participating in an inter-governmental transfer program and state-owned or operated nursing facilities will be paid a prospective reimbursement rate. The aggregate prospective payment rates for these facilities will be calculated on a quarterly basis using the state's best estimate of what facilities would be paid under Medicare's prospective payment system for skilled nursing facilities. The acuity measurements used in the quarterly rate calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to these gross Medicare prospective payment rates will be made to account for differences in coverage between the Medicare and Medicaid programs.

AUTHORITY NOTE: Promulgated in accordance with RS. 46:153, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:467 (June 1984), repealed and promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1476 (June 2002).

All rate adjustments specified in this Rule are contingent upon appropriation by the Louisiana Legislature. Implementation of the provisions of this Rule shall be contingent upon the approval of the State Plan Amendment by U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0206#062

RULE

Board of River Port Pilot Commissioners and Examiners Calcasieu River Waterway

Calcasieu River Waterway River Port Pilots
(LAC 46:LXXVI.Chapter 6)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Calcasieu River Waterway Board of River Port Pilot Commissioners and Examiners hereby promulgates rules as to definitions, appointments of commissioners and examiners, records of meetings, examination of apprentice pilots, ability of pilots to form an association, minimum applicant requirements, examination, appointments, performance, and enforcement procedures relative to the commission of pilots and maintaining those commissions.

In accordance with state law and in order to further enhance the safety and well being of the citizens of Louisiana, as well as to prevent any possible imminent peril to public health, safety, and welfare, and to achieve and maintain reliable, safe and efficient pilotage services, the Board of Commissioners and Examiners adopts the following actions pertaining to the rules and regulations of the board.

This action establishes Rules, which are formulated using existing Louisiana statutes as a foundation for effecting the system for oversight of the pilotage under the board's jurisdiction.

In general, the Rules clarify the method and guidelines for making recommendations to the governor for the commissioning of pilots, define the board's authority and funding, establish the criteria for rulemaking and application, record keeping, notices and meetings and provide for standards and qualifications for pilot apprentice applicants and association. The Rules clearly define the board's legal authority and duties relating to oversight processes for investigative, enforcement and other specified board functions. No additional powers are granted by these rules for any degree of navigation control by either the board or Lake Charles Harbor and Terminal District or other entity. The Rules do, however, recognize certain navigation operating control authorities under federal and state statutes toward conveying the board's expectations to pilot members of the Lake Charles Pilots, Inc. association. These Rules recognize reasoned measures of necessary individual pilot independence where instant navigation safety issues are paramount. The board intends to conduct its required pilot oversight functions accordingly.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXVI. Pilots

Chapter 6. Calcasieu River Waterway River Port Pilots

§601. Definitions

Agent—an authorized representative of the vessel owner.

Apprentice Pilot Review Committee—a committee selected by the general membership of the Associated Branch Pilots of the Port of Lake Charles to receive and review

applications, interview pilot candidates, and monitor training progress. Membership on this committee is determined by vote of the association.

Associated Branch Pilots of the Port of Lake Charles Fee Commission—the fee commission established under R.S. 34:1121 et seq. composed of eight members and eight alternates to represent the respective interests of the association and the steamship industry.

Association—pilot members of the Associated Branch Pilots of the Port of Lake Charles who have incorporated the association permitted by R.S. 34:1175 as "Lake Charles Pilots, Inc."

Board of Commissioners and Examiners—(hereinafter used interchangeably as Board of Examiners, Board, Commission, Examiners or Board of Examiners) shall mean the Board of River Port Pilot Commissioners and Examiners for the pilotage area defined in R.S. 34:1072.

Examiners—those individuals appointed pursuant to R.S. 34:1072.

Harbormaster—the Lake Charles Harbor and Terminal District agent who acts as authorized by R.S. 34:215(2), to operate the navigable Calcasieu River Waterway system, coordinate and implement necessary navigation operating controls and, through liaison, cooperation and mediation, establish priorities for safe, secure and efficient waterway system operation.

Louisiana Public Service Commission—the body, which constitutes the fee commission (see R.S. 34:1121.C) for the purpose of making fee decisions in the event of unresolved disputes within the Associated Branch Pilots of the Port of Lake Charles Fee Commission.

Marine Casualty—any occurrence involving a vessel which results in damage by or to the vessel, its apparel, gear, or cargo, or injury or loss of life of any person; and includes among other things, collisions, allisions, strandings, groundings, founderings, heavy weather damage, fires, explosions, failure of gear and equipment and any other damage which might affect or impair the seaworthiness of a vessel. Momentarily touching soft bottom while maintaining headway is considered a "near-miss" grounding within the dredged channel project reaches of the pilotage area.

Master License—the license issued by the United States Coast Guard.

Nepotism—favoritism shown to a relative as designated in R.S. 42:1119 of the Code of Governmental Ethics.

Pilot—shall mean a River Port Pilot as designated in R.S. 34:1073.

Pilotage Area—navigable streams, channels and boundary waters, including the Intracoastal Canal, Calcasieu River and the Calcasieu Ship Channel, within the Parishes of Calcasieu and Cameron, and across bars and passes, and on the adjacent waters of the Gulf of Mexico, the latter being out to a distance beyond the state's geographic boundary to any point in the Gulf of Mexico at which pilot assistance may be required by the master of a vessel.

Port—waterways and facilities under the jurisdiction of the Lake Charles Harbor and Terminal District, including agents who may be designated as harbormaster who are authorized by R.S. 34:215(2), to operate the navigable Calcasieu River Waterway system. Through state-authorized waterway operation, port entities strive with liaison, cooperation, and mediation to ensure a safe, secure and efficient Calcasieu River Waterway.

Service Time—the applicant's service time on the designated pilotage area, inland waters of the United States, or the oceans of the world.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1476 (June 2002).

§603. Board of River Port Pilot Commissioners and Examiners

A. Commissioners and examiners shall be selected as members of the board in accordance with R.S. 34:1072.

B. The officers of the board shall be chairman, vice-chairman, and secretary.

C. The chairman shall preside at all meetings of the board. Except as otherwise authorized by resolution of the Board of Commissioners of the Board of River Port Pilot Commissioners and Examiners, the chairman shall sign all contracts, deeds and other instruments made by the board of River Port Pilot Commissioners and Examiners. At each meeting, the chairman shall submit such recommendations and information as he or she may consider proper concerning the business, affairs and policies of the board.

D. The vice-chairman shall perform the duties of the chairman in the absence or incapacity of the chairman; and in case of the resignation or death of the chairman, the vice-chairman shall perform such duties as are imposed on the chairman until such time as the Board of Commissioners of the River Port Pilot Commissioners and Examiners shall select a new chairman.

E. The secretary shall have general supervision over the administration of board business and affairs, subject to the direction of the board. The secretary shall keep the records of the board, record all votes, and shall keep a record of board proceedings in a journal of proceedings and shall perform all duties incident to the office. All meetings shall be transcribed for placement in the journal. The secretary shall have the care and custody of all funds of the board and shall deposit the same in the name of the Board of River Port Pilot Commissioners and Examiners in such bank or banks as the board may select. The secretary shall sign all orders and checks for the payment of money and shall disburse such monies under the direction of the board. All checks for the payment of money in excess of $750 shall be co-signed by the chairman. The secretary shall keep regular books of accounts showing receipts and expenditures and such books of accounts shall be open to inspection by any commissioners at any time upon request.

F. The officers of the board shall perform such other duties and functions as may from time to time be required by the Board of Commissioners or the by-laws or Rules and regulations of the board or as may be designated by the chairman.

G. The officers of the board shall be elected by affirmative vote of a majority of the board annually at the first regular meeting in January of each year and such election shall automatically be placed upon the agenda of such meeting. Such officers shall serve a term of one year. There shall be no prohibition on the same individual being elected to the same office in successive years. Should an

officer resign or otherwise vacate office by death, resignation or removal from the board or otherwise, then an election to replace such officer, subsequent to the governor's appointment as necessary, shall be held at the next regularly scheduled meeting of the board or, at a specially called meeting, whichever occurs first. If a vacancy in an office occurs and a replacement is elected as provided herein, then that person who is elected to the vacated office shall serve only the unexpired term of the office.

H. In the case of the absence of any officer of the board, or for any other reason that the board may deem sufficient as to any officer, the board may delegate, for the time being, the powers or duties, or any of them, of such officer to any other officer, or to any member of the board, provided a majority of the entire board concurs therein.

I. The board shall conduct business as is necessary to fulfill legislative mandates or as may be required by the rules herein.

J. All officers shall serve without compensation.

K. The board members, in the performance of their statutory duties, have the exclusive and complete authority to determine their work schedule. Further, board members shall not suffer any loss of benefits or compensation while they are performing their duties.

L. Reasonable ordinary and necessary operating and administrative costs and expenses, incurred by the board while performing its duties, shall be paid or reimbursed by the system described herein. Expenses shall be approved monthly by the board and submitted to the association. The association shall pay or reimburse expenses of the board with 15 days of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1477 (June 2002).

§605. Rules, Records, Meetings, Association

A. The board issues these rules and regulations to administer, implement, and enforce R.S. 34:1072. The procedure for proposing, amending, repealing, and promulgating a rule or regulation shall be in accordance with the Administration Procedure Act, R.S. 49:950 et seq.

B. These rules and regulations include, but are not limited to:

1. establishing procedures for conducting investigations and hearings by the board;

2. requiring procedures governing applications and examination for apprentice pilots' appointments and pilots' commissions;

3. establishing required education, experience, and training of applicants;

4. requiring a mandatory drug and alcohol testing program, to comply with 46 CFR 16 and 49 CFR 40, Procedures for Transportation Workplace Drug Testing Programs, including random tests, post-incident tests, and tests based upon reasonable cause;

5. requiring a mandatory periodic physical examination and, for reasonable cause, a physical and/or mental examination to determine the fitness of pilots to perform duties;

6. ensuring required integrity, professional competence, and physical standards for apprentices and pilots;

7. clarifying the duties owed by a pilot to the owner(s) of the vessel, agent(s), and the owner(s) of the cargo; and

8. addressing any other matter which the board may deem necessary or appropriate for the administration, implementation, and enforcement of R.S. 34:1072.

C. All rules must be adopted by a majority of the Board of Commissioners. Further, rules must receive legal review before final approval and adoption. The board shall maintain records in accordance with the Public Records Law, R.S. 44:1 et seq., and other applicable state laws. The board shall file an annual report of investigations, findings, actions, and accident data in accordance with applicable state laws. The board shall conduct its meetings in accordance with the Open Meetings Law R.S. 42:4 et seq. and any other state laws.

D. The board shall hold a regular monthly meeting, which shall be held on the second Monday of each month at 10 a.m. at the Board Meeting Room of the Lake Charles Harbor and Terminal District, 150 Marine Street, Lake Charles, LA. The president alone or two members of the board may cancel any regular meeting if the board has no business to conduct. The president alone or two members of the board has/have the prerogative of calling additional meetings as needed to conduct business on giving notice as required by law.

E. These rules shall apply to all pilots commissioned as pilots by the governor upon recommendation of the board and who are engaged in the performance of the duties of a pilot within the pilotage area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1478 (June 2002).

§607. Minimum Requirements, Applicants, Examination, Appointments

A. The pilot apprentice applicant shall be a graduate from either The U.S. Merchant Marine Academy (deck curriculum), The U. S. Coast Guard Academy and qualified as officer-in-charge of a navigational watch, The U.S. Naval Academy and qualified as officer-in-charge of a navigational watch, The Great Lakes Maritime Academy (deck curriculum) or any other maritime academy approved by and conducted under rules prescribed by the Federal Maritime Administrator and listed at Title 46, Code of Federal Regulations, Part 310. Five years of experience as master or commanding officer of naval vessels or merchant ships including USNS or MSC ships, ocean tugs, harbor tugs, integrated tug/barge units, or dredge ships may be substituted for the requisite educational requirement with approval of the board.

B. Candidates seeking to participate in a pilot apprentice training program shall hold a U.S. Coast Guard issued license authorizing service as master, steam or motor vessels of at least 1600 gross tons upon oceans or near coastal and be reasonably expected to be able to eventually comply with federal regulatory requirements specified at 46 CFR Subpart G; Professional Requirements for Pilot Licenses which are considered by the board to be minimum requirements for commissioning pilots under the board's jurisdiction. These requirements include time-in-service, route familiarization, examination, physical requirements, tonnage service requirements and capability to acquire and maintain

knowledge of waters to be navigated. Prospective candidates of good character who meet the aforementioned requirements may submit applications evidencing these requirements to the Apprentice Pilot Review Committee, 710 West Prien Lake Road, Suite 201, Lake Charles, LA 70601. A copy of the application shall also be submitted to the Board of Commissioners and Examiners, c/o Port of Lake Charles, P.O. Box 3753, Lake Charles, LA 70602. Applications should be accompanied by a personal resume, photograph, birth certificate, three letters of recommendation, health profile conducted by a recognized health professional evidencing probable ability to comply with 46 CFR 10.205(d) and a U.S. Coast Guard Information Release Form signed and notarized, in any format, to authorize personnel involved in the selection process to investigate and/or obtain applicant's records from the U.S. Coast Guard or from any other person or entity deemed appropriate, including but not limited to licenses, casualty involvement, or any disciplinary information. Applications will be kept on file until an opening for an apprentice pilot is anticipated, or a maximum of two years, unless updated. When the association anticipates openings for apprentice pilots, the Apprentice Pilot Review Committee will review all current applications and contact best-qualified selected applicants to appear for interviews. The Apprentice Pilot Review Committee, subsequent to reviewing applications and interviewing applicants, will present their findings and recommendations to association members for their vote on apprentice candidate acceptance. The board shall provide oversight and final approval over the pilot candidate application and selection process and shall approve and make recommendations to the governor for subsequently awarding pilot commissions.

C. Prior to being recommended for a state commission, applicants must have completed, and maintain current, Ship Handling Simulator courses and Bridge Resource Management courses and any other industry related courses that the association and examiners may deem relevant and necessary.

D. Qualified applicants desiring to become pilots shall not have reached their forty-fifth birthday before being accepted into the apprenticeship program and an applicant shall not be under the age of 30 when accepted as an apprentice.

E. A person applying for an appointment under this section shall not have been convicted of a felony offense involving either drugs or the personal consumption of alcohol in the 60 months prior to the date of application.

F. Applicants must submit to and pass a drug screen test prior to being accepted into the apprenticeship program and agree to participate in mandatory drug and alcohol-testing programs, required by 46 CFR 16 and conducted in compliance with 49 CFR 40.

G. Any signed obligation to abide by the Charter, By-laws, rules and regulations of the association or of the Lake Charles Pilots, Inc. shall not be contrary to established rules and regulations of the board.

H. Applicants must serve an orientation period over the route, as an apprentice pilot, for not less than 12 months, which may be extended up to one additional year as may be determined by the board, if recommended by currently commissioned pilots who actively train any apprentice. If, after the one year extension apprenticeship period, the applicant fails to meet the criteria and standards of the examiners, the said applicant shall be released from the apprenticeship program. The criteria and standards of the board include but are not limited to:

1. applicant's competency and display of good judgment;
2. regard for federal, state, and local laws and regulations;
3. fitness for the position and duties of a river pilot;
4. moral integrity, veracity, capability, and satisfactorily addressing any other such issues or questions brought by any responsible party to the attention of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1478 (June 2002).

§611. Pilotage Certification

A. Commissioned pilots shall comply with all requirements to maintain current their Louisiana State Commission and such other certifications as determined necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1479 (June 2002).

§613. Association of Pilots

A. River port pilots may form themselves into an association not in conflict with the rules and regulations of the board.

B. The formation of any association, incorporated or non-incorporated, which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1075, must be submitted to the board for approval. Such applications must meet all legal requirements, provide for a stable, reliable, efficient, and safe pilotage system, protect the life and property of the region and serve the best interest of the majority of pilots.

C. The board hereby recognizes the fact that the Lake Charles pilots have formed themselves into a legal registered corporation known as the Lake Charles Pilots, Inc., intending to operate in compliance with all state laws and which shall comply with the regulations and directives of the board.

D. No pilot association may impose any custom, rule, by-law or charter provision on the board or its authority. Further, any attempt to exercise any authority over or affecting the board's authority shall be deemed a violation of Chapter 6 of Title 34 of the Louisiana Revised Statutes governing pilotage.

E. Pilots shall not discontinue duties without permission. Except for reasons of health, satisfactory evidence of which shall be furnished to the board when requested, no commissioned pilot or apprentice shall discontinue to act as such nor remove himself/herself, at any time, from a duty status, without first obtaining the permission of the group of pilots with which associated or of some duly authorized official of that group, and no such permitted discontinuance or absence for a period of more than 3 months shall be valid without additionally obtaining, in advance, the written

authorization of the board. Any pilot or apprentice neglecting or refusing to comply with such requirement as to presence and performance of duties may be subject to association-imposed sanction and have, respectively, his/her commission, appointment or apprenticeship, as the case may be, either suspended or revoked by board recommendation, depending on the board's judgment and evaluation of the circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1479 (June 2002).

§615. Enforcement

A. In any case, where a vessel under pilotage shall go aground or collide with another vessel or allide with any object or meet with any marine casualty, or be injured or damaged in any way or in the event of a near-miss of any of the above, the board shall cause to be conducted a preliminary investigation into the casualty or the near-miss to determine if there are any violations of the law or board's rules.

B. When probable cause relating to any event set forth in §615.A involving a pilot is preliminarily determined, the board may conduct or order an investigation.

C. All board investigations shall be conducted in accordance with R.S. 49:950 et seq.

D. In any case, where a vessel under pilotage is involved in any event set forth in §615.A, any pilot providing piloting services relating to such vessel shall report such event as follows:

1. report the casualty to the board by whatever means available to the pilot as soon as practical but not later than 24 hours after the occurrence of such event;

2. be available within 24 hours of such event for interview by the board and furnish complete details of the casualty;

3. make a written report regarding such event to the board as soon as practical but not later than forty-eight hours after such event.

E. Any pilot who shall neglect, or refuse to make any required report to the board as required by these rules, shall be subject to the board-imposed sanctions provided in §615.J.

F. Any pilot requested or summoned to testify before the board shall appear in accordance with said request or summons and shall make answers under oath to any questions put to him/her related to or in any way connected with the pilot's service.

G. In any case, where the board finds or suspects a violation of the law or applicable regulation, or a violation of its rules, the board may charge the pilot appropriately. If the charge is proven, the board may take action as authorized by R.S. 34:1077. However, this rule shall not abrogate any pilot rights pursuant to all applicable laws. Specific enforcement parameters are included in §615.J, K, L, M and N herein.

H. When an investigation or any other information source reveals dangerous and/or unsafe conditions and/or conditions that may jeopardize the interests, safety, health, or welfare of the pilots, vessels, cargo, property or individuals, the board may make recommendations to vessel owners, operators, agents or any other involved persons/entities including the Lake Charles Harbor and Terminal District and the U. S. Coast Guard regarding corrective measures.

I. Marine casualties, accident, and required reports are defined in Title 46 Code of Federal Regulations, Part 4 (46 CFR 4). Required reports shall be made to the U.S. Coast Guard by the owners, operators, masters or agents of vessels so involved. This federally-imposed requirement affects all U.S. commercial vessels sailing worldwide and every foreign flag vessel operating on or present within U.S. waters within the pilotage area, as relating to these rules. Hazardous conditions are defined in 33 CFR 160.203 and must be reported to the U.S. Coast Guard. Navigation safety regulations prescribed in 33 CFR 165 shall be followed. Every pilot must immediately report all marine casualties, near-miss incidents, hazardous conditions, and violations of navigation safety regulations to the U.S. Coast Guard and to the board. Action on near-miss reports, absent a showing of violation of navigation rules or negligence, is without attribution toward preventing similar future incidents.

J. After notice and a hearing, the board may, as authorized by R.S. 34:1077, and at their discretion, remove, suspend or reprimand a commissioned pilot, impose civil penalties and/or recommend, to the governor, revocation of the pilot's commission. Suspensions shall not last more than one year, and must be followed by a period of reorientation of not less than 14 days and not to exceed 60 days.

K. The board may take such enforcement action specified in §615.J, upon a finding that one or more of the following grounds exists:

1. neglecting or refusing to perform any pilot duty;

2. failing to board a vessel at a designated point and time without good cause;

3. threatening to fail to perform or actually failing to perform any duty of a pilot in a manner consistent with established marine customs and practices;

4. performing any duty as a pilot while under the influence of alcohol or drugs;

5. engaging in conduct prejudicial to the safety of the vessel, and/or its officers or crew, and/or its cargo;

6. engaging in conduct prejudicial to a local port, vessel owner or agent, or private shipper or consignee;

7. having a physical or other disability, which inhibits the pilot's ability to board a vessel or perform the duties of a pilot while aboard a vessel;

8. exhibiting incompetency as a pilot;

9. engaging in fraud, perjury, or deceit to obtain or renew a certification or in any other proceeding before the board;

10. engaging in dishonesty, fraud, or negligence in the performance of pilot services;

11. having his or her license cancelled, revoked, or suspended or being denied a license or the renewal of a license for disciplinary reasons by another state or by the United States Coast Guard for any cause, including other restrictions imposed by such other licensing authority;

12. revocation or suspension of, or a voluntary consent decree revoking or suspending, a license, which concerns pilotage duties before any other state or a federal agency;

13. engaging in efforts to deceive or defraud the owner of a vessel or the owner of the cargo or their agents;

14. attempting to usurp, or actually usurping, the authority of the master of a vessel;

15. failing to maintain a current United States Coast Guard license;

16. entering a plea of guilty or nolo contendere or being convicted of a felony or of any other crime, an element of which is dishonesty or fraud, under the laws of the United States, this state, or any other state;

17. failing to notify the board in writing immediately, after the occurrence of any issuance, denial, revocation, or suspension of a pilot's commission, license, or other similar grant of authority by another state or the United States Coast Guard;

18. violating applicable traffic separation schemes and vessel traffic service regulations and any other applicable regulation published by the United States Coast Guard or any other federal, state or local agency;

19. violating any of the Navigational Rules; International-Inland;

20. failing to take cognizance of local notice to mariners and marine information disseminated by the United States Coast Guard;

21. violating any provision of this regulation or any other adopted by the board.

L. In lieu of an adverse action pursuant to this section, the pilot may tender his/her commission. The board may, for stated reasons, impose such terms and conditions as it deems appropriate as part of its acceptance of the commission tender.

M. The board may suspend a pilot without notice or hearing when it clearly appears from an affidavit of an interested party that further piloting by a commissioned individual poses a threat of immediate injury, loss, or damage before notice and a hearing can be arranged. Notice shall be given to the pilot and the association with all deliberate speed and in the most expeditious manner available. A hearing with notice shall be arranged at the earliest possible date, allowing a reasonable amount of time for the pilot to prepare a defense.

N. The board shall establish policies and procedures to address violations in a formal and consistent manner.

O. Rules of the board may be enforced, in accordance with R.S. 1072, by any court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1480 (June 2002).

§617. Pilot Charges and Fees

A. Pilotage charges and rates shall be fixed, without board involvement, in accordance with established procedures of the appointed Associated Branch Pilots of the Port of Lake Charles Fee Commission and the Louisiana Public Service Commission, pursuant to R.S. 34:1121 et seq., as may be necessary following disputes.

B. The association shall be due payment, at rates in effect at the time of pilot service, for pilotage charges and fees within 45 days of invoice receipt, except when the association elects to extend credit to such vessel owner, vessel operator, principal agent or local agent. When credit is not extended, payment is due upon vessel departure or upon receipt of invoice, whichever is earlier.

C. Any agent or other non-vessel owner who makes arrangements for credit for pilotage shall be held responsible by the pilots for the amount credited if that amount is not paid within the 45 day period.

D. Pilotage charges are based upon the services of one pilot unit. No additional charges may be imposed for other pilots or apprentices taken aboard a vessel for the purpose of training or route familiarization. However, nothing shall prohibit additional pilotage charges whenever additional pilots are proved to the board's satisfaction to be required to assure the safe maneuvering of the vessel. In such cases, one additional pilot unit may be charged for every additional pilot so embarked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1481 (June 2002).

§619. Vessel Scheduling System (VSS)

A. The association will act upon all requests for pilot services without delay; provided, they have been notified a minimum of four hours prior to any vessel's expressed intended need of pilot(s).

B. Pilots shall consult and cooperate with the Lake Charles Harbor and Terminal District to assist best operation of the navigable waterway system under the district's jurisdiction.

C. Individuals other than vessel crewmembers may be aboard transiting vessels only at the discretion and approval of the U.S. Customs Service and vessel owners/agents and shall not interfere with pilots' duties and responsibilities.

D. Responses to inquiries voiced to the association or its members from current or prospective Calcasieu River Waterway customers regarding marine services coordination and channel-use priorities shall be coordinated with the Lake Charles Harbor and Terminal District toward developing appropriate responses.

E. Calcasieu River Waterway systemic navigation controls are reserved for federal, state and local authorities. Vessel draft and beam width restrictions deemed necessary by pilots may be imposed only after consulting with, and upon approval of, the Lake Charles Harbor and Terminal District. The U.S. Army Corps of Engineers' (USACE) most current channel surveys and recommendations are generally relied upon in determining if limiting vessel drafts to less than 40 feet may be warranted.

F. The U.S. Coast Guard recognizes and supports State of Louisiana authorized efforts of the Lake Charles Harbor and Terminal District, with local Harbor Safety Committee (HSC) coordination, to safely and efficiently operate the Calcasieu River navigable waterway system. Codification of additional specific Lake Charles Harbor and Terminal District Calcasieu River navigable waterway operating controls at 33 CFR 165.807 may be appropriate if controls go beyond routine navigation priority determinations.

G. Positive control of Calcasieu River navigation is exercised through vessel traffic scheduling procedures accessible at http://www.lakecharlespilots.com/vtssafety/ or by calling (337) 436-0372 when pilotage is required and otherwise through liaison with the Lake Charles Harbor and Terminal District Harbormaster by calling (337) 493-3620 to request priority transit or to address extraordinary navigation evolutions which might be expected to adversely affect other navigation.

H. The board recognizes and supports the appropriateness of these aforementioned navigation controls and scheduling procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1481 (June 2002).

§621. Traffic Guidelines

A. Efficient and safe pilotage area traffic movement is dependent upon pilots exercising good professional skill and judgment with respect to visibility, vessel draft, vessel speed, state of tide, wind speed and direction, channel depth, direction and speed of currents, individual vessel maneuvering characteristics, presence of other vessels, and width of channel. Systemic controls may be established and published only after consultation with the Lake Charles Harbor and Terminal District.

B. Meeting and passing situations involving two vessels with combined beams exceeding 50% of the available channel width shall be restricted, unless both involved pilots agree that conditions are such that meeting or passing can be accomplished safely.

C. In fog, or any condition that restricts visibility, vessels will not normally be moved until conditions improve to a point where one-mile visibility is available, throughout the route to be transited.

D. All vessels transiting the channel must be ballasted to a condition that keeps the propeller and rudder submerged to a sufficient degree to maintain control of the vessel.

E. Liquefied Natural Gas (LNG) vessels transiting within the pilotage area shall be piloted in accordance with the current U. S. Coast Guard Liquefied Natural Gas (LNG) Vessel Management and Emergency Plan promulgated by the cognizant USCG Captain of the Port. Safety Zones and/or Regulated Navigation Area (RNA) requirements may, from time to time, be established and published at 33 CFR 165.

F. The board recognizes and supports the aforementioned traffic guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1482 (June 2002).

§623. U.S. Coast Guard Investigations/Proceedings

A. The association shall provide to the Board of Commissioners copies of all U.S. Coast Guard investigations, notices, and actions pertaining to pilotage area accidents, marine casualties, complaints, and disciplinary actions including federal suspension and revocation proceedings and civil penalty actions.

B. Pilots are required to keep their respective licenses current and to notify the board of any changes or proceedings concerning all appointments, certifications and licenses, which the respective pilots may hold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1482 (June 2002).

§625. Appeals

A. Any person or organization that has any complaint or other grievance with the actions of the board, or of local pilots, shall submit a written complaint to the board which then shall take any action required by statute and/or these rules.

B. Appeals to board-initiated pilot enforcement proceedings action may be submitted to the board for reconsideration.

C. The owners or operators of any vessel adversely affected by a pilot's decision regarding its movement may request the board to review that decision for ensuring compliance with these rules and sound piloting principles and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1482 (June 2002).

§627. Nepotism/Equal Opportunity Policy

A. The association and board shall not discriminate in applicant selection or examination in favor of individuals related to pilots or to governing authorities by blood or marriage, or based on race, color, religion, sex, national origin, age, disability, political affiliation or belief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1482 (June 2002).

§629. Ethics

A. All pilots and board members shall comply with the Louisiana Code of Governmental Ethics Chapter 15 of Title 42 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1482 (June 2002).

§631. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable for any reason whatsoever, that it may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1072.

HISTORICAL NOTE: Promulgated by the Board of River Port Pilot Commissioners and Examiners, Calcasieu River Waterway, LR 28:1482 (June 2002).

Captain James L. Robinson, USCG (Ret.)
Board Designee

0206#004

RULE

Department of Public Safety and Corrections
Office of State Police

Concealed Handgun Permit
(LAC 55:I.1305, 1307, 1311, and 1313)

The Department of Public Safety and Corrections, Office of State Police, Concealed Handgun Permit Section, in accordance with R.S. 40:1379.3, 40:1379.3.1, 40:1381, 40:1382, and the Administrative Procedure Act R.S. 49:950 et seq., has amended LAC 55, Part I Chapter 13, Issuance of

Concealed Handgun Permits. This text was amended in response to legislative amendments and to address administrative needs. The changes provide for two year permits, redefines residency, reduces fee for applicants 65 or older, and reflects statutory changes in eligibility requirements.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 13. Issuance of Concealed Handgun Permits

§1305. Definitions

* * *

Permit—the authorization issued by the deputy secretary of the Department of Public Safety and Corrections pursuant to R.S. 40:1379.3 and these rules, which shall be valid for either two or four years from the date of issuance unless revoked, suspended, or otherwise invalidated, and shall contain a permit number, date of expiration, and the name, address, date of birth, physical description, and photograph of the permittee.

* * *

Pistol—a handgun that has a short barrel and can be held, aimed, and fired with one hand and is capable of only firing a single round each time the trigger is pulled, which includes semi-automatic handguns.

Resident—a person who maintains a dwelling in this state and is physically present in this state at least 51 percent of each calendar year. However, a person who maintains a dwelling in this state but is not physically present in this state at least 51 percent of each calendar year is still considered to be a resident for purposes of this Section if he is on U.S. military duty in another state or is attending school in another state.

Revolver—a pistol that has a rotating cylinder containing a number of firing chambers. The action of the trigger or hammer will line up a chamber with the barrel and firing pin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002).

§1307. Applications and Permits

A. - B.4. …

5.a. For purpose of proof that the applicant has resided within the state of Louisiana for at least six months prior to his application for a permit, the applicant shall submit with his application a photocopy of his valid Louisiana driver's license or Louisiana identification card.

i. An applicant must have a Louisiana driver's license or identification card.

ii. In the event the applicant's Louisiana driver's license or Louisiana identification card has been issued within six months of application, proof of residency must be established by any one of the following:

(a). United States passport;

(b). Louisiana voter registration card;

(c). any other documentation, which may adequately satisfy proof of compliance with the qualifications for residency.

b. For purposes of proof of residency, a business address or post office box shall not suffice.

c. Applicants that are on U.S. military duty in another state shall submit a copy of their orders detailing them to such duty station, along with a copy of their military identification card.

d. An applicant that is attending school in another state shall submit a copy of his school registration form and fee bill for each semester during the permit period that is applicable.

6. - 14. …

15. All applicants shall submit with the application a non-refundable fee in the form of a certified check or money order. The applicable fees are as follows:

a. for a four-year concealed handgun permit the fee shall be $100;

b. for a two-year concealed handgun permit the fee shall be $50;

c. the above fees shall be reduced by one-half if the applicant is 65 years of age or older on the date the application is received by the department;

d. any applicant that has not continuously resided within the state of Louisiana for the 15 years preceding the submission of the initial application shall enclose an additional non-refundable $50 fee. This additional fee shall not be reduced for applicants 65 years of age or older.

C. - C.2. …

3. not suffer from a mental or physical infirmity due to disease, illness, or retardation which, prevents the safe handling of a handgun and shall submit a medical clearance form completed by the treating physician;

4. - 13. …

14. not have a history of engaging in violent behavior. There shall be a rebuttable presumption that an applicant has a history of engaging in violent behavior upon proof that, within a 10-year period immediately preceding the date of the application, the applicant has been arrested or charged on three or more occasions for any crime of violence as defined in R.S. 14:2(13), or has been arrested or charged on two or more occasions for any crime of violence that may be punished by death;

15. not be ineligible to possess a firearm under 18 U.S.C. 922(g).

D. Renewal of Permits

1. A permittee wishing to renew his concealed handgun permit shall file a renewal application no more than 120 days prior to the expiration of the permit and no later than the sixtieth day after expiration. Renewal applications submitted after the sixtieth day from expiration will not be accepted and the permittee shall complete a new original application with all documentation required for an original application. All renewal applications shall include a new photograph of the applicant as specified in LAC 55:I.1307.B.3.

2.a. A renewal application shall be considered filed with the department when the department receives the application and the fees are processed. The applicable renewal fees are as follows:

i. for a four-year concealed handgun permit the fee shall be $100;

ii. for a two-year concealed handgun permit the fee shall be $50;

iii. the above fees shall be reduced by one-half if the applicant is 65 years of age or older on the date the application is received by the department.

b. In the event an applicant that has resided outside of Louisiana during the permit period less than 51 percent of the calendar year he will be required to submit proof of a criminal history check conducted by the sheriff of the county in which he resided and the local police department. In the case of military personnel the Provost Marshall's Office, Naval Criminal Investigative Service, Air Force Office of Special Investigations, or other similar section and the Sheriff of the county in which he resided should conduct the check.

c. If necessary to show proof of eligibility, an applicant that has not resided in Louisiana for the last 15 years may be required to submit a fingerprint card and pay an additional $50 non-refundable fee to defray the cost of the background check.

3. An incomplete renewal application may be denied by the department for failure to provide requested documents or appropriate fees. Proof of residency shall conform to LAC 55:I.1307.B.5.a.

4. - 4.f.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002).

§1311. Handgun Training Requirements

A. - B.2. …

C. Any teaching or training required under this Part must be conducted by a current NRA-certified or POST-certified instructor who has registered his name and certification with the department. In order to become registered and maintain that registration with the department an instructor shall:

1. submit a course syllabus that includes the curriculum described in LAC 55:I.1311.A and LAC 55:I.1307.D;

2. keep up to date his name, address, phone number, an e-mail address, and instructor certificates (on a yearly basis);

3. submit a contact number that may be released to applicants to schedule courses. The listing of an e-mail address will be optional. In the event that the instructor's contact information is not valid, or certification expires, the instructor will be removed from the department's approved instructor list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:849 (September 1996), amended LR 28:1484 (June 2002).

§1313. Code of Conduct of Permittees

A. - B.5. …

6. When a permittee ceases to reside within this state, the permit automatically becomes invalid and the permittee shall return the concealed handgun permit to the department within five business days from the date he ceases to reside within this state. Upon receipt of the permit, the permit will enter a canceled status. A new application must be completed if the permittee resumes his resident status.

7. …

8. A permittee shall immediately inform the department in writing of any handgun related accident, discharge, incident, injury, or death involving any permittee. Failure to do so may be grounds for suspension or revocation of an existing permit or denial of a renewal application.

9. …

10. Any permittee or applicant who is subject to any preliminary or permanent injunction in any family or domestic dispute, or any other protective order issued pursuant to law, shall notify the department of the caption of the suit including the suit or proceeding number, the date of the issuance of the injunction or court order, and provide a signed copy of the court's order within three days of the issuance of any such order. Upon the issuance of the injunction or court order, the permit shall be automatically suspended and the department may revoke or deny the permit in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:850 (September 1996), amended LR 28:1484 (June 2002).

Jerry Jones
Undersecretary

0206#026

RULE

Department of Revenue
Office of Alcohol and Tobacco Control

Prohibition of Certain Unfair Business Practices
(LAC 55:VII.317)

The Office of Alcohol and Tobacco Control, under the authority of R.S. 26:792 and 26:150 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 55:VII.317 pertaining to the prohibition of certain unfair competition and unlawful practices in the marketing of alcoholic beverages.

These amendments provide that the prohibition against certain unfair competition and unlawful practices as provided by the Federal Alcohol Administration Act, 27 U.S.C., §205 apply to all alcoholic beverage dealers.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Chapter 3. Alcoholic Beverages
§317. Prohibition of Certain Unfair Business Practices

A. Definitions

Alcoholic Beverages—any fluid or any solid capable of being converted into fluid, suitable for human consumption, and containing more than one-half of one percent alcohol by volume, including malt, vinous, spiritous, alcoholic or intoxicating liquors, beer, porter, ale, stout, fruit juices, cider, or wine.

Beverages of High Alcoholic Content—alcoholic beverages containing more than 6 percent alcohol by volume.

Beverages of Low Alcoholic Content—alcoholic beverages containing not more than 6 percent alcohol by volume.

Brewer—any person who, directly or indirectly, personally or through any agency, engages in the making or production of malt beverages.

Bureau—the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

Commissioner—the Louisiana Commissioner of Alcohol and Tobacco Control.

Cost to Industry Members—the invoice cost, or the replacement cost, of the merchandise to the industry member, whichever is lower:

a. Less all trade discounts except customary discounts for cash and discounts from the state or any governmental agency allowed for the payment of collection of any taxes.

b. Plus, in the following order:

i. freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise;

ii. cartage cost which shall be three-fourths of one percent of the cost to the industry member after adding freight charges but before adding cartage, any existing tobacco stamp excise tax, and markup;

iii. any existing tobacco stamp excise tax;

iv. a markup to cover a proportionate part of the cost of doing business which markup, in the absence of proof of a lesser cost, shall be two percent of the cost to the industry member after adding freight charges, cartage, and any existing tobacco stamp excise tax.

Exclusive Outlet—the requirement, by agreement or otherwise, that any retail dealer engaged in the sale of distilled spirits, wine, malt beverages, or malt liquors purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, malt beverages, or malt liquors sold or offered for sale by other persons.

Handle—sell, use, distribute, store, consume, or otherwise handle.

Importer—any dealer who imports alcoholic beverages from any state, territory, possession, or foreign country for handling in Louisiana.

Industry Member—any person engaged in business as a distiller, brewer, rectifier, blender or other producer, or as an importer or wholesaler, of distilled spirits, wine, malt beverages, or malt liquors, or as a bottler, or warehouseman and bottler, of distilled spirits, but shall not include an agency of a state or political subdivision thereof, or an officer or employee of such agency.

Malt Beverages or *Malt Liquors*—beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

Manufacturer—any person who, directly or indirectly, personally or through any agency, engages in the making, blending, rectifying, or other processing of alcoholic beverages in Louisiana.

Person—any individual, municipality, industry, public or private corporation, partnership, firm, or any other entity.

Retail Dealer or *Retailer*—any person who offers for sale, exposes for sale, has in his possession for sale or distribution, or sells alcoholic beverages in any quantity to persons other than licensed wholesale or retail dealers.

Tied House—when any retail dealer engaged in the sale of distilled spirits, wine, malt beverages, or malt liquors is induced to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, malt beverages, or malt liquors sold or offered for sale by other persons through any of the following means:

a. by acquiring or holding after the expiration of any existing license any interest in any license with respect to the premises of the retail dealer;

b. by acquiring any interest in real or personal property owned, occupied, or used by the retail dealer in the conduct of his business;

c. by furnishing, giving, renting, lending, or selling to the retail dealer, any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to such exceptions as the commissioner of alcohol and tobacco control shall by regulation prescribe, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of this Section;

d. by paying or crediting the retail dealer for any advertising, display, or distribution service;

e. by guaranteeing any loan or the repayment of any financial obligation of the retail dealer;

f. by extending to the retail credit; or

g. by requiring the retail dealer to take and dispose of a certain quota of any of such products.

Wholesale Dealer or *Wholesaler*—any person who sells alcoholic beverages to licensed wholesale dealers or licensed retail dealers exclusively within the state or to any person for delivery beyond the borders of the state and who conducts a bona fide wholesale business and maintains a warehouse or warehouses for the storage and warehousing of alcoholic beverages in the area where domiciled and licensed by the state, and conducts and maintains systematic and regular solicitations, distribution, deliveries, and sales of the alcoholic beverages to licensed retail dealers located within the boundary of each parish and municipality in which the wholesale dealer makes any sale or delivery.

B. Prohibition Against Certain Business Practices in the Alcoholic Beverage Industry

1. The Bureau of Alcohol, Tobacco and Firearms of the United States Treasury prohibits exclusive outlet and tied house arrangements with respect to the marketing and sale of beverages of both high and low alcoholic content as authorized by the Federal Alcohol Administration Act (FAA Act), 27 U.S.C., §205.

2. The bureau's enforcement of this federal law requires Louisiana to have a similar law that imposes similar requirements for similar transactions.

3. The bureau enforces the provisions of the FAA Act prohibiting exclusive outlets and tied house arrangements in the marketing and sale of alcoholic beverages in Louisiana under the authority of R.S. 51:422, the Louisiana Unfair

Sales Law, and R.S. 26:287.A(9) and (10), which provide for additional causes for suspension and revocation of permits.

4. Prohibitions against exclusive outlets and tied house arrangements with respect to the marketing and sale of alcoholic beverages in Louisiana has stabilized the industry and prevented unlawful and unfair inducements for the retail purchase of alcohol and unlawful coercion, bribery, kickback demands, and other unfair and unlawful business practices.

5. It is in the best interest of the state's citizens that fair business dealings and unfettered competition govern the alcohol beverage industry in Louisiana, that it remain an industry dominated by fairness and integrity, and that it be safeguarded against the threat of corrupt and unfair business practices.

C. Marketing and Sale of Alcoholic Beverages in Louisiana

1. Exclusive outlet and tied house arrangements are unfair inducements to purchase goods or services by wholesalers or retailers, and it is unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, manufacturer, or other producer, or as an importer or wholesaler of distilled spirits, wine, malt beverages or malt liquors, directly or indirectly or through an affiliate, to have exclusive outlet or tied house arrangements.

2. Exceptions

a. Equipment

i. In order to provide proper dispensing of alcoholic beverages by retail dealers, industry members may provide, without charge, coil cleaning service, tap markers which show brand, and tapping equipment such as rods, vents, taps, hoses, washers, couplings, vent tongues, and check valves.

ii. Accessories such as carbon dioxide gas tanks, regulators, and other draught equipment accessories with a reasonable open market price of more than $5 but less than $200 per item must be sold to retailers at a price no less than the cost to the industry member as defined herein. Such sales shall be made for cash only.

iii. Draught equipment accessories with a reasonable open market value of $200 or more per item are not included under this exception.

b. Inside Signs

i. An industry member may furnish, give, rent, loan, or sell to a retailer inside signs that bear advertising matter. Inside signs include such things as mechanical devices, illuminated devices, clocks, neon signs, and other devices that are designed for permanent use in a retail account. These items may be furnished to an industry member if the total value of such materials in use at any one time for any one brand does not exceed $225 to any one retail establishment, including all expenses incurred directly or indirectly by any industry member in connection with the purchase, manufacture, transportation, and assembly of such items and accessories. The industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or any expense incidental to their operation. In determining the value of these items for purposes of the limitation, value shall be the cost attributable to them at the time of their installation in the retail establishment.

ii. Display stackers, pricing cards, shelf talkers, rail strips, posters, and other such items constructed of paper, cardboard, and similar materials and which are designed and installed as point-of-sale material for temporary use in a retail account are not included under this section and may be provided without limitation. Prior approval of point-of-sale material is not required and will not be given.

iii. Product displays may be furnished by an industry member to a retailer, provided that the total value of all product displays furnished by an industry member may not exceed $155 per brand in use at any one time in any one retail establishment. Product display are racks, bins, barrels, casks, shelving, and the like from which alcoholic beverages are displayed or sold. Product displays shall bear conspicuous and substantial advertising matter.

c. Outside Signs. The furnishing of outside signs by an industry member to licensed retail dealers is prohibited.

d. Advertising Specialties, Utility Items, Merchandise, and Supplies

i. Trays, coasters, paper napkins, clothing, groceries, snack foods, paper and plastic bags, cups, pitchers, glasses, menu covers, menu sheets, meal checks, match books, ash trays, ice, and other items that are primarily of utility value to a retailer cannot be given away but may be sold to retailers by industry members and the price charged for such items must be no less than the cost to the industry member as defined herein.

ii. Other retailer advertising specialties and novelty items, such as foam scrapers, thermometers, litter bags, pencils, bottle openers, balloons, lapel pins, and key rings that bear advertising matter, and are primarily valuable to the retailer as point-of-sale advertising media but have no utility value to the retailer, may be furnished, given, or sold to a retailer if the total cost to any industry member of the retailer advertising specialties furnished, given, or sold in connection with any one retail establishment in any one calendar year does not exceed $50.

iii. After the delivery of the retailer advertising specialties with a total cost to an industry member of $50 has been made by the industry member to a retail establishment during any one calendar year, any future deliveries of such items to that particular retail establishment by such respective industry member during the remainder of the calendar year must be effected only by the sale of the items at their reasonable open market price in the locality where sold. Any items sold, furnished, or given away under this section must be itemized separately on the industry member's invoice and other records.

iv. Carbon dioxide gas or ice may be sold to a retailer only if sold at a reasonable open market price in the locality where sold.

e. Sponsorships

i. Wholesalers and manufacturers may sponsor events relating to or on the premises of retail dealers if nothing of value is given to retail dealers except as allowed elsewhere in this Section.

ii. T-shirts, caps, and similar items may be given to event contestants or patrons of the retail establishment but the total cost of these items may not exceed $150 per event.

iii. An industry member shall not sponsor an event on the premises of a retail dealer within 60 days of their last sponsored event.

iv. Alcoholic beverage sales must be incidental to the event being sponsored.

v. Industry members shall not directly or indirectly require that the sponsor's product be the exclusive product offered for sale at the event.

vi. A manufacturer or wholesaler may donate alcohol and trophies of nominal value to unlicensed civic, religious, or charitable organizations.

vii. In conjunction with events held on regular licensed retail premises, all restrictions on advertising and signage will remain in full force and effect, except that temporary paper signs and posters may be used inside the premises to advertise the event for not more than 21 days.

f. Trade Calls

i. Bar spending during trade calls, where the alcohol purchased by a manufacturer or wholesaler for a consumer is consumed on retail licensed premises in the presence of the giver, shall be lawful so long as the state's laws regulating retail establishments such as the legal drinking age, etc., are observed and not more than $150 is expended during the trade call.

ii. No trade calls may occur on college campuses.

iii. Manufacturers and wholesalers may be accompanied by entertainers, sports figures, and other personalities during trade calls.

iv. The trade calls may be pre-announced to consumers in the retail account through table tents, posters, and other inside signs.

v. No outside advertising of such events through signs or any media is allowed.

g. Except as otherwise provided by law, the gift of beer, wine or beverage alcohol as a purely social courtesy to unlicensed persons by a manufacturer or wholesaler is not prohibited.

h. Sampling. Beer, wine, or beverage alcohol sampling for the purpose of allowing a customer to taste a brand of beverage alcohol must be conducted on any premises holding a permit as designated in R.S. 26:75.C.(1) and 275.B.(1) in accordance with the following restrictions.

i. A retail dealer, wholesaler or manufacturer may furnish the beer, wine, or beverage alcohol to be sampled and the cups to hold the beverages. The wholesaler or manufacturer may also provide and display point-of-sale material in an amount not to exceed $150 in value. The display materials shall only be placed inside of the facility and shall not block the aisles or other entrances or exits .

ii. No retail dealer, wholesaler, or manufacturer shall furnish a sampling of beverage alcohol in a greater quantity than two ounces per brand of beverage alcohol to each individual and no individual shall consume more than two ounces of each brand of beverage alcohol provided at the sampling. The sampling of a beverage alcohol having an alcoholic content of more than 23 percent by volume shall be limited to one-half ounce per serving per individual.

iii. All samplings shall be limited in duration to one day.

iv. No more than two samplings per brand of beverage alcohol shall be conducted on the same licensed premises in any month.

v. The retail dealer, wholesaler, or manufacturer shall provide the Office of Alcohol and Tobacco Control with written notice of the date, time, place, permit number and brand of beverage alcohol to be sampled at least one week prior to the date of the sampling.

i. Tubs and Other Single Containers. Tubs, ice chests, and other containers designed to hold single units of product and display them for sale in retail establishments may be furnished by manufacturers and wholesalers, provided that no more than two containers per retail location may be furnished by an industry member and the value of the items furnished shall not exceed $155.

j. Consignment Sales and Returns

i. It is unlawful for an industry member to sell, offer for sale, or contract to sell to any retailer, or for any retailer to purchase or contract to purchase any products under the following circumstances:

(a). on consignment;

(b). under conditional sale;

(c). with the privilege of return;

(d). on any basis other than a bona fide sale;

(e). if any part of the sale involves, directly or indirectly, the acquisition of other products from the trade buyer or the agreement to acquire other products from the trade buyer; or

(f). if the return or exchange of a product is solely because it overstocked or slow-moving.

ii. Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product had been sold are not prohibited, but the industry member is under no obligation to accept such returns. "Ordinary and usual commercial reasons" include:

(a). the exchange of product for products that are unmarketable because of product deterioration, leaking containers or damaged labels;

(b). the correction of any discrepancy between products ordered and products delivered within a one-week period; or

(c). products on hand at the time a retail dealer closes a business or terminates business operations, in which case the return may be for cash or credit against outstanding indebtedness. This also includes a temporary seasonal event or temporary shutdown or slowdown where the industry member is able to show that the products are likely to spoil during the off season.

iii. Out-dated product or product that is within 21 days of date code expiration may be exchanged for other products. Products for which there is only a limited seasonal demand, such as holiday decanters and distinctive containers, may only be exchanged for non-distinctive like products.

D. Penalty. The commissioner of the Office of Alcohol and Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies against violators as are prescribed by law for violations of the Alcoholic Beverage Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:75.C, R.S. 26:150, R.S. 26:275.B, R.S. 26:287, R.S. 26:792, and R.S. 26:793.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), amended by the Department of Revenue, Office of Alcohol and

Tobacco Control LR 26:2631 (November 2000), amended LR 28:1484 (June 2002).

Murphy J. Painter
Commissioner

0206#013

RULE

Department of Revenue
Policy Services Division

Definition of Sale for Sales Tax Purposes
(LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4301 relative to the definition of the term "sale" for sales tax purposes.

These amendments to LAC 61:I.4301 provide guidance concerning the definition of a "sale" under R.S. 47:301(12). They also explain the appropriate sales tax treatment of tips and gratuities that restaurants, hotels, catering facilities, taverns, and other sellers of prepared food and drink include in the charges to their customers.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax
§4301. Definitions

A. - C. ...

* * *

Sale

a. R.S. 47:301(12) defines a *sale* as receiving or giving consideration in return for:

i. transferring title or ownership of tangible personal property;

ii. transferring possession of tangible personal property when the seller retains legal title to the property as security to ensure full payment of the selling price;

iii. fabricating tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work; and

iv. furnishing, preparing or serving tangible personal property that is consumed on the premises of the seller.

b. Fabricating or fabrication, for sales tax purposes, means to make, build, create, produce, or assemble components of tangible personal property, or to make tangible personal property work in a new or different manner.

c. A *sale* includes, but is not limited to, transactions where:

i. tangible personal property is transferred on a conditional basis (i.e., the customer has the option of returning the property and obtaining a refund of the sales price); and

ii. payment is made in a form other than money, as in a barter agreement, an exchange of property, or a promissory note.

d. When tangible personal property, like food, is served on the vendor's premises, the vendor is required to charge sales tax for:

i. the total price of preparing and serving the food even if these charges are billed separately; and

ii. tips and gratuities, if the vendor fails to separately list these charges on the bill, or if any portion of these amounts (except reimbursement for credit card processing fees) is retained by the vendor. Sales tax is not charged on tips and gratuities if they are separately stated and the total amounts collected are distributed to the employees that prepare and serve the food.

e. When tangible personal property, like food, is served at the customer's premises, sales tax is not charged for preparing and serving the food, provided these charges are separately stated from the sale of the food.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:1488 (June 2002).

Raymond E. Tangney
Senior Policy Consultant

0206#005

RULE

Department of Revenue
Policy Services Division

Electronic Systems for Withholding Exemption Certificates
(LAC 61:I.1505)

Under the authority of R.S. 47:112.G.(6), R.S. 47:112.N.(6), R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1505 relative to electronic systems for withholding exemption certificates.

Louisiana Revised Statute 47:112.G.(6) states that "Withholding certificates shall be in such form and contain such information as the collector may prescribe by regulation." The adoption of LAC 61:I.1505 provides a process, consistent with federal withholding regulations, by which an employer may establish a system for its employees to file withholding exemption certificates electronically.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 15. Income: Withholding Tax
§1505. Electronic Systems for Withholding Exemption Certificates

A. Electronic Form L-4 or L-4E in general. An employer may establish a system for its employees to file withholding exemption certificates electronically.

B. Requirements for Electronic Form L-4 or L-4E

1. In General. The electronic system must ensure that the information received is the information sent, and must document all occasions of employee access that result in the filing of a Form L-4 or L-4E. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the person accessing the system and filing the Form L-4 or L-4E is the employee identified in the form.

2. Same Information as Paper Form L-4 or L-4E. The electronic filing must provide the employer with exactly the same information as the paper Form L-4 or L-4E.

3. Perjury Statement and Signature Requirements. The electronic filing must be signed by the employee under penalties of perjury.

a. Perjury Statement. The perjury statement must contain the language that appears on the paper Form L-4 or L-4E. The electronic program must inform the employee that he or she must make the declaration contained in the perjury statement and that the declaration is made by signing the Form L-4 or L-4E. The instructions and the language of the perjury statement must immediately follow the employee's income tax withholding selections and immediately precede the employee's electronic signature.

b. Electronic Signature. For purposes of this provision, the electronic signature must identify the employee filing the electronic Form L-4 or L-4E and authenticate and verify the filing. For purposes of this provision, the terms "authenticate" and "verify" have the same meanings as they do under federal provisions concerning Form W-4. An electronic signature may be in any form that satisfies the foregoing requirements. The electronic signature must be the final entry in the employee's Form L-4 or L-4E submission.

4. Copies of Electronic Form L-4 or L-4E. Whenever a Form L-4 or L-4E is requested by the Department of Revenue, or required to be submitted to the Department of Revenue, the employer must supply a hardcopy of the electronic Form L-4 or L-4E and a statement that, to the best of the employer's knowledge, the electronic Form L-4 or L-4E was filed by the named employee. The hardcopy of the electronic Form L-4 or L-4E must provide exactly the same information as, but need not be a facsimile of, the paper Form L-4 or L-4E.

C. Electronic Filing by All Employees. An employer is permitted to adopt a system under which all employees file Forms L-4 and L-4E electronically, however, it is expected that an employer will make a paper option reasonably available upon request to any employee who has a serious objection to using the electronic system or whose access to, or ability to use, the system may be limited (for example, as a result of a disability). The paper option would be satisfied, for example, if the employer informs employees how they can obtain a paper Form L-4 or L-4E and where they should submit the completed paper Form L-4 or L-4E. The Louisiana Department of Revenue also expects that employers will comply with all applicable law governing the terms and conditions of employment, such as the Americans with Disabilities Act (42 U.S.C. §12112(a)).

D. Record Retention. Electronic systems for collecting and maintaining Form L-4 and L-4E data have the same status as paper Forms L-4 and L-4E. Therefore, guidance that applies to retention of paper Forms L-4 and L-4E also applies to electronic Forms L-4 and L-4E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112.G.(6), R.S. 47:112.N.(6), and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division LR 28:1488 (June 2002).

Cynthia Bridges
Secretary

0206#032

RULE

Department of Revenue
Policy Services Division

Withholding Tax Statements—Magnetic Media Label Requirements (LAC 61:I.1515)

Under the authority of R.S. 47:114 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1515 relative to the labeling of magnetic media filings of withholding tax statements.

The secretary is authorized by R.S. 47:114.F.(2) to require employers who submit 250 or more withholding tax receipts to file the forms on magnetic media. This rule requires a label to be attached to the outside of the magnetic media and specifies the information required on the label.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 15. Income: Withholding Tax
§1515. Withholding Tax Statements—Magnetic Media Label Requirements

A. Employers required to submit withholding tax receipts on magnetic media must attach a label to each tape, cartridge, or diskette. The Annual Reconciliation Form L-3 must accompany each submission.

B. Label Format. Labels must be typed and contain the following information:

1. external label for diskettes:
   a. file name;
   b. Louisiana account number;
   c. transmitter name;
   d. transmitter's complete mailing address;
   e. tax year; and
   f. diskette number and total number of diskettes for multi-volume files (example: disk 1 of 3, etc.);
2. external label for magnetic tape and tape cartridges:
   a. file name;
   b. Louisiana account number;
   c. transmitter name;
   d. transmitter's complete mailing address;
   e. tax year;
   f. recording code (ASCII or EBCDIC);
   g. record length; and
   h. block size.

C. The label must be attached to the magnetic media so as not to hinder the ability to process the media.

D. If annual reconciliation information is being filed for multiple employers, a list with each employer's name, Louisiana account number, and complete mailing address must accompany the media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:114.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 28:1489 (June 2002).

Cynthia Bridges
Secretary

0206#033

RULE

Department of Social Services
Office of Family Support

Child Care Assistance Program (CCAP)—Definitions; Conditions of Eligibility; Child Care Providers; Payment
(LAC 67:III.5102, 5103, 5107, and 5109)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 12, the Child Care Assistance Program.

Upon further consideration of the revisions proposed to §5109.B as appeared in the original Notice of Intent, the agency has decided to postpone the increase for authorized services paid to an eligible provider. In accordance with the Child Care Assistance Program State Plan, OFS will conduct a comprehensive market rate survey and determine the proper increase in these payments based on those results. A Notice of Intent will be published relative to this as soon as possible; therefore, §5109.B as originally proposed will not be made final at this time.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 12. Child Care Assistance
Chapter 51. Child Care Assistance
Subchapter B. Child Care Assistance Program

§5102. Definitions

Head of Household—an individual who may apply for child care assistance for a child that customarily resides more than half the time with him/her. The individual may be the parent of a child needing child care assistance or may be the adult household member with primary responsibility for the child's financial support and care if the child's parent is not living in the home, or is living in the home but is under age 18 and not emancipated by law, or is disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veterans Administration Disability for a disability of 70 percent or more and not able to care for himself/herself and his/her child(ren) as verified by a doctor's statement.

Household—a group of individuals who live together, consisting of the head of household, that person's legal spouse or non-legal spouse, (if the parent of a child in the household), the disabled adult parent who is unable to care for himself/herself and his/her child(ren) who are in need of care and all children under the age of 18 who are dependent on the head of household and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the minor unmarried parent's children.

Training or Employment Mandatory Participant (TEMP)—a household member who is required to be employed or attending a job training or educational program, including the head of household, the head of household's spouse, and the minor unmarried parent age 16 or older whose children need child care assistance or in situations where the MUP, under age 16, and his/her child(ren) lives with a disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), amended LR 27:1932 (November 2001), LR 28:1490 (June 2002).

§5103. Conditions of Eligibility

A. - B.2. ...

3. The child must customarily reside more than half the time with the person who is applying for child care services. A child is considered to be residing with the head of household during scheduled absences from the home/day care, lasting up to six weeks, if there are definite plans for the child to return to the home/day care facility.

4. The head of household, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent age 16 or older who is not legally emancipated, and whose children are in need of Child Care Assistance, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veteran's Administration Disability benefits for a disability of at least 70 percent must be:

a. - d. ...

5. Household income does not exceed 75 percent of the State Median Income for a household of the same size. Income is defined as the gross earnings of the head of household, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), and any minor unmarried parent who is not legally emancipated and whose children are in need of Child Care Assistance, from all sources of employment and from the following types of unearned income of all household members: Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, retirement benefits, disability benefits, child support/alimony, unemployment compensation benefits, adoption subsidy payments, and worker's compensation benefits.

6. - 7. ...

C. Cases eligible for payment may be assigned a certification period of up to 12 months.

D. Households shall report any change that affects eligibility or the amount of benefits. Changes in income shall be reported if the household's gross monthly income changes more than $100 in earned income or $25 in unearned income. Households shall report within 10 days of knowledge of the change. If the CCAP household unit is included in a Food Stamp Program Semi-Annual Reporting household, the CCAP household shall be subject to the semi-annual reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002).

§5107. Child Care Providers

A. The head of household, or parent/caretaker relative in the case of a FIND Work participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A Day Care Centers and licensed Class A Head Start Centers which provide before-and-after school care and/or summer programs), registered Family Child Day Care Homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before-and-after school care programs.

B. - 1.b. ...

c. effective March 1, 2002, furnish verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services and current verification of first aid training by the provider's renewal each year;

d. retain a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained/provided every three years thereafter; and

B.1.e. - C. ...

D. Under no circumstance can the following be considered an eligible child care provider:

1. - 3. ...

4. persons who have been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C. or who reside with or employ a person who has been convicted of such an offense, unless approved in writing by a district judge of the parish and the local district attorney;

D.5. - E. ...

1. A Family Child Day Care Home or In-Home provider shall be permanently terminated as a CCAP eligible provider if the criminal background check shows that the provider has been convicted of, or pled no contest, to a crime listed in R.S. 15:587.1.C, unless approved in writing by a district judge of the parish and the local district attorney.

2. A provider shall be terminated as a CCAP eligible provider if:

a. the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care;

b. a criminal background check response shows that an adult living at a Family Child Day Care Home provider's residence, or working in the provider's home or on his home property, has been convicted of, or pled no contest to, a crime listed in R.S.15:587.1.C, unless approved in writing by a district judge of the parish and the local district attorney;

c. a Family Child Day care Home provider fails to pass the second inspection by the fire marshal;

d. the provider fails to timely return all requested forms, fees, etc. at renewal;

e. a Class A Center's license is not renewed;

f. a school child care provider no longer meets the BESE regulations; or

g. a school child care provider is no longer Brumfield vs. Dodd approved.

3. A Family Child Day Care Home provider may be permanently terminated as a CCAP eligible provider if the provider is verified to have more than six children in his/her care.

4. A provider may be terminated as a CCAP eligible provider if the provider violates the terms of the provider agreement.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1491 (June 2002).

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale For Child Care Assistance Recipients Effective March 1, 2002C 75 Percent Of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974	100%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	95%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	85%
	above 2101	above 2596	above 3090	above 3585	above 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	100%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	95%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	85%
	above 4172	above 4265	above 4357	above 4450	above 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	100%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	95%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	85%
	Above 4636	Above 4728	Above 4821	Above 4914	Above 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0 -4743	0 -4994	0 - 5246	0 - 5498		100%
	4744 - 4921	4995 - 5093	5247 - 5266			95%
	4922 - 5099	5094 - 5192	5267 - 5285			85%
	above 5099	above 5192	above 5285			0%

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002).

Gwendolyn P. Hamilton
Secretary

0206#054

RULE

Department of Social Services
Office of Family Support

Family Independence Temporary Assistance Program (FITAP) and Kinship Care Subsidy Program (KCSP)—Application, Eligibility, and Furnishing Assistance—Substance Abuse Treatment Program
(LAC 67:III.1291 and 5391)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 2, Chapter 12, Family Independence Temporary Assistance Program (FITAP) and Subpart 13, Chapter 53, Kinship Care Subsidy Program (KCSP) by adding §§1291 and 5391.

The agency implemented the Substance Abuse Treatment Program pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature. The program was affected by a Declaration of Emergency signed September 28, 2001, and renewed January 26, 2002.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 2. Family Independence Temporary Assistance Program (FITAP)
Chapter 12. Application, Eligibility, and Furnishing Assistance
Subchapter D. Special Initiatives
§1291. Substance Abuse Treatment Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of FITAP recipients as well as certain post-FITAP recipients.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, specifically, family members who receive FITAP benefits. A needy family member who loses eligibility for FITAP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of FITAP benefits.

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

E. A pilot project will be conducted in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. OAD will assume responsibility for the screening and referral process provided below.

1. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs or abuse of or dependency on alcohol. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education and rehabilitation process. An illegal drug is a controlled substance as defined in R.S. 40:961 et seq., Controlled Dangerous Substance.

2. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs or the abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD).

a. When the screening process indicates that there is reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, the recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse

or dependency on alcohol received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs and not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. Child care and transportation costs required for participation in the substance abuse screening, testing, education, and rehabilitation program will be paid by the Office of Family Support.

4. If residential treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

5. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following.

a. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

b. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

c. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

d. A subsequent failure to cooperate will result in case closure until the recipient cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, testing, or satisfactory participation for two weeks in an education and rehabilitation program.

6. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for FITAP cash benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:1492 (June 2002).

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§5391. Substance Abuse Treatment Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of KCSP recipients as well as certain post-KCSP recipients.

B. These services meet the TANF goal to end the dependence of needy families on government benefits by providing them with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, specifically, family members who receive KCSP benefits. A needy family member who loses eligibility for KCSP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of KCSP benefits.

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

E. A pilot project will be conducted in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. OAD will assume responsibility for the screening and referral process provided below.

1. Compliance. All recipients of KCSP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education, and rehabilitation process.

2. Screening and Referral Process. All applicants for and recipients of KCSP age 18 and over will be screened for the use of or dependency on illegal drugs or the abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD). An illegal drug is a controlled substance as defined in R.S. 40:961 et seq., Controlled Dangerous Substance.

a. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, the recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse

of or dependency on alcohol, received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs or not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. If inpatient treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

4. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the recipient until he/she cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, substance abuse testing, or satisfactory participation for two weeks in an education and rehabilitation program.

5. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for KCSP benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:1493 (June 2002).

Gwendolyn P. Hamilton
Secretary

0206#055

RULE

Department of Treasury
Deferred Compensation Commission

Public Employees Deferred Compensation Plan
(LAC 32:VII.Chapters 1-19)

Under the authority of R.S. 42:1301-1308, and §457 of the *Internal Revenue Code* of 1986 as amended, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of the Treasury, Deferred Compensation Commission has amended the Public Employees Deferred Compensation Plan.

Title 32
GROUP BENEFITS
Part VII. Public Employee Deferred Compensation
Chapter 1. Administration
§101. Definitions

Administrator or *Plan Administrator*C the person, persons or entity appointed by the Louisiana Deferred Compensation Commission to administer the Plan pursuant to LAC 71:VII.103.A, if any.

*Age 50 or Older Catch-up*C the deferred amount described pursuant to LAC 71:VII.303.C.

*Beneficiary*C the person, persons or entities designated by a participant pursuant to LAC 71:VII.301.A.5.

* * *

*Compensation*C all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees, and, to the extent permitted by Treasury regulations or other similar guidance, accrued vacation and sick leave pay.

* * *

*Includible Compensation*C (for purposes of the limitation set forth in LAC 71:VII.303.A), compensation for services performed for the employer as defined in IRC §457(e)(5).

* * *

*IRC*C the *Internal Revenue Code of 1986*, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to include Treasury regulations thereunder and Internal Revenue Service guidance thereunder and to corresponding provisions of any future United States internal revenue law.

* * *

*Limited Catch-Up*C the deferred amount described in LAC 71:VII.305.A.

*Normal Retirement Age*C

1. the age designated by a participant, which age shall be between:

a. the earliest date on which such participant is entitled to retire under the public retirement system of which that participant is a member without actuarial reduction in his or her benefit; and

b. age 70 1/2, provided, however, that if a participant continues in the employ of the employer beyond 70 1/2, *normal retirement age* means the age at which the participant severs employment;

2. if the participant is not a member of a defined benefit plan in any public retirement system, the participant's *normal retirement age* may not be earlier than age 50, and may not be later than age 70 1/2;

3. if a participant continues to be employed by employer after attaining age 70 1/2, not having previously elected an alternate *normal retirement age*, the participant's alternate *normal retirement age* shall not be later than the mandatory retirement age, if any, established by the employer, or the age at which the participant actually severs employment with the employer if the employer has no mandatory retirement age.

*Participant*Can individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization. *Participant* also includes an employee or independent contractor who has severance from employment but has not received a complete distribution of his or her interest in deferred compensation under the Plan.

* * *

*Plan*Cthe State of Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

* * *

Qualified Domestic Relations Order or *QDRO*Cas specified in LAC 71:VII.1503.B.

*Severance from Employment or Severs Employment*C

1. *severance* of the participant's employment with the employer. A participant shall be deemed to have severed employment with the employer for purposes of this Plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the participant by the employer. In the case of a participant who is an independent contractor, s*everance from employment* shall be deemed to have occurred when:

a. the participant's contract for services has completely expired and terminated;

b there is no foreseeable possibility that the employer shall renew the contract or enter into a new contract for services to be performed by the participant; and

c. it is not anticipated that the participant shall become an employee of the employer.

2. with respect to an employee, the permanent *severance* of the employment relationship with the employer on account of such employee's:

a. retirement;

b. discharge by the employer;

c. resignation;

d. layoff; or

e. in the case of an employee who is an appointed or elected officer, the earlier of:

i. the taking of the oath of office of such officer's successor; or

ii. the cessation of the receipt of compensation.

3. If an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a *severance from employment*.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998), amended LR 28:1494 (June 2002).

§105. Duties of Commission

A. - A.7. …

8. appointing an emergency committee comprised of at least three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee.

8.a. - b.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998), amended LR 28:1495 (June 2002).

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

A. The following rules apply to compensation deferred under the Plan.

1. A participant may not defer any compensation unless a deferral authorization providing for such deferral has been completed by the participant and accepted by the commission prior to the beginning of such payroll period. With respect to a new employee, compensation will be deferred in the payroll period during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee. Any prior employee who was a participant in the Plan and is rehired by employer may resume participation in the Plan by entering into a participation agreement. Unless distributions from the Plan have begun due to that prior severance from employment, however, any deferred commencement date elected by such employee with respect to those prior Plan assets shall be null and void.

2. - 3. …

4. Notwithstanding LAC 71:VII.301.A.1, to the extent permitted by applicable law, the administrator may establish procedures whereby each employee becomes a participant in the Plan and, as a term or condition of employment, elects to participate in the Plan and consents to the deferral by the employer of a specified amount for any payroll period for which a participation agreement is not in effect. In the event such procedures are in place, a participant may elect to defer a different amount of compensation per payroll period, including zero, by entering into a participation agreement.

5. Beneficiary. Each participant shall initially designate in the participation agreement a beneficiary or beneficiaries to receive any amounts, which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing with the commission a written notice on a form approved by the commission. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1495 (June 2002).

§303. Deferral Limitations

A. Except as provided in LAC 71:VII.305.A.1-2.a-b, the maximum that may be deferred under the Plan for any taxable year of a participant shall not exceed the lesser of:

1. the applicable dollar amount in effect for the year, as adjusted for the calendar year in accordance with IRC §457(e)(15); or

2. 100 percent of the participant's includible compensation, each reduced by any amount specified in Subsection B of this §303 that taxable year.

B. The deferral limitation shall be reduced by any amount excludable from the participant's gross income attributable to elective deferrals to another eligible deferred compensation plan described in IRC §457(b).

C. A participant who attains age 50 or older by the end of a Plan year and who does not utilize the limited catch-up for such Plan year may make a deferral in excess of the limitation specified in Subsection A.1-2 of this §303, up to the amount specified in and subject to any other requirements under IRC §414(v).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1496 (June 2002).

§305. Limited Catch-up

A. For one or more of the participant's last three taxable years ending before the taxable year in which normal retirement age under the Plan is attained, the maximum deferral shall be the lesser of:

1. twice the otherwise applicable dollar limit under IRC §457(e)(15) for that taxable year; reduced by any applicable amount specified in LAC 71:VII.303.B; or

2. the sum of:

a. the limitations established for purposes of §303.A of these rules, for such taxable year (determined without regard to this §305); also

b. so much of the limitation established under §303.A of the Plan or established in accordance with IRC §457(b)(2) and the regulations thereunder under an eligible deferred compensation plan sponsored by an entity other than the employer and located in the same state for prior taxable years (beginning after December 31, 1978 and during all or any portion of which the participant was eligible to participate in this Plan) and has not theretofore been used under §§303.A or 305.A hereof or under such other plan (taking into account the limitations under and participation in other eligible deferred compensation plans in accordance with the *Internal Revenue Code*); provided, however, that this §305 shall not apply with respect to any participant who has previously utilized, in whole or in part, the limited catch-up under this Plan or under any other eligible deferred compensation plan (within the meaning of IRC §457 and the regulations thereof).

B. If a participant is not a member of a defined benefit plan in any public retirement system, normal retirement age may not be earlier than age 50, and may not be later than age 70 1/2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998), amended LR 28:1496 (June 2002).

§307. Participant Modification of Deferral

A. The participant shall be entitled to modify the amount (or percentage) of deferred compensation once each enrollment period with respect to compensation payable no earlier than the payroll period after such modification is entered into by the participant and accepted by the commission. Notwithstanding the above, if a negative election procedure has been implemented pursuant to §301.A.4 of this Chapter, a participant may enter into or modify a participation agreement at any time to provide for no deferral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002).

§309. Employer Modification of Deferral

A. The commission shall have the right to modify or disallow the periodic deferral of compensation elected by the participant:

1. in excess of the limitations stated in LAC 71:VII.303.A and 305.A;

2. - 6. …

B. And to the extent permitted by and in accordance with the *Internal Revenue Code*, the employer or administrator may distribute the amount of a participant's deferral in excess of the distribution limitations stated in LAC 71:VII.301, 303, 305, 307 and 309 notwithstanding the limitations of LAC 71:VII.701.A; provided, however, that the employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this LAC 71:VII.309.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002).

§311. Revocation

A. A participant may, at any time, revoke his or her deferral authorization by notifying the commission, in writing, on forms acceptable to the commission. Upon the acceptance of such notification, deferrals under the plan shall cease no later than the commencement of the first pay period beginning at least 30 days after acceptance; provided, however, that the commission shall not be responsible for any delay which occurs despite its good faith efforts. In no event shall the revocation of a participant's deferral authorization permit a distribution of deferred compensation, except as provided in §701.A of these rules, and shall be subject to the terms and provisions of the affected investment.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002).

§313. Re-Enrollment

A. A participant who revokes the participation agreement as set forth in §311.A above may execute a new participation

agreement to defer compensation payable no earlier than the payroll period after such new participation agreement is executed by the participant and accepted by the commission.

B. A former participant who is rehired after retirement may rejoin the Plan as an active participant unless ineligible to participate under other Plan provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998), amended LR 28:1496 (June 2002).

Chapter 5. Investments

§505. Participant Accounts

A. The commission shall maintain or cause to be maintained one or more individual deferred compensation ledger account or similar individual account(s) for each participant. Such accounts shall include separate accounts, as necessary, for IRC §457 Deferred Compensation, IRC §457 rollovers, IRA rollovers, other qualified plan and IRC §403(b) plan rollovers, and such other accounts as may be appropriate from time to time for plan administration. At regular intervals established by the commission, each participant's account shall be:

A.1. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002).

Chapter 7. Distributions

§701. Conditions for Distributions

A. Payments from the participants §457 Deferred Compensation Plan account to the participant or beneficiary shall not be made, or made available, earlier than:

1. the participant's severance from employment pursuant to LAC 71:VII.703.A or death; or

2. the participant's account meets all of the requirements for an in-service *de minimus* distribution pursuant to LAC 71:VII.705.A and B; or

3. the participant incurs an approved unforeseeable emergency pursuant to LAC 71:VII.709.A; or

4. the participant transfers an amount to a defined benefit governmental plan pursuant to LAC 71:VII.705.C; or

5. April 1 of the calendar year following the calendar year in which the participant attains age 70 1/2.

B. Payments from a participant's rollover account(s) may be made at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002).

§703. Severance from Employment

A. Distributions to a participant shall commence following the date in which the participant severs employment, in a form and manner determined pursuant to LAC 71:VII.713.A, 715.A and 717.A.

B. Upon notice to participants, and subject to LAC 71:VII.701.A., 703.B and 721.A, the administrator may establish procedures under which a participant whose total §457 deferred compensation account balance is less than an amount specified by the administrator (not in excess of $5,000 or other applicable limit under the *Internal Revenue Code*) will receive a lump sum distribution on the first regular distribution commencement date (as the employer or administrator may establish from time to time) following the participant's severance fom employment, notwithstanding any election made by the participant pursuant to LAC 71:VII.721.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002).

§705. In-Service Distributions

A. Voluntary In-Service Distribution of *De Minimis* Accounts. A participant who is an active employee shall receive a distribution of the total amount payable to the participant under the Plan if the following requirements are met:

1. the portion of the total amount payable to the participant under the Plan does not exceed an amount specified from time to time by the commission (not in excess of $5,000 or other applicable limit under the *Internal Revenue Code*);

2. the participant has not previously received an in-service distribution of the total amount payable to the participant under the Plan;

3. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and

4. the participant elects to receive the distribution.

B. Involuntary In-Service Distribution of *De Minimis* Accounts. Upon notice to participants, and subject to LAC 71:VII.721.A, the commission may establish procedures under which the Plan shall distribute the total amount payable under the Plan to a participant who is an active employee if the following requirements are met:

1. the portion of the total amount payable to the participant under the Plan does not exceed an amount specified from time to time by the commission (not in excess of $5,000 or other applicable limit under the *Internal Revenue Code*);

2. the participant has not previously received an in-service distribution of the total amount payable to the participant under the Plan; and

3. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the in-service distribution.

C. Purchase of Defined Benefit Plan Service Credit

1. If a participant is also a participant in a defined benefit governmental plan (as defined in IRC §414(d)), such participant may request the commission to transfer amounts from his or her account for:

a. the purchase of permissive service credit (as defined in IRC §415(n)(3)(A)) under such plan; or

b. a repayment to which IRC §415 does not apply by reason of IRC §415(k)(3).

2. Such transfer requests shall be granted in the sole discretion of the commission, and if granted, shall be made directly to the defined benefit governmental plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002).

§707. Deferred Commencement Date at Separation from Service

A. Following the date in which the participant severs employment, the participant may select a deferred commencement date for all or a portion of the participant's account balance. If the participant elects to defer the entire account balance, the future commencement date may not be later than April 1 of the calendar year following the calendar year in which the participant attains age 70 1/2.

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the conclusion of the 12-month period beginning on the date on which all such participant's contracts to provide services to or on behalf of the employer expire; and

2. in no event shall a distribution payable to such participant pursuant to §703.A of these rules commence if, prior to the conclusion of the 12-month period, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1498 (June 2002).

§709. Unforeseeable Emergency

A. If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457.

2. In no event, however, shall an unforeseeable emergency distribution be made if such hardship may be relieved:

a. through reimbursement or compensation by insurance or otherwise;

b. by liquidation of the participant's assets, to the extent the liquidation of the participant's assets would not itself cause a severe financial hardship; or

c. by cessation of deferrals under this Plan.

3. The amount of any financial hardship benefit shall not exceed the lesser of:

a. the amount reasonably necessary, as determined by the commission, to satisfy the hardship; or

b. the amount of the participant's account.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of six months from the date of payment (or such other period as mandated in Treasury regulations).

5. Currently, the following events are not considered unforeseeable emergencies under the Plan:

a. enrollment of a child in college;

b. purchase of a house;

c. purchase or repair of an automobile;

d. repayment of loans;

e. payment of income taxes, back taxes, or fines associated with back taxes;

f. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;

g. marital separation or divorce; or

h. bankruptcy (except when bankruptcy resulted directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002).

§711. Death Benefits

A. Upon the participant's death, the participant's remaining account balance(s) will be distributed to the beneficiary commencing after the administrator receives satisfactory proof of the participant's death (or on the first regular distribution commencement date thereafter as the employer or administrator may establish from time to time), unless prior to such date the beneficiary elects a deferred commencement date, in a form and manner determined pursuant to LAC 71:VII.713.A and 717.A.

B. If there are two or more beneficiaries, the provisions of this §711 and of §717.A of these rules shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

C. If the beneficiary dies after beginning to receive benefits but before the entire account balance has been distributed, the remaining account balance shall be paid to the estate of the beneficiary in a lump sum.

D. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002).

§713. Payment Options

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with §715.A of this Chapter 7. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;

2. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) which extends no longer than the life expectancy of the participant or beneficiary as permitted under the requirements of IRC §401(a)(9);

3. installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) automatically adjusted for cost-of-living increases based on the rise in the *Consumer Price Index for All Urban Consumers* (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase shall be made in periodic payment checks beginning the following January;

4. partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in Subsection A of this §713;

5. annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the participant or for the

lifetime of the participant and beneficiary in compliance with IRC §401(a)(9);

6. such other forms of installment payments as may be approved by the commission consistent with the requirements of IRC §401(a)(9).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002).

§715. Default Distribution Option

A. In the absence of an effective election by the participant, beneficiary or other payee, as applicable, as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of IRC §§ 401(a)(9) and 457(d), and proposed or final Treasury regulations thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002).

§717. Limitations on Distribution Options

A. No distribution option may be selected by a participant or beneficiary under this §717 unless it satisfies the requirements of IRC §§401(a)(9) and 457(d) and proposed or final Treasury regulations thereunder.

B. If installment payments are designated as the method of distribution, the minimum distribution shall be no less than $100 per check and the payments made annually must be no less than $600.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002).

§719. Taxation of Distributions

A. To the extent required by law, income and other taxes shall be withheld from each benefit payment, and payments shall be reported to the appropriate governmental agency or agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002).

§721. Transfers and Rollovers

A. Transfers to the Plan. If the participant was formerly a participant in an eligible deferred compensation plan maintained by another employer, and if such plan permits the direct transfer of the participant's interest therein to the Plan, then the Plan shall accept assets representing the value of such interest; provided, however, that the participant has separated from service with that former employer and become an employee of employer. Such amounts shall be held, accounted for, administered and otherwise treated in the same manner as compensation deferred by the participant except that such amounts shall not be considered compensation deferred under the Plan in the taxable year of such transfer in determining the maximum deferral under LAC 71:VII.303.A.1-2. The commission may require such documentation from the predecessor plan, as it deems necessary to confirm that such plan is an eligible deferred compensation plan within the meaning of IRC §457, and to assure that transfers are provided under such plan. The commission may refuse to accept a transfer in the form of assets other than cash, unless the commission agrees to hold such other assets under the Plan.

B. In-Service Transfers from the Plan. If a participant separates from service prior to his or her required beginning date, and becomes a participant in an eligible deferred compensation plan of another governmental employer, and provided that payments under this Plan have not begun, such participant may request a transfer of his or her account to the eligible deferred compensation plan of the other employer. Requests for such transfers must be made in writing to the commission and shall be granted in the sole discretion of the commission. If an amount is to be transferred pursuant to this provision, the commission shall transfer such amount directly to the eligible deferred compensation plan of the other employer. Amounts transferred to another eligible deferred compensation plan shall be treated as distributed from this Plan and this Plan shall have no further responsibility to the participant or any beneficiary with respect to the amount transferred.

C. Rollovers to the Plan

1. The Plan shall accept a rollover contribution on behalf of a Participant or Employee who may become a participant. A *rollover contribution*, for purposes of this Subsection, is an eligible rollover contribution (as defined in IRC §402(f)(2)) from any:

a. plan qualified under IRC §401(a) or 403(a);

b. tax-sheltered annuity or custodial account described in IRC §403(b);

c. individual retirement account or annuity described in IRC §408;

d. eligible deferred compensation plan described in IRC §457(b).

2. Prior to accepting any rollover contribution, the commission may require that the participant or employee establish that the amount to be rolled over to the Plan is a valid rollover within the meaning of the *Internal Revenue Code*. A participant's rollover contribution shall be held in a separate rollover account or accounts, as the commission shall determine from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002).

§723. Eligible Rollover Distributions

A. General. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this §723, a distributee may elect, at the time and in the manner prescribed by the employer, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

B. Definitions. For purposes of this §723, the following definitions shall apply:

Eligible Rollover Distribution—an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life

expectancies) of the distributee and the distributee's designated beneficiary, or for:

a. a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under IRC §401(a)(9);

c. any distribution that is a deemed distribution under the provisions of IRC §72(p);

d. the portion of any distribution that is not includable in gross income; and any hardship distribution or distribution on account of unforeseeable emergency.

Eligible Retirement Plan—an eligible retirement plan is an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a) that accepts the distributee's eligible rollover distribution, a qualified trust described in IRC §401(a) (including §401(k)) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in IRC §403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in IRC §457(b) that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Distributee—includes an employee or former employee, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in IRC §414(p), are distributees with regard to the interest of the spouse or former spouse.

Direct Rollover—a payment by the Plan to the eligible retirement plan specified by the distributee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1499 (June 2002).

§725. Elections

A. Elections under this Chapter 7 shall be made in such form and manner as the commission may specify from time to time. To the extent permitted by and in accordance with the *Internal Revenue Code*, any irrevocable elections as to the form or timing of distributions executed prior to January 1, 2002, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998), amended LR 28:1500 (June 2002).

§727. Practices and Procedures

A. The commission may adopt practices and procedures applicable to existing and new distribution elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002).

Chapter 9. Leave of Absence

§901. Paid and Unpaid Leave of Absence

A. Paid Leave of Absence. If a participant is on an approved leave of absence from the employer with compensation, or on approved leave of absence without compensation that does not constitute a severance from employment within the meaning of IRC §402(d)(4)(A)(iii) which under the employer's current practices is generally a leave of absence without compensation for a period of one year or less, said participant's participation in the Plan may continue.

B. Unpaid Leave of Absence. If a participant is on an approved leave of absence without compensation and such leave of absence continues to such an extent that it becomes a severance from employment within the meaning of IRC §402(e)(4)(A)(iii), said participant shall have severed employment with the employer for purposes of this Plan. Upon termination of leave without pay and return to active status, the participant may execute a new participation agreement to be effective when permitted by LAC 71:VII.313.B of the Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:1500 (June 2002).

Chapter 11. Participant Loans

§1101. Authorization of Loans

A. The commission may direct the administrator to make loans to participants on or after the effective date of Treasury regulations or other guidance under IRC §457 and to the extent allowable under and in accordance with IRC §457. Such loans shall be made on the application of the participant in a form approved by the administrator and on such terms and conditions as are set forth in this Chapter 11, provided, however, that the administrator may adopt rules or procedures specifying different loan terms and conditions, if necessary or desirable, to comply with or conform to such Treasury regulations or other guidance and other applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:1500 (June 2002).

§1103. Maximum Loan Amount

A. In no event shall any loan made to a participant be in an amount which shall cause the outstanding aggregate balance of all loans made to such participant under this Plan exceed the lesser of:

1. $50,000, reduced by the excess (if any) of:

a. the highest outstanding balance of loans from the Plan to the participant during the one-year period ending on the day before the date on which the loan is made;

b. over the outstanding balance of loans from the Plan to the participant or the beneficiary on the date on which the loan is made; or

2. one-half of the participant's total amount deferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:1500 (June 2002).

§1105. Repayment of Loan

A. Each loan shall mature and be payable, in full and with interest, within five years from the date such loan is made, unless:

1. the loan is used to acquire any dwelling unit that within a reasonable time (determined at the time the loan is

made) will be used as the principal residence of the participant; or

2. loan repayments are, at the employer's election, suspended as permitted by IRC §414(u)(4) (with respect to qualified military service).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002).

§1107. Loan Terms and Conditions

A. In addition to such rules as the administrator may adopt, which rules are hereby incorporated into this Plan by reference, all loans to participants shall comply with the following terms and conditions.

1. Loans shall be available to all participants on a reasonably equivalent basis.

2. Loans shall bear interest at a reasonable rate to be fixed by the administrator based on interest rates currently being charged by commercial lenders for similar loans. The administrator shall not discriminate among participants in the matter of interest rates, but loans granted at different times may bear different interest rates based on prevailing rates at the time.

3. Each loan shall be made against collateral, including the assignment of no more than one-half of the present value of the participant's total amount deferred as security for the aggregate amount of all loans made to such participant, supported by the participant's collateral promissory note for the amount of the loan, including interest.

4. Loan repayments must be made by payroll deduction. In all events, payments of principal and interest must be made at least quarterly and such payments shall be sufficient to amortize the principal and interest payable pursuant to the loan on a substantially level basis.

5. A loan to a participant or beneficiary shall be considered a directed investment option for such participant's account balance.

6. No distribution shall be made to any participant, or to a beneficiary of any such participant, unless and until all unpaid loans, including accrued interest thereon, have been satisfied. If a participant terminates employment with the employer for any reason, the outstanding balance of all loans made to him shall become fully payable and, if not paid within 30 days, any unpaid balance shall be deducted from any benefit payable to the participant or his beneficiary. In the event of default in repayment of a loan or the bankruptcy of a participant who has received a loan, the note will become immediately due and payable, foreclosure on the note and attachment of security will occur, the amount of the outstanding balance of the loan will be treated as a distribution to the participant, and the defaulting participant's accumulated deferrals shall be reduced by the amount of the outstanding balance of the loan (or so much thereof as may be treated as a distribution without violating the requirements of the *Internal Revenue Code*).

7. The loan program under the Plan shall be administered by the administrator in a uniform and nondiscriminatory manner. The administrator shall establish procedures for loans, including procedures for applying for loans, guidelines governing the basis on which loans shall be approved, procedures for determining the appropriate interest rate, the types of collateral which shall be accepted as security, any limitations on the types and amount of loans offered, loan fees and the events which shall constitute default and actions to be taken to collect loans in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1501 (June 2002).

Chapter 13. Plan Amendment or Termination

§1301. Termination

A. The commission may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits, which at the time of such termination shall have accrued for participants or beneficiaries. Such accrued benefits shall include any compensation deferred before the time of the termination and income thereon accrued to the date of the termination.

B. Upon such termination, each participant in the Plan shall be deemed to have revoked his agreement to defer future compensation as provided in LAC 71:VII.311.A as of the date of such termination. Each participant's full compensation on a non-deferred basis shall be restored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:1501 (June 2002).

§1303. Amendments to the Plan

A. The commission may also amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for participants or beneficiaries, to the extent of compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with LAC 71:VII.505.A and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the trustee unless executed by the trustee.

B. Copies of Amendments. The administrator shall provide a copy of any plan amendment to any trustee or custodian and to the issuers of any investment options.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998), amended LR 28:1501 (June 2002).

§1305. Disclaimer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998), repealed LR 28:1501 (June 2002).

Editor's Note: Disclaimer text is included in §1505 of these rules.

Chapter 15. Taxes, Nonassignability and Disclaimer

§1501. Tax Treatment of Amounts Deferred

A. It is intended that pursuant to IRC §457, the amount of deferred compensation shall not be considered current compensation for purposes of federal and state income taxation. This rule shall also apply to state income taxation unless applicable state laws provide otherwise. Such amounts shall, however, be included as compensation to the

extent required under the Federal Insurance Contributions Act (FICA). Payments under this Plan shall supplement retirement and death benefits payable under the employer's group insurance and retirement plans, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998), amended LR 28:1501 (June 2002).

§1503. Nonassignability

A. It is agreed that neither the participant, nor any beneficiary, nor any other designee shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the commission shall have no further liability hereunder, nor shall any unpaid amounts be subject to attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, or insolvency, except to the extent otherwise required by law.

B. Qualified Domestic Relations Orders approved by the commission shall be administered as follows.

1.a. To the extent required under a final judgment, decree, or order made pursuant to a state domestic relations law, herein referred to as a Qualified Domestic Relations Order (QDRO) which is duly filed upon the commission, any portion of a participant's account may be paid or set aside for payment to an alternate payee.

NOTE: For purposes for this §1503, an alternate payee is a person or persons designated by a domestic relations order who may be a spouse, former spouse, or a child of the participant.

b. Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to the alternate payee, and such person(s) shall be entitled to make investment selections with respect thereto in the same manner as the participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the alternate payee making the investment selection.

2. Any amounts so set aside for an alternate payee shall be paid out immediately in a lump sum, unless the QDRO directs a different form of payment or later payment date. Nothing in this §1503.B shall be construed to authorize any amounts to be distributed under the employer's plan at a time or in a form that is not permitted under IRC §457. Any payment made to a person other than the participant pursuant to this §1503.B shall be reduced by required income tax withholding. Such withholding and income tax reporting shall be done under the terms of the *Internal Revenue Code* as amended from time to time.

3. The commission's liability to pay benefits to a participant shall be reduced to the extent that amounts have been paid or set aside for payment to an alternate payee pursuant to this §1503.B. No amount shall be paid or set aside unless the commission, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the participant with respect to these amounts. The participant shall be deemed to have released the commission from any claim with respect to such amounts in any case in which the commission has been notified of or otherwise joined in a proceeding relating to a QDRO, which sets aside a portion of the participant's account for an alternate payee, and the participant fails to obtain an order of the court in the proceeding relieving the employer from the obligation to comply with the QDRO.

4. The commission shall not be obligated to comply with any judgment, decree or order which attempts to require the Plan to violate any plan provision or any provision of §457 of the *Internal Revenue Code*. Neither the commission nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a participant's benefits under the plan unless the full expense of such legal action is borne by the participant. In the event that the participant's action (or inaction) nonetheless causes the commission, its agents or assigns to incur such expense, the amount of the expense may be charged against the participant's account and thereby reduce the commission's obligation to pay benefits to the participant. In the course of any proceeding relating to divorce, separation, or child support, the commission, its agents and assigns shall be authorized to disclose information relating to the participant's individual account to the participant's spouse, former spouse or child (including the legal representatives of the alternate payee), or to a court.

5. Any Conforming Equitable Distribution Order (CEDO), filed prior to January 2002 may be amended to comply with this §1503.B, pursuant to a Qualified Domestic Relations Orders (QDRO), which is duly filed upon the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1502 (June 2002).

§1505. Disclaimer

A. The commission makes no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the Plan, or any other purpose) of any investment option in which amounts deferred under the Plan are actually invested; or

2. the tax consequences of the Plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1502 (June 2002).

Chapter 17. Employer Participation

§1701. Additional Compensation Deferred

A. Notwithstanding any other provisions of this Plan, the employer may add to the amounts payable to any participant under the Plan additional deferred compensation for services to be rendered by the participant to the employer during a payroll period, provided:

1. the participant has elected to have such additional compensation deferred, invested, and distributed pursuant to this Plan, prior to the payroll period in which the compensation is earned; and

2. such additional compensation deferred, when added to all other compensation deferred under the Plan, does not

exceed the maximum deferral permitted by LAC 71:VII.303.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1972 (October 1998), amended LR 28:1502 (June 2002).

Chapter 19. Applicable Terms

§1901. Interpretation

A. Governing Law. This Plan shall be construed under the laws of the state of Louisiana.

B. Section 457. This Plan is intended to be an eligible deferred compensation plan within the meaning of §457 of the *Internal Revenue Code*, and shall be interpreted so as to be consistent with such Section and all regulations promulgated thereunder.

C. Employment Rights. Nothing contained in this Plan shall be deemed to constitute an employment agreement between any participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the employer.

D. Days and Dates. Whenever time is expressed in terms of a number of days, the days shall be consecutive calendar days, including weekends and holidays, provided, however, that if the last day of a period occurs on a Saturday, Sunday or other holiday recognized by the employer, the last day of the period shall be deemed to be the following business day.

E. Word Usage. Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.

F. Headings. The headings of articles, sections or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.

G. Entire Agreement. This Plan document shall constitute the total agreement or contract between the commission and the participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the participant. This Plan and any properly adopted amendment, shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors, and assigns and on all designated beneficiaries of the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1503 (June 2002).

Emery Bares
Chairman

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