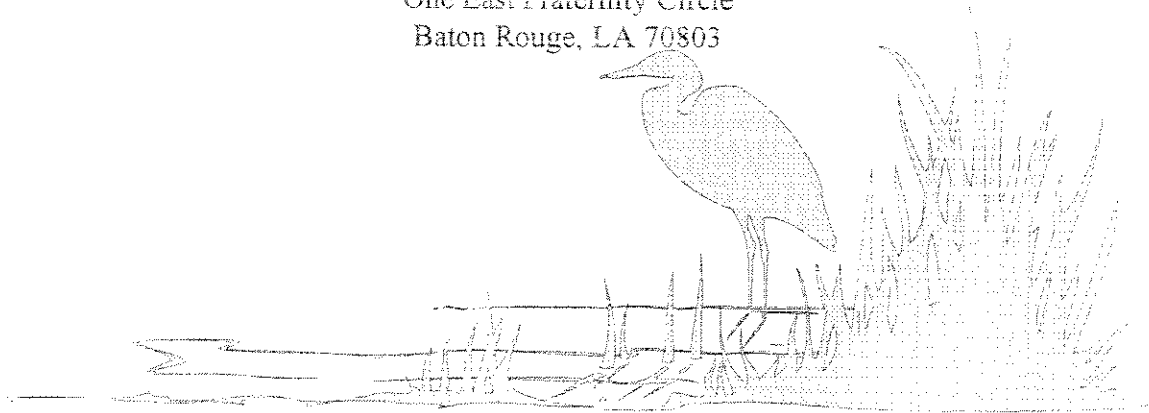


Louisiana Oil Spill Regulations and Programs
for Platforms and Pipelines Located in State Waters

Center for Energy Studies
Louisiana State University
One East Fraternity Circle
Baton Rouge, LA 70803



Contract Number: 14-35-0001-30795

Prepared for:
U.S. Department of the Interior
Minerals Management Service

Louisiana Oil Spill Regulations and Programs for Platforms and Pipelines Located in State Waters

Allan G. Pulsipher, Richard E. Pincomb, Timothy M. Hebert,
and Robert H. Baumann

Center for Energy Studies
Louisiana State University
One East Fraternity Circle
Baton Rouge, LA 70803

April, 1996

Contract Number: 14-35-0001-30795

Prepared for: U.S. Department of the Interior
Minerals Management Service

Disclaimer

“This manuscript has been reviewed by the Minerals Management Service and approved for publication. The opinions, findings, conclusions, or recommendations expressed in this report are those of the authors, and do not necessarily reflect the views or policies of the MMS. Mention of trade names or commercial products does not constitute endorsement or recommendation for use. This report has been technically reviewed according to contractual specifications; however, it is exempt from further review by the MMS Technical Communications Services Unit.”

ACRONYMS

ACP	Area Contingency Plan
DEQ	Department of Environmental Quality
DNR	Department of Natural Resources
DWF	Department of Wildlife and Fisheries
EPA	Environmental Protection Agency
LAC	Louisiana Administrative Code
La. R.S.	Louisiana Revised Statutes
LOSCO	Louisiana Oil Spill Coordinator's Office
LOSPRA	Louisiana Oil Spill Prevention and Response Act
LWDPS	Louisiana Water Discharge Permit System
MMS	Minerals Management Service
NCP	National Contingency Plan
NMFS	National Marine Fisheries Service
NOAA	National Oceanic Atmospheric Administration
NOW	Nonhazardous Oilfield Waste
OPA 90	Oil Pollution Act of 1990
OSC	On-Scene Coordinator
OSHA	Occupational Safety and Health Administration
PREP	Pollution Response Exercise Program
USCG	United States Coast Guard
USDOT-RSPA	United States Department of Transportation- Research and Special Projects Administration
USFWS	United States Fish and Wildlife Service

Appendix

1) La. R.S. 30:2451, et seq.	A-1
2) Section 4202 (a) (5) of OPA 90	A-45
3) La. R.S. 30:2475	A-47
4) La. R.S. 30:2470	A-49
5) LAC 33:IX.901-907	A-51
6) LAC 33:V.10115	A-58
7) LAC 33:IX.708	A-60
8) LAC 43:I.719	A-72
9) LAC 43:XIX.129	A-75
10) LAC 43:V.101	A-126
11) LAC 43:XIX.103	A-130
12) LAC 43:XIX.105	A-133
13) LAC 43:XIX.907	A-135
14) LAC 43:I.723.A.3	A-138
15) LAC 33:IX.301-317	A-141
16) LAC 43:XI.101-129	A-168
17) Statewide Order No.29-B	A-180
18) La. R.S. 30:2456.E	A-250
19) La. R.S. 30:2477	A-252
20) LAC 43:XI.507-511	A-254
21) LAC 43:XI.513	A-258
22) LAC 43:XI.515	A-260
23) LAC 43:XI.517	A-262
24) LAC 33:IX.505	A-264
25) La. R.S. 30:2025 (B) (1)	A-266
26) La. R.S. 30:2025 (E) (1)	A-269
27) La. R.S. 30:2025 (E) (2)	A-272
28) La. R.S. 30:2025 (F) (1)	A-274
29) La. R.S. 30:2025 (F) (2) (a)	A-276
30) La. R.S. 30:2474	A-278
31) La. R.S. 30:2480	A-280
32) LAC 33:V.10117.A	A-282
33) Memorandum of Understanding	A-284
34) Natural Resource Damage Assessment	A-290

Introduction

The natural resources of Louisiana are plentiful and valuable, but they are susceptible to an environmental catastrophe because of the magnitude of the development of the petroleum industry along the coast. The Oil Spill Prevention and Response Act was passed on April 23, 1991, in an attempt to protect Louisiana from such a catastrophe. The Act covers spill prevention and response and establishes liability for responsible parties. It establishes the Louisiana Oil Spill Coordinator's Office as a central clearinghouse for all oil spill matters in Louisiana.

The following report describes the agencies responsible for implementing the Act regulating platforms and pipelines located in waters under the jurisdiction of the State of Louisiana. The headings and subheadings in the report correspond to the deliverables outlined in the proposal submitted by the Center for Energy Studies to the Minerals Management Service.

A new Governor, Murphy J. (Mike) Foster, was inaugurated on January 8, 1996. His administration is currently being organized, and this change means a set of new government appointments. The appointment process has been relatively quick and smooth, but it is still not complete.

I. Louisiana Laws and Regulations Relevant to Oil Spill Prevention and Response.

A. Description of all state laws governing oil spill prevention and response that apply to all offshore platforms and pipelines [Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451, et seq.)¹].

1. **Administration.** The Act created the Louisiana Oil Spill Coordinator's Office (LOSCO) within the Office of the Governor. The intent of the Act is to provide a single, neutral, state agency to which all questions regarding oil spill prevention and response are directed and from which all decisions on this matter emanate.

The Oil Spill Coordinator is appointed by the Governor and reports directly to him. The Coordinator, under the direction and control of the Governor, is responsible, in consultation with the other appropriate state agencies, for developing a comprehensive statewide oil spill prevention and response program that is consistent with the federal Oil Pollution Act of 1990 (P.L. 101-380). The Coordinator is required by law to coordinate the efforts of all state agencies as they relate to oil spill prevention and response. The Coordinator is also responsible for creating and updating a statewide Oil Spill Contingency Plan.

2. **Spill Reporting.** For the purposes of this Act only, the hotline number for reporting spill information is the National Response Center in Washington D.C. (1-800-424-8802). When a spill is reported to the hotline, the Coordinator and the state trustee agencies-- Department of Environmental Quality (DEQ), Department of Natural Resources (DNR), Department of Wildlife and Fisheries (DWF)--are notified via the state police communications system.

If a spill has national significance, the Coordinator will work with the Federal On-Scene Coordinator to implement the National Contingency Plan. If the spill has no real national impact, the Louisiana Oil Spill Coordinator initiates the state Oil Spill Contingency Plan.

There is a minor inconsistency in the regulations for reporting unauthorized discharges of oil. Regulations adopted by the Department of Environmental Quality only require industry to report oil spills in excess of one barrel. However, the Louisiana Oil Spill Prevention and Response Act requires the person in charge of a terminal facility or vessel to immediately notify the hotline of the discharge, apparently without regard to quantity. Likewise, the State Police require all discharges of oil within the boundaries of the state to be reported to the State Police Hazardous Communications Hotline.

Although the Act requires these various "hotlines" to be reconciled into a single statewide hotline, this has yet to be done. Instead, the Louisiana Oil Spill Coordinator's Office entered into an agreement with the National Response Center whereby the State Police will be notified by the National Response Center of all spills affecting or with the potential to affect Louisiana. Thus, notification to the National Response Center satisfies the notification requirement under the Act, but not the notification stipulations in DEQ and State Police state law requirements.

3. Louisiana Oil Spill Contingency Fund. An Oil Spill Contingency Fund is created by this law so that money will be available immediately to fund prevention and response efforts. The Contingency Fund is financed by a fee also enacted by this law.

Each owner of crude oil in a vessel must pay the fee when the crude is transferred to or from the vessel at a marine terminal in Louisiana. The fee, two cents per barrel, is to be collected until the fund reaches ten million dollars. At this level the fee will be discontinued. Whenever the fund falls below eight million dollars, the fee is reinstated.

The Oil Spill Coordinator's Office is funded entirely by the Oil Spill Contingency Fund. The money in this fund may be used only to implement this law and only in the amounts designated by the Legislature. Costs of removing unauthorized discharges and of assessing the damage they caused as well as restoration costs are covered by this fund.

4. Natural Resources Damage Assessment. The Coordinator, in consultation with the state trustee agencies, is responsible for developing an inventory or list of the current condition of natural resources along Louisiana's coastal waters. The inventory is to be completed by September 1, 1998. Sampling and analysis will be done in specified locations to determine a baseline reading for trace contaminants. Procedures will be established for monitoring an area during the response and natural resources damages assessment phases of responding to an unauthorized discharge of oil. The resulting environmental baseline inventory will provide the Coordinator with technical data and measurements relating to coastal waters before, during and after an oil spill.

After an unauthorized discharge of oil, the Coordinator, in consultation with the state trustees, determines whether to assess natural resource damages and the amount of damages to be assessed pursuant to the procedures in the state Oil Spill Contingency Plan. The natural resources inventory, in combination with site testing during and after a spill, will provide the Coordinator with data upon which to determine the amount of damage to the natural resources, including costs to assess and to rehabilitate, replace, or mitigate damage to those resources.

5. Offshore Platforms and Pipelines. To transfer or store oil, a terminal facility must possess a discharge prevention and response certificate issued by the Coordinator. To receive a certificate, the applicant must develop a discharge prevention and response plan consistent with the state and federal guidelines and must provide evidence of its ability to access sufficient equipment and personnel to deal with an unauthorized discharge of oil as provided in the plan. The certificate is valid for five years, with annual updates from each registrant to be sent to the Coordinator's Office. Considering the unique features of each terminal facility, the Coordinator may issue specific terms or conditions with the certificate to ensure that compliance is achieved.

The Coordinator may suspend a registrant's certificate after a hearing if the discharge prevention and response plan is inadequate. When the registrant complies with this law, then the certificate will be reinstated.

Every facility operated in Louisiana waters must supply the Coordinator with response plans as provided in Section 4202 (a) (5)² of the Oil Pollution Act of 1990. Also, in association with the United States Coast Guard, the Coordinator may subject a terminal facility to an announced or unannounced audit, inspection, or drill to determine the adequacy of its prevention and response capabilities.

6. Exclusive Authority. The last section of this law gives exclusive authority on oil spill prevention, response, removal, and liability and the limitations of liability to the Oil Spill Prevention and Response Act (OSPRA). The provisions in OSPRA supersede any other applicable state laws.

B. Identification of all regulatory agencies that have jurisdiction over facilities located in Louisiana jurisdiction waters.

1. Mission, jurisdiction and organization of each agency.

a. Louisiana Oil Spill Coordinator's Office.

(1). Mission. The Louisiana Oil Spill Coordinator's Office is a centralized authority established to respond to actual or threatened unauthorized oil discharges and to direct the cleanup of these spills.

(2). Jurisdiction. This office has jurisdiction over the development of a statewide Oil Spill Prevention and Response Plan, the coordination of the response from appropriate state agencies to a spill, coordination of the actual cleanup effort, and control of a fund to pay for these activities.

(3). Organization. This agency is housed within the Office of the Governor. The Coordinator is appointed by the Governor, subject to Senate confirmation. The Coordinator has a staff of about eight people to perform the agency's duties. The Oil Spill Interagency Council is a group of thirteen people chaired by the Coordinator that meets at least twice a year to assist the Coordinator in developing an annual work plan, recommending legislation, and developing a budget. A team approach is used to evaluate each reported spill. The State Natural Response Team consists of the Louisiana Natural Resource Trustees (Coordinator's Office, DEQ, DNR, and DWF). The Trustees decide what action, if any, is appropriate for each spill.

b. Louisiana Department of Environmental Quality.

(1). Mission. DEQ is the primary agency in the state concerned with environmental protection and regulation.

(2). Jurisdiction. DEQ requires that every facility in Louisiana waters have a Spill Prevention and Control Plan.

(3). Organization. DEQ is headed by a Secretary who is appointed by the Governor with the consent of the Senate. The department is divided into offices that are headed by Assistant Secretaries who are appointed by the Governor with the consent of the Senate. Each office has its own jurisdiction and mandates to carry out. The offices are: the Office of Air Quality and Radiation Protection, the Office of Water Resources, the Office of Solid Waste and Hazardous Waste, and the Office of Legal Affairs and Enforcement.

c. Louisiana Department of Environmental Quality-Office of Water Resources.

(1). Mission. The DEQ-Office of Water Resources monitors, protects, and enhances the quality of Louisiana's surface and ground water.

(2). Jurisdiction. DEQ-Office of Water Resources requires every facility to have a Spill Prevention and Control Plan.

(3). Organization. This office is headed by an Assistant Secretary and is organized into four Divisions: Ground Water Protection, Municipal Facilities, Water Pollution Control, and Water Quality Management. These Divisions issue permits and provide enforcement for surface water quality, develop plans concerning water quality management, attempt to decrease non-point source pollution through education and better management, and assist local governments with planning and construction of upgraded wastewater treatment facilities.

d. Louisiana Department of Natural Resources.

(1). Mission. DNR is responsible for the conservation, management, and development of water, minerals, and other natural resources of the state, including coastal restoration and management, except timber, fish, and wildlife and their habitats.

(2). Jurisdiction. DNR applies and enforces a set of rules and regulations known as Statewide Order No. 29-B.

(3). Organization. DNR is headed by a Secretary who is appointed by the Governor with the consent of the Senate. The Office of Conservation and the Office of Coastal Restoration and Management are within the structure of DNR. They are each headed by an Assistant Secretary who is appointed by the Governor with the consent of the Senate. Both of these offices are concerned with the regulation and

conservation of the state's natural resources that are not within the jurisdiction of the other state departments or agencies.

e. Louisiana Department of Natural Resources-Office of Conservation.

(1). Mission. DNR-Office of Conservation ensures that the natural resources of the state are used, produced, or preserved in an efficient manner.

(2). Jurisdiction. The Office of Conservation has jurisdiction over exploration and production of oil and gas in Louisiana through the application and enforcement of regulations known as Statewide Order No. 29-B.

(3). Organization. This department is headed by an Assistant Secretary. The organizational units are Engineering, Geological Oil and Gas, Injection and Mining, and Pipelines.

f. Louisiana Department of Natural Resources-Office of Coastal Restoration and Management.

(1). Mission. DNR-Office of Coastal Restoration and Management develops and implements policies, plans, and programs to encourage multiple uses of the Coastal Zone and to achieve a proper balance between development and conservation, restoration, creation, and nourishment of renewable coastal resources.

(2). Jurisdiction. The Office of Coastal Restoration and Management has jurisdiction over facilities in Louisiana's Coastal Zone. It issues and enforces Coastal Use Permits in accordance with established guidelines. DNR's Coastal Management section and the Department of Conservation, by regulation, allow the drilling permit to substitute as a Coastal Use Permit; therefore, it is referred to as an In-Lieu Permit.

(3). Organization. This department is headed by an Assistant Secretary and is divided into the Coastal Management Division and the Coastal Restoration Division. The Coastal Management Division is mandated to protect, develop, and where feasible, restore or enhance the resources of the state's Coastal Zone. The Coastal Restoration Division is mandated to establish and monitor projects within the Coastal Zone boundary that conserve, enhance, restore, and create coastal vegetated wetlands.

g. Louisiana Department of Wildlife and Fisheries.

(1). Mission. DWF is responsible for the control, supervision, management, protection, and conservation of wildlife of the state, including all aquatic life.

(2). Jurisdiction. DWF has jurisdiction over oil and gas facilities through its participation, with the other trustees, in pre-spill planning and in the preparation of Natural Resources Damage Assessments after an unauthorized oil spill.

(3). Organization. DWF is headed by a Secretary who is appointed by the Governor with the consent of the Senate. Some of the components of this department are the Office of the Secretary, the Office of Wildlife, and the Office of Fisheries. The coordinated effort of these offices helps to maintain the quality and quantity of Louisiana's wildlife and fisheries resources.

h. Louisiana Department of Public Safety and Corrections-Office of Public Safety Services.

(1). Mission. The DPSC-Office of Public Safety Services acts as the state's principal law enforcement and public safety agency to promote public safety and enhance state and local law enforcement.

(2). Jurisdiction. The Office of Public Safety Services requires facilities to comply with the Hazard Communication Standard as specified in the Occupational Safety and Health Administration rules.

(3). Organization. This department has responsibility for State Police functions as well as those related to the licensing and registration of motor vehicles and drivers, promotion of highway and fire safety, regulation of alcoholic beverage licensing and sales, and regulation of liquified petroleum gas handling and distribution.

i. Louisiana Office of Emergency Preparedness.

(1). Mission. The Office of Emergency Preparedness is responsible for providing logistical support--communications, air, ground, and water transportation support, equipment and supplies, facilities, fuel, and food--during disaster emergencies.

(2). Jurisdiction. The Louisiana Office of Emergency Preparedness provides logistical support for facilities during emergency or disaster situations.

(3). Organization. This Office is located within the Office of the Governor and is headed by an Assistant Director. The Office is divided into Communications and Warning, Disaster Recovery, and Emergency Management.

2. Current name, address, phone and fax for each agency head and principal contact for OPA, oil spill, facilities regulation and inspection related matters.

a. Louisiana Oil Spill Coordinator's Office.

- (1). Agency Head: Roland J Guidry, Coordinator
Post Office Box 94095
Baton Rouge, LA 70804
Phone: (504) 922-3230
Fax: (504) 922-3239
- (2). Principal Contact: Ms. Beckey Vincent, Administrative Assistant
Post Office Box 94095
Baton Rouge, LA 70804
Phone: (504) 922-3230
Fax: (504) 922-3239

b. Louisiana Department of Environmental Quality.

- (1). Agency Head: J. Dale Givens, Secretary
Post Office Box 82263
Baton Rouge, LA 70884-2263
Phone: (504) 765-0741
Fax: (504) 765-0746
- (2). Principal Contact: Mr. Chris Piehler, Ambient Coordinator
7290 Bluebonnet Blvd.
Baton Rouge, LA 70810
Phone: (504) 763-3595
Fax: (504) 765-0866

c. Louisiana Department of Environmental Quality-Office of Water Resources.

- (1). Agency Head: Ms. Linda Levy, Assistant Secretary
Post Office Box 82215
Baton Rouge, LA 70884
Phone: (504) 765-0634
Fax: (504) 765-0635
- (2). Principal Contact: Mr. Gary Aydell, Administrator
Post Office Box 82215
Baton Rouge, LA 70884
Phone: (504) 765-0634
Fax: (504) 765-0635

d. Louisiana Department of Natural Resources.

- (1). Agency Head: Mr. Jack Caldwell, Secretary
Post Office Box 94396
Baton Rouge, LA 70804-9396
Phone: (504) 342-4500
Fax: (504) 342-2707
- (2). Principal Contact: Ms. Linda Pace, Oil Spill Liaison
625 N 4th
Baton Rouge, LA 70802
Phone: (504) 342-7591
Fax: (504) 342-9439

e. Louisiana Department of Natural Resources- Office of Conservation.

- (1). Agency Head: Mr. George L. Carmouche Commissioner
Post Office Box 94275
Baton Rouge, LA 70804
Phone: (504) 342-5540
Fax: (504) 342-3094
- (2). Principal Contact: Mr. Mariano Hinojosa, Director of Pipelines
Post Office Box 94275
Baton Rouge, LA 70804
Phone: (504) 342-5505
Fax: (504) 342-3094

f. Louisiana Department of Natural Resources- Office of Coastal Restoration and Management.

- (1). Agency Head: Dr. James H. Stone, Assistant Secretary
Post Office Box 44487
Baton Rouge, LA 70804
Phone: (504) 342-1375
Fax: (504) 342-1377
- (2). Principal Contact: Mr. Terry Howey
Post Office Box 94396
Baton Rouge, LA 70804
Phone: (504) 342-7591
Fax: (504) 342-9439

g. Louisiana Department of Wildlife and Fisheries.

(1). Agency Head: Mr. James Jenkins, Secretary
Post Office Box 98000
Baton Rouge, LA 70898-9000
Phone: (504) 765-2623
Fax: (504) 765-2607

(2). Principal Contact: Mr. Jim Hanifen
Post Office Box 98000
Baton Rouge, LA 70898-9000
Phone: (504) 765-2390
Fax: (504) 765-2403

h. Louisiana Department of Public Safety and Corrections-Office of Public Safety and Services.

(1). Agency Head: Mr. Richard L. Stalder, Secretary
Post Office Box 94304
Baton Rouge, LA 70804
Phone : (504) 342-6740
Fax: (504) 342-3095

(2). Principal Contact: Lt. Ronnie Mayeaux
Post Office Box 66614
Baton Rouge, LA 70896
Phone: (504) 925-6113
Fax: (504) 925-4048

i. Louisiana Office of Emergency Preparedness.

(1). Agency Head: Major General A. M. Stroud, Jr., Director
Jackson Barracks, Bldg. 1
New Orleans, LA 70146
Phone: (504) 278-6211
Fax: (504) 278-6554

(2). Principal Contact: Col. William J. Croft, Assistant Director
Post Office Box 44217
Baton Rouge, LA 70804
Phone: (504) 342-1583
Fax: (504) 342-5471

C. Design of regulations.

1. Use of a “worst case scenario” approach. All LOSCO related plans, terminal facilities and 4202 (a) (5)² plans relate back to Area Committee Plans, which define a “worst case scenario” as follows: “The worst case discharge for a vessel is a discharge of its entire cargo in adverse weather conditions. The worst case discharge from an offshore facility is the largest foreseeable discharge in adverse weather conditions.”

Each Area Committee, under the direction of the Federal On-Scene Coordinator (OSC) for the area, is responsible for developing an Area Contingency Plan (ACP) which, when implemented in conjunction with the National Contingency Plan (NCP), shall be adequate to remove a worst case discharge of oil or a hazardous substance, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the geographic area.

The Spill Prevention and Control Plan, which is required by the Department of Environmental Quality for each oil and gas facility, is supposed to describe how the secondary containment has sufficient volume to contain the contents of the tank plus precipitation. For all practical purposes, this is a “worst case” approach because tanks are rarely filled to capacity and rainfall is also being considered. Individual producing wells are not covered by this regulation, but DEQ issues permits on a field-wide basis. Therefore, the Spill Prevention and Control Plan applies to the field where the facility is located.

It should be noted that all wells that are producing under their own pressure in coastal areas are required by DNR regulations (Statewide Order No. 29-B) to have subsurface safety valves. This ensures that if a “worst case” accident occurs and the tree is damaged, then the safety valve will automatically shut-in the well.

2. (Written) response plans required and agencies requiring them.

a. Louisiana Oil Spill Coordinator’s Office. La. R.S. 30:2475³ requires every owner or operator to provide the Coordinator with the tank vessel and facility response plans as provided in Section 4202 (a) (5) of the Oil Pollution Act of 1990.

La. R.S. 30:2470⁴ states that a terminal facility may not be operated in this state without a discharge prevention and response certificate issued by the Louisiana Oil Spill Coordinator’s Office. To qualify for this certificate the owner or operator must submit a copy of the terminal facility response plan that is consistent with state and federal plans and regulations for prevention of unauthorized discharges of oil.

b. Department of Environmental Quality. LAC 33: IX.901-907⁵ requires that the owner or operator of each oil and gas facility have a Spill Prevention and Control Plan to remain in operation.

c. State Police. LAC 33: V.10115⁶ states that the Department of Public Safety adopts the Hazardous Communication Standard as detailed in Title 29 CFR Parts 1910.1200 et

seq. All facilities subject to these state rules must also comply with the Hazard Communication Standard as specified in the Occupational Safety and Health Administration (OSHA) rules listed in Title 29 CFR Parts 1910.1200 et seq. These standards refer to marking the workplace, communicating any known hazardous properties of various substances to employees, etc.

D. Synopsis of oil spill prevention regulations.

1 . **LAC 33:IX.708**⁷. Provides a set of standards for oil and gas exploration and production discharges into Louisiana waters. No unpermitted discharges are allowed from exploration and production sites. All workover and drilling barges and production facilities are required to be equipped with pollution containment devices. When construction is in open water or wetland areas where dike construction is impossible, production and transfer equipment should be installed on impervious decking with curbs and gutters. All produced water discharges must be specifically identified in a valid Louisiana Water Discharge Permit System (LWDPS) permit.

2 . **LAC 33:IX.901-907**⁵. Requires a Spill Prevention and Control Plan for any facility in Louisiana waters and presents guidelines for preparing this plan. A copy of the plan is required to be kept at the facility or the nearest office within the state if the facility is not attended. Sound engineering practices are expected to be used to prepare the plan. The plan should include a prediction of what might be spilled from the facility and an estimate of the quantity that might be involved in such a spill. Containment structures should be incorporated into the plan to keep a spilled substance from reaching the waters of the state. The plan should also include a complete discussion of facility security.

3 . **LAC 43:I.719**⁸. Lists a set of guidelines for oil, gas and other mineral activities. Drilling and production sites are to be constructed using the best practical techniques to prevent pollution. Sites in wetland areas need to use existing canals and directional drilling techniques to try to preserve the environment. The design of exploration and production facilities should not disturb the natural water flow of the area or block surface drainage. Access routes to sites and facilities are to be designed so that the environmental impact is kept to a minimum. When operations at a facility are terminated, the site is to be restored as nearly as practicable to its original condition. The use of dispersants or emulsifiers without the prior approval of the Coast Guard is prohibited.

4 . **LAC 43:XIX.129**⁹. This section of Statewide Order No. 29-B presents regulations dealing with nonhazardous oilfield waste (NOW) and pit closure requirements. Water produced during the drilling and production of oil and gas is a form of NOW. It may be injected into subsurface formations that are not producing hydrocarbons or into a legally permitted salt water disposal well. Contaminating a drinking water aquifer with NOW is prohibited. Produced water and other NOW generated in the drilling and production of oil

and gas wells shall not be disposed of into a productive hydrocarbon zone, unless this procedure has been approved by the Office of Conservation. The Office of Conservation encourages the use of closed NOW storage systems. A production pit located within inland tidal waters must be constructed to maintain a levee with an elevation of at least two feet above mean high tide. Within six months after the completion of the drilling or workover of any permitted well, the operator must account for the types and number of barrels of NOW generated and must certify that the disposal of this waste was done in accordance with the rules and regulations of the Office of Conservation.

E. Synopsis of regulations and procedures for permitting, installing and operating offshore platforms and pipelines.

1. **LAC 43:V.10**¹⁰. Describes the application process for a permit to do seismic surveys on state-owned lands and waterbottoms. The application must be filed in quadruplicate. Permits are valid for a period of one year and are valid for the entire state of Louisiana. Before commencing any geophysical or geological work, the applicant must submit to the Office of Mineral Resources a notice of the expected date of commencement of the work being permitted and a plat showing the location.

2. **LAC 43:XIX.103**¹¹. Describes the process of applying for a drilling permit (Form MD-10-R). The application must be accompanied by three copies of the location plat with all pertinent lease and property lines and offset wells. No drilling should ever occur before the Department of Conservation has issued a permit. It is the obligation of the operator of the well to post a sign identifying the well once drilling below the surface casing has begun.

3. **LAC 43:XIX.105**¹². Describes the process of applying for a work permit (Form MD-11-R) to do remedial work on a well. A valid permit must be received before starting any work on a well. A description of the work done on the well must be included on the reverse side of the Well History and Work Resume Report (Form WH). Form WH must be submitted to the district office of the Office of Conservation in which the well is located within twenty days after the completion or recompletion of the well.

4. **LAC 43:XIX.907**¹³. Explains the Producer's Certificate of Compliance and Authorization to Transport Oil from Lease, Form R-4 Revised, which allows the operator to transport oil/condensate from his lease. This application is to be submitted in quadruplicate to the Office of Conservation. If there is a change in operating ownership of any lease, well name or lease name, or transporter from any lease, then a

new Certificate must be obtained. The Certificate gives the approved transporter authorization to transport oil or condensate from the subject lease.

5. LAC 43:I.723.3¹⁴. Defines In-Lieu Permits. DNR's Coastal Management section and the Department of Conservation, by regulation, allow the drilling permit to substitute as a Coastal Use Permit; therefore, it is referred to as an In-Lieu Permit. To perform work in the Coastal Zone, either a Coastal Use Permit or an In-Lieu Permit must be obtained. Coastal Use Permits are not required for the location, drilling, exploration and production of oil, gas, sulphur and other minerals subject to regulation by the Office of Conservation because the drilling permit functions as an In-Lieu Permit.

6. LAC 33:IX.301-317¹⁵. Describes the Louisiana Water Discharge Permit System (LWDPS) and how to obtain the proper discharge permit for the facility in question. This application is to be filed in triplicate. A topographic map should show the facility with each of its intake and discharge structures. A line drawing should indicate the flow of water through the facility. An estimation of frequency and duration of discharge is needed. Discharge limitations for the facility will be indicated on the permit. A DMR Form should be used to report discharge sample analysis.

7. LAC 33:IX.901-907⁵. Describe the requirements and guidelines of the Spill Prevention and Control Plan an oil and gas facility must have to remain in operation. A copy of the plan is required to be kept at the facility or the nearest office within the state if the facility is not attended. Sound engineering practices are expected to be used to prepare the plan. The plan should include a prediction of what might be spilled from the facility and an estimate of the quantity that might be involved in such a spill. Containment structures should be incorporated into the plan to keep a spilled substance from reaching the waters of the state. The plan should also include a complete discussion of facility security.

8. LAC 43:XL.101-129¹⁶. Describes the application process for a Certificate of Transportation for natural gas and how to connect with the Intrastate system. Applications should be filed in duplicate. This certificate is issued by the Commissioner of Conservation after public notice and a hearing. The application must include a map of the pipeline system that gives the location and capacity of all compressor sites, all major points of supply, and connections to other pipelines. System pressures and gas quantities should also be indicated.

II. Louisiana Inspection Programs for Platforms and Pipelines.

A. History and Objectives. The Office of Louisiana Commissioner of Conservation was created in 1921 in order to protect the natural resources of Louisiana. Under Title 30 of the Louisiana Revised Statutes of 1950, the Office of Conservation was delegated authority over all persons and property necessary to enforce all laws relating to the conservation of oil and gas. This statute led to the adoption of rules and regulations for exploration and production practices

collectively known as Statewide Order No. 29-B¹⁷. Currently the Office of Conservation has the authority to regulate injection wells, oilfield pits, waste treatment and disposal, and nonhazardous oilfield waste (NOW).

The Department of Environmental Quality was created in 1980. It is the lead Louisiana agency responsible for environmental protection and regulation. DEQ regulates and monitors water quality, air quality, solid and hazardous waste, and radiation.

The Louisiana Oil Spill Coordinator has the power, by law (La. R.S. 30:2456.E)¹⁸, to enter property to conduct an inspection of a vessel or terminal facility. Because of the newness of the Louisiana Oil Spill Coordinator's Office and the smallness of the staff, this power has yet to be developed.

Inspections by both DNR and DEQ are designed to assure that all rules and regulations are being followed and to find and correct any violations. To accomplish this task there are three main groups of inspectors: DNR pipeline inspectors, DNR platform inspectors, and DEQ environmental specialists.

B. Nature of Inspections.

1. Inspection of booms, skimmers, and other response equipment.

- a. DNR platform and pipeline inspectors are required to inspect oil and gas facilities to ensure that all antipollution and environmental standards are met and maintained.
- b. DEQ environmental specialists check the Spill Prevention and Control Plan of the facility to ensure that the Plan is thorough and effective. Each part of the Plan must be checked.
- c. DNR and DEQ inspectors look for items such as booms, skimmers, etc. when these items are required, but they never actually test them. The inspectors note the presence or absence of such items.

2. Inspection of pollution prevention devices.

- a. DNR platform inspectors check facilities to ensure that mandated pop-off valves and pressure relief valves are present and set at the proper activation pressure. Blow-out preventers on rigs are checked to confirm that they are installed correctly and are in proper working condition.
- b. DNR pipeline inspectors check corrosion coupons to ensure that the pipelines are structurally stable and pose no environmental threats.

c. DNR and DEQ inspectors are required to check oil and gas facilities to ensure that proper secondary containment is present where it is needed. Tank batteries built over water should have impervious decks with no cracks that would leak. Sump pump systems should be in place where needed.

3. Other requirements.

a. DNR platform inspectors are required to check to ensure that boilers, open fire, or electric generators are at least 100 feet from a producing well or oil tank.

b. DNR pipeline inspectors look for lines that have become unburied. These exposed lines are vulnerable and, depending on their location, may cause catastrophic incidents if struck by a barge or boat. The pipeline inspectors also check valves to ensure that they open and close properly.

c. DNR and DEQ inspectors are required to check for the presence of the proper permits at a facility and see that all of the conditions of the permits are being met. They all check tank batteries to ensure that the decks are free of debris and fluids.

C. Frequency and type of inspections in theory and in fact over the past five years.

1. Frequency. No data were available on the frequency of DNR's or DEQ's inspections. Each group of inspectors covers both land and water facilities of all sorts. The data are not organized so that figures for oil and gas facilities in Louisiana waters can be obtained.

In theory each facility should be inspected on an annual basis and any time there is cause to suspect a possible problem. The real problem is that the manpower is insufficient to meet this goal.

In actuality, major facilities are inspected each year and the others are worked in as the schedule permits.

2. Type.

a. Announced. Announced inspections are necessary for DNR inspectors because they lack the necessary transportation; therefore, they must rely on the operator for transportation to the facility to be inspected.

b. Unannounced. DEQ environmental specialists perform unannounced inspections almost exclusively. This is possible because they have access to their own transportation.

D. Program resources available.

1. Number of inspectors, assignments and responsibilities.

- a. DNR Platform Inspectors. There are 32 platform inspectors statewide. Five are assigned to the coastal area.
- b. DNR Pipeline Group. The DNR pipeline group has 11 gas inspectors and 2 liquid inspectors statewide. None of these inspectors is specifically assigned to coastal or offshore areas. They are all responsible for covering the entire state.
- c. DEQ Environmental Specialists. DEQ has 28 environmental specialists assigned to the five regional offices that cover the coastal area.
- d. Additional Responsibilities. DNR and DEQ inspectors are responsible for other facilities in addition to oil and gas facilities. They must inspect land and water facilities of industries, commercial businesses and governmental facilities which pose a threat of an unauthorized discharge of oil, such as refineries, bulk petroleum plants, petroleum storage facilities, etc.

2. Training and qualifications of inspectors.

- a. DNR Platform Inspectors. The DNR platform inspector entry level position requires three years of experience in oil and gas exploration or production work such as driller, driller's helper, gauger, or pumper. A high school diploma is required.
- b. DNR Pipeline Group.
 - (1). Gas inspectors: The gas inspector position requires a high school diploma and one year of pipeline experience.
 - (2). Liquid inspectors: The liquid inspector position requires a high school diploma and 30 hours of college-level science courses.
- c. DEQ Environmental Specialists. The entry level position requires a college degree in one of the following qualifying fields: Biological Sciences, Chemistry, Geosciences, Atmospheric Sciences, Geography (concentration in Physical Geography), Physics, Health Sciences, Environmental Sciences, Wildlife and Fisheries, Engineering, or Statistics and Quantitative Methods.

3. Size and qualification of support staff.

- a. DNR Platform Inspectors. The DNR platform inspectors are supported by 2 district engineers and a district manager in the Lafayette District Office and 5 engineers in the Baton Rouge Office for compliance support.
- b. DNR Pipeline Inspectors. The DNR pipeline inspectors have a support staff of 2 secretaries and an office manager who is a licensed engineer.
- c. DEQ Environmental Specialists. The DEQ environmental specialists are supported by a coordinator in each of the five regional offices that cover the coastal area.

4. Type, Quantity and Availability of Inspection Equipment.

- a. Helicopters and boats.
 - (1). DNR platform and pipeline inspectors. DNR platform and pipeline inspectors have no helicopters or boats.
 - (2). DEQ inspectors. DEQ inspectors have no helicopters, but they have 17 boats assigned to the five regional offices.
- b. Radios and computers.
 - (1). DNR platform and pipeline inspectors. DNR platform and pipeline inspectors have access to computers in the office. The DNR field trucks are not supplied with radios.
 - (2). DEQ inspectors. DEQ inspectors have access to computers in the office. The DEQ vehicles are equipped with radios.
- c. Other (pagers, car and portable phones, sea plane).
 - (1). DNR platform and pipeline inspectors. The DNR platform and pipeline inspectors are all supplied with pagers. The 2 pipeline liquid inspectors also have car phones.
 - (2). DEQ inspectors. The DEQ inspectors are all supplied with pagers. The five regional offices each have 2 portable phones for a total of 10 in the coastal area. The DEQ inspectors have access to a sea plane.

E. Spill Response Drill Programs: Announced and Unannounced Drills.

1. Pertinent Regulation. The Coordinator of the Louisiana Oil Spill Coordinator's Office may submit a facility to an announced or unannounced drill to determine if the facility has satisfactory oil spill prevention and response capabilities (La. R.S. 30:2477)¹⁹.

2. Agency Participation. The Louisiana Oil Spill Coordinator's Office participated in numerous federal Pollution Response Exercise Programs (PREP drills) and other exercises coordinated by both government and industry during 1995. The Coordinator's Office hosted an announced exercise of government and industry professionals on March 7 & 8, 1995, in New Orleans. There were over seventy-five participants in the exercise.

When invited to participate in a spill response drill, DNR, DEQ and DWF will send representatives to evaluate the capabilities of the operator. It should be noted that these departments will not initiate a drill, but will observe a drill performed by an operator when invited.

F. Nature of Enforcement Authority and Pertinent Regulations.

1. Louisiana Oil Spill Coordinator's Office.

a. Suspensions. The Coordinator has the right to suspend the discharge prevention and response certificate of a terminal facility if he judges that the contingency plan for the facility is not adequate. Without the certificate no oil may be transferred or stored at the facility. (La. R.S. 30:2474) ³⁰

b. Fines. The Coordinator can assess fines for natural resources damages following a spill incident and collect this amount from the responsible party. (La. R.S. 30:2480) ³¹

2. Department of Environmental Quality.

a. Warnings. DEQ serves a letter of noncompliance for violations found during an inspection. (LAC 33:IX.505)²⁴

b. Shut-ins. If compliance is not achieved, then DEQ may terminate the permit, resulting in a shut-in condition. (LAC 33:IX.505)²⁴

c. Civil Penalties. The Attorney General may represent DEQ when it files a civil lawsuit to recover damages or penalties for violation of the Louisiana Environmental Quality Act. If the court confirms that a violation occurred, then when assessing the damages the court may consider the present market value and the cost of restoring the area to its former condition. The investigation costs may also be added to the damages. (La. R.S. 30:2025 (B) (1))²⁵

The DEQ Secretary or a court may assess an administrative civil penalty against any party that violates the Louisiana Environmental Quality Act. The maximum amount of this penalty is the state's cost to remediate the results of the violation that is not voluntarily paid by the violator, plus a penalty of up to \$25,000 per day of the violation. (La. R.S. 30:2025(E)(1))²⁶

If the violation is intentional and results in severe damage to the environment or human life and health were threatened, the violator may be liable for an additional penalty of up to \$1,000,000. (La.R.S. 30:2025(E)(1))²⁶

For the violator's not meeting the deadline on a compliance order, the Secretary or a court may assess a civil penalty of up to \$50,000 per day of noncompliance. (La. R.S. 30:2025(E)(2))²⁷

d. Criminal Penalties. A person who willfully discharges a substance that endangers human life in violation of the Louisiana Environmental Quality Act is guilty of a felony. The guilty party may be fined up to \$1,000,000, or the cleanup cost, plus up to \$100,000 per day of violation, plus court costs. A jail sentence of up to 10 years is an alternative to paying the fine. (La. R.S. 30:2025(F)(1))²⁸

A person who willfully discharges a substance that poses no threat to human life is guilty of a misdemeanor. The fine may be up to \$25,000 per day of violation, plus court costs, or imprisonment for up to one year. (La. R.S. 30:2025(F)(2)(a))²⁹

3. Department of Natural Resources.

a. Warnings. A letter of noncompliance from DNR may be issued after an inspector finds a violation. The operator is directed to fix the violation in a designated amount of time. After a show of cause hearing, the Secretary may issue an order of compliance that describes the remedial work to be done by a designated date. (LAC 43:XI.507-511)²⁰

b. Shut-ins. For failure to comply, suspension of Form R-4 (Permit to Transport Oil from Lease) effectively shuts-in wells without having to physically do so.

When it is determined by DNR that an emergency condition exists that threatens life and personal injury, then an emergency order or order of termination may be immediately invoked. (LAC 43:XI.513)²¹

c. Civil Penalties. To enforce compliance with the applicable regulations, the Secretary (DNR) may bring an action in the court having jurisdiction. A temporary restraining order or permanent injunction may be granted without bond. The result may be an injunction ordering the party to comply with the regulation and to pay back any money gained as a result of violating the regulation. (LAC 43:XI.515)²²

d. Criminal Penalties. DNR may supply the evidence to the district attorney who has jurisdiction over the noncompliant party. If found guilty of willfully violating

R.S. 30:501, the party shall be fined not more than \$10,000 and/or imprisoned for not more than one year for each violation. For failing to comply within 60 days with rules adopted pursuant to R.S. 33:4521 the party shall be fined \$1,000 for each day he fails to comply. (LAC 43:XI.517)²³

4. State Police. State police may levy Civil Penalties up to \$25,000 for each non-reported release of a regulated hazardous material. (LAC 33:V.10117.A)³²

G. Relationship of Louisiana Regulations to Parallel Federal Regulations.

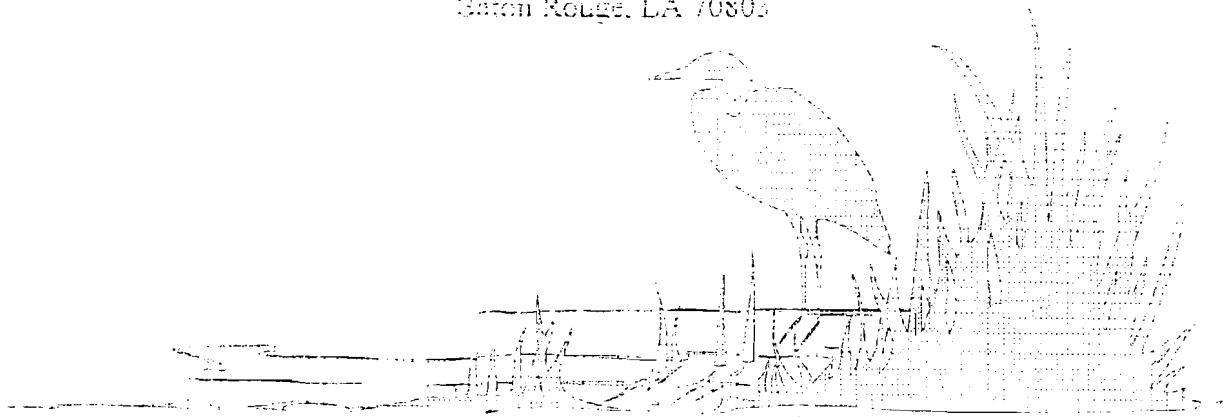
Because of the newness of the Oil Spill Prevention and Response Act, formal relationships have yet to be established. However, the corresponding federal agencies for each of the following state responding agencies are as follows.

1. **Louisiana Oil Spill Coordinator's Office:** EPA, NOAA, USCG,USDOT-RSPA, MMS, USFWS.
2. **Department of Environmental Quality:** EPA.
3. **Department of Natural Resources-Office of Conservation:** MMS.
4. **Department of Natural Resources-Office of Coastal Restoration & Management:** NOAA, U.S.Army Corps of Engineers.
5. **Department of Wildlife and Fisheries:** USFWS, NMFS, OSHA.

APPENDIX

Louisiana Oil Spill Regulations and Programs
for Platforms and Pipelines Located in State Waters

Center for Energy Studies
Louisiana State University
One East Fraternity Circle
Baton Rouge, LA 70803



Contract Number 14-55-0001-30795

Prepared for:
U.S. Department of the Interior
Minerals Management Service

APPENDIX**Louisiana Oil Spill Regulations and Programs
for Platforms and Pipelines Located in State Waters**

Allan G. Pulsipher, Richard E. Pincomb, Timothy M. Hebert,
and Robert H. Baumann

Center for Energy Studies
Louisiana State University
One East Fraternity Circle
Baton Rouge, LA 70803

April, 1996

Contract Number: 14-35-0001-30795

Prepared for: U.S. Department of the Interior
Minerals Management Service

Disclaimer

“This manuscript has been reviewed by the Minerals Management Service and approved for publication. The opinions, findings, conclusions, or recommendations expressed in this report are those of the authors, and do not necessarily reflect the views or policies of the MMS. Mention of trade names or commercial products does not constitute endorsement or recommendation for use. This report has been technically reviewed according to contractual specifications; however, it is exempt from further review by the MMS Technical Communications Services Unit.”

ACRONYMS

ACP	Area Contingency Plan
DEQ	Department of Environmental Quality
DNR	Department of Natural Resources
DWF	Department of Wildlife and Fisheries
EPA	Environmental Protection Agency
LAC	Louisiana Administrative Code
La. R.S.	Louisiana Revised Statutes
LOSCO	Louisiana Oil Spill Coordinator's Office
LOSPRA	Louisiana Oil Spill Prevention and Response Act
LWDPS	Louisiana Water Discharge Permit System
MMS	Minerals Management Service
NCP	National Contingency Plan
NMFS	National Marine Fisheries Service
NOAA	National Oceanic Atmospheric Administration
NOW	Nonhazardous Oilfield Waste
OPA 90	Oil Pollution Act of 1990
OSC	On-Scene Coordinator
OSHA	Occupational Safety and Health Administration
PREP	Pollution Response Exercise Program
USCG	United States Coast Guard
USDOT-RSPA	United States Department of Transportation- Research and Special Projects Administration
USFWS	United States Fish and Wildlife Service

Appendix

1) La. R.S. 30:2451, et seq.	A-1
2) Section 4202 (a) (5) of OPA 90	A-45
3) La. R.S. 30:2475	A-47
4) La. R.S. 30:2470	A-49
5) LAC 33:IX.901-907	A-51
6) LAC 33:V.10115	A-58
7) LAC 33:IX.708	A-60
8) LAC 43:I.719	A-72
9) LAC 43:XIX.129	A-75
10) LAC 43:V.101	A-126
11) LAC 43:XIX.103	A-130
12) LAC 43:XIX.105	A-133
13) LAC 43:XIX.907	A-135
14) LAC 43:I.723.A.3	A-138
15) LAC 33:IX.301-317	A-141
16) LAC 43:XII.101-129	A-168
17) Statewide Order No.29-B	A-180
18) La. R.S. 30:2456.E	A-250
19) La. R.S. 30:2477	A-252
20) LAC 43:XII.507-511	A-254
21) LAC 43:XII.513	A-258
22) LAC 43:XII.515	A-260
23) LAC 43:XII.517	A-262
24) LAC 33:IX.505	A-264
25) La. R.S. 30:2025 (B) (1)	A-266
26) La. R.S. 30:2025 (E) (1)	A-269
27) La. R.S. 30:2025 (E) (2)	A-272
28) La. R.S. 30:2025 (F) (1)	A-274
29) La. R.S. 30:2025 (F) (2) (a)	A-276
30) La. R.S. 30:2474	A-278
31) La. R.S. 30:2480	A-280
32) LAC 33:V.10117.A	A-282
33) Memorandum of Understanding	A-284
34) Natural Resource Damage Assessment	A-290

La. R.S. 30: 2451, et seq. ¹

CHAPTER 19. OIL SPILL PREVENTION AND RESPONSE ACT

Part I. General Provisions

§ 2451. Title

This Chapter may be cited as the "Oil Spill Prevention and Response Act."

§ 2452. Legislative findings

A. Louisiana is subject to greater exposure to a major oil spill disaster than any other state. This is the result of the large volumes of stored oil, numerous production platforms and miles of pipelines, large numbers of inland barges, and heavy tanker traffic, including the Louisiana Offshore Oil Port which receives fifteen percent of the oil imported into the United States. This exposure, coupled with the limited adequate highway accessibility to the coast and remote inland areas for rapid transport of oil spill equipment and few areas suitable for staging facilities, creates great potential for a major oil spill event and its consequences in a state which has twenty-six percent of the nation's commercial fisheries, has the nation's highest marine recreational fishery catches, leads the nation in fur production and the world in alligator production, and has more overwintering waterfowl than any other state. Commercial and recreational marine fisheries are concentrated within a few miles inshore and offshore of the coastline where oil from a major coastal spill would concentrate.

B. Added to the high exposure and inaccessibility of large portions of the coast and inland areas is the vulnerability of Louisiana's nearshore and wetland environments. The numerous shallow interconnecting waterways and gentle slope of the coastal areas would allow deep penetration of oil into the state's estuaries. The vast expanses of Louisiana's soft unconsolidated marshes lying just a few inches above sea level would, in the event of an oil spill, soak up large amounts of oil.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2453. Legislative intent

A. The legislature finds and declares that the release of oil into the environment presents a real and substantial threat to the public health and welfare, to the environment, the wildlife and aquatic life, and to the economy of the state. Further, the legislature declares that the purpose of this Chapter is to assist the legislature in fulfilling its duties to protect, conserve, and replenish the natural resources of this state in accordance with Article IX, Section 1 of the Constitution of Louisiana.

B. The legislature declares that it is the intent of this Chapter to support and complement the Oil Pollution Act of 1990 (P.L. 101-308) and other federal law, specifically those provisions relating to the national contingency plan for cleanup of oil spills and discharges, including provisions relating to the responsibilities of state agencies designated as natural resources trustees. The legislature intends this Chapter to be interpreted and implemented in a manner consistent with federal law.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2454. Definitions

In this Chapter:

(1) "Barrel" means forty-two United States gallons at sixty degrees Fahrenheit.

(2) "Coastal waters" means the waters and bed of the Gulf of Mexico within the jurisdiction of the state of Louisiana, including the arms of the Gulf of Mexico subject to tidal influence, estuaries, and any other waters within the state if such other waters are navigated by vessels with a capacity to carry ten thousand gallons or more of oil as fuel or cargo.

(3) "Coordinator" means the Louisiana oil spill coordinator.

(4) "Crude oil" means any naturally occurring liquid hydrocarbon at atmospheric temperature and pressure coming from the earth, including condensate.

(5) "Damages" means and includes any of the following:

(a) Natural resources--damages for injury to, destruction of, loss of, or loss of use of, natural resources as defined in this Section, including the reasonable costs of assessing the damages, which shall be recoverable by the state of Louisiana.

(b) Immovable or corporeal movable property--damages for injury to, or economic loss resulting from destruction of, immovable or corporeal movable property, which shall be recoverable by a person who owns or leases that property. For purposes of this Chapter, "immovable property" shall have the same meaning as "immovables" as provided in C.C. Art. 462. For purposes of this Chapter, "corporeal movable property" shall have the same meaning as "corporeal movables" as provided in C.C. Art. 471.

(c) Subsistence use--damages for loss of subsistence use of natural resources, which shall be recoverable by any claimant who so uses natural resources which have been injured, destroyed, or lost, without regard to the ownership or management of the resources.

(d) Revenues--damages equal to the net loss of taxes, royalties, rents, fees, or net profit share due to the injury, destruction, or loss of immovable or corporeal movable property, or natural resources, which shall be recoverable by the state of Louisiana.

(e) Profits and earning capacity--damages equal to loss of profits, or impairment of earning capacity due to the injury, destruction, or loss of immovable or corporeal movable property, or natural resources, which shall be recoverable by those persons entitled to recovery under Subparagraph (b) or (c) of this Paragraph.

(f) Public services--damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil, recoverable by the state of Louisiana or any of its political subdivisions.

(6) "Deepwater port" is a facility licensed in accordance with the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524).

(7) "Discharge of oil" means an intentional or unintentional act or omission by which harmful quantities of oil are spilled, leaked, pumped, poured, emitted, or dumped into or on coastal waters of the state or at any other place where, unless controlled or removed, they may drain, seep, run, or otherwise enter coastal waters of the state.

(8) "Discharge cleanup organization" means any group or cooperative, incorporated or unincorporated, of owners or operators of vessels or terminal facilities and any other persons who may elect to join, organized for the purpose of abating, containing, removing, or cleaning up pollution from discharges of oil or rescuing and rehabilitating wildlife or other natural resources through cooperative efforts and shared equipment, personnel, or facilities. Any third-party cleanup contractor, industry cooperative, volunteer organization, or local government shall be recognized as a discharge cleanup organization, provided the coordinator properly certifies the organization.

(9) "Emergency" means an emergency declared by the governor in accordance with state law.

(10) "Facility" means any structure, group of structures, equipment, or device other than a vessel which is used for one or more of the following purposes: exploration for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes.

(11) "Federal fund" means the federal Oil Spill Liability Trust Fund.

(12) "Fund" means the Oil Spill Contingency Fund.

(13) "Harmful quantity" means that quantity of oil the discharge of which is determined by the coordinator to be harmful to the environment or public health or welfare or may reasonably be anticipated to present an imminent and substantial danger to the public health or welfare.

(14) "Hotline" means the emergency telephone number established in accordance with the provisions of this Chapter to respond to a threatened or unauthorized discharge of oil.

(15) "Marine terminal" means any terminal facility within the state of Louisiana used for transferring crude oil to or from vessels.

(16) "National contingency plan" means the plan prepared and published, as revised from time to time, under the Federal Water Pollution Control Act (33 U.S.C. ss 1321 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. ss 9601 et seq.).

(17) "Natural resources" means all land, fish, shellfish, fowl, wildlife, biota, vegetation, air, water, groundwater supplies, and other similar resources owned, managed, held in trust, regulated, or otherwise controlled by the state.

(18) "Oil" means oil of any kind or in any form, including but not limited to crude oil, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under Subparagraphs (A) through (F) of Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. ss 9601 et seq.) and which is subject to the provisions of that Act.

(19) "Oil spill" shall have the same meaning as "discharge of oil" as defined in this Section.

(20) "Owner" or "operator" means:

(a) Any person owning, operating, or chartering by demise a vessel; or

(b) (i) Any person owning a terminal facility, excluding a political subdivision of the state that as owner transfers possession and the right to use a terminal facility to another person by lease, assignment, or permit; or

(ii) A person operating a terminal facility by lease, contract, or other form of agreement.

(21) "Person in charge" means the person on the scene who is directly responsible for a terminal facility or vessel when a threatened or unauthorized discharge of oil occurs or a particular duty arises under this Chapter.

(22) "Person responsible", "responsible person", or "responsible party" means:

(a) The owner or operator of a vessel or terminal facility from which an unauthorized discharge of oil emanates or threatens to emanate.

(b) In the case of an abandoned vessel or terminal facility, the person who would have been the responsible person immediately prior to the abandonment.

(c) Any other person, but not including a person or entity who is rendering care, assistance, or advice in response to a discharge or threatened discharge of another person, who causes, allows, or permits an unauthorized discharge of oil or threatened unauthorized discharge of oil.

(23) "Plan" means the state oil spill contingency plan.

(24) "Pollution" means the presence of harmful quantities of oil in waters of the state or in or on adjacent shorelines, estuaries, tidal flats, beaches, or marshes.

(25) "Removal costs" means, with respect to an actual or threatened discharge of oil, all costs incurred in an attempt to prevent, abate, contain, and remove pollution from the discharge, including costs of removing vessels or structures under this Chapter, and costs of any reasonable measures to prevent or limit damage to the public health, safety, or welfare, public or private property, or natural resources.

(26) "Tank vessel" means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that:

(a) Is a vessel of the United States.

(b) Operates on the navigable waters.

(c) Transfers oil or hazardous material in a place subject to the jurisdiction of the state of Louisiana.

(27) "Terminal facility" means any waterfront or offshore pipeline, structure, equipment, or device used for the purposes of drilling for, pumping, storing, handling, or transferring oil and operating where a discharge from the facility could threaten waters of the state, including but not limited to any such facility owned or operated by a public utility or a governmental or quasi-governmental body.

(28) "Unauthorized discharge of oil" means any actual or threatened discharge of oil not authorized by a federal or state permit.

(29) "Vessel" includes every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, whether self-propelled or otherwise, including barges.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

Part II. Administration

§ 2455. Office of the Louisiana Oil Spill Coordinator

The office of the Louisiana oil spill coordinator is hereby created within the office of the governor and shall exercise the powers and duties set forth in this Chapter or otherwise provided by law. The office shall be administered by the coordinator who shall be appointed by the governor, subject to Senate confirmation. The initial coordinator shall not perform any official duties prior to confirmation.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991).

§ 2456. General powers and duties of the coordinator

A. The coordinator, under the direction and control of the governor, shall:

(1) Develop a statewide oil spill prevention and response plan, taking into account the rules being developed by the federal government in accordance with the federal Oil Pollution Act of 1990 (P.L. 101-380) and similar plans being developed by other states.

(2) Provide a coordinated response effort from all appropriate state agencies in the event of an unauthorized or threatened discharge of oil affecting or potentially affecting the land, coastal waters, or any other waters of Louisiana.

(3) Coordinate the operational implementation and maintenance of the oil spill prevention program as provided in this Chapter.

(4) Administer a fund to provide for funding these activities.

(5) Provide clear delineation for state coordinated response efforts in relation to jurisdictional authorities and use of state and federal funds for removal costs under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. ss 9601 et seq.), Water Pollution Control Act (33 U.S.C. ss 321 et seq.), and the Oil Pollution Act of 1990 (P.L. 101-380).

B. The coordinator, upon approval of the interagency council, as provided in this Chapter, shall adopt and promulgate rules necessary and convenient to the administration of this Chapter in accordance with the Louisiana Administrative Procedure Act.

C. The coordinator shall by rule establish procedures under the Louisiana Administrative Procedure Act for all hearings required by this Chapter. The coordinator is hereby authorized to administer oaths, receive evidence, issue subpoenas to compel attendance of witnesses and production of evidence related to hearings, and make findings of fact and decisions with respect to administering this Chapter.

D. (1) The coordinator may contract with any public agency or private person or other entity, including entering into cooperative agreements with the federal government, acquire and dispose of nonresponse related real or personal property, delegate responsibility for implementing the requirements of this Chapter, and perform any other act within or without the boundaries of this state necessary to administer this Chapter.

(2) The coordinator may enter into any contracts for the purchase of goods or for services in accordance with the Louisiana Procurement Code and upon approval by the interagency council, including the emergency procurement procedures provided in R.S. 39:1598.

E. If the coordinator finds it necessary to enter property to conduct a vessel or terminal-facility audit, inspection, or drill authorized under this Chapter or to respond to an actual or threatened unauthorized discharge, the coordinator may enter the property after making a reasonable effort to obtain consent to enter the property.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2457. Regulatory authority; coordinator

A. The coordinator shall from time to time adopt, amend, repeal, and enforce reasonable regulations not in conflict with federal law or regulations, including but not limited to those relating to the following matters regarding the threatened or actual unauthorized discharge of oil:

(1) Standards and requirements for discharge prevention programs and response capabilities of terminal facilities and vessels.

(2) Standards, procedures, and methods consistent with federal law or regulations for designating persons in charge and reporting threatened or actual unauthorized discharges and violations of this Chapter.

(3) Standards, procedures, methods, means, and equipment to be used in the abatement, containment, and removal of pollution.

(4) Development and implementation of criteria and plans of response to unauthorized discharges of various degrees and kinds, including realistically foreseeable worst-case scenarios consistent with federal regulations.

(5) Requirements for complete and thorough audits of vessel contingency and response plans covered by this Chapter.

(6) Requirements for complete and thorough inspections of terminal facilities covered by this Chapter.

(7) Certification of discharge cleanup organizations.

(8) Requirements for the safety and operation of vessels, motor vehicles, motorized equipment, and other equipment involved in the transfer of oil at terminal facilities and the approach and departure from terminal facilities.

(9) Requirements that required containment equipment be on hand, maintained, and deployed by trained personnel.

(10) Standards for reporting material changes in discharge prevention and response plans and response capability for purposes of terminal facility certificate reviews.

(11) Such other rules and regulations consistent with this Chapter and appropriate or necessary to carry out the intent of this Chapter, consistent with federal law or regulations.

B. The coordinator may establish as a prerequisite for certification of any discharge cleanup organization, other than the Marine Spill Response Corporation and any discharge cleanup operated for profit or that has multi-state response jurisdiction, that the organization maintain on its governing body a minimum of two representatives from local governments within the area served by the organization.

C. (1) Any rule, regulation, guideline, or plan authorized by this Chapter, excluding Part VI, shall be proposed or adopted pursuant to the rulemaking procedures set forth in the Louisiana Administrative Procedure Act and shall be subject to approval by the House Committee on Natural Resources, Senate Committee on Natural Resources, and the

Senate Committee on Environmental Quality. Such approval shall be presumed unless either committee submits objections or notification of a hearing in writing to the coordinator within fifteen days after receipt of the proposed rule, regulation, guideline, or plan. Each written objection or disapproval shall be subject to override by the governor within five days after receipt of the objections or notice of disapproval by the governor.

(2) Any rule or regulation authorized to be adopted or promulgated in Part VI shall be subject to approval by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs. Such approval shall be presumed unless either committee submits objections or notification of a hearing in writing to the coordinator within fifteen days after receipt of the proposed rule, regulation, or guideline. Such written objections or disapproval shall be subject to override by the governor within five days after receipt of the objections or notice of disapproval by the governor.

(3) The coordinator shall submit an annual budget to the Joint Legislative Committee on the Budget for the approval of a majority of members of the committee. The budget shall show all proposed expenditures by the office from the fund or otherwise.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2458. Interagency council

A. The coordinator shall convene at least twice annually and as deemed necessary and serve as chairperson to a cooperative council, the interagency council, composed of the following:

- (1) Four people, who are not legislators, one selected by each of the following.
 - (a) The chairman of the Senate Committee on Natural Resources.
 - (b) The chairman of the Senate Committee on Environmental Quality.
 - (c) The chairman of the House Committee on Natural Resources.
 - (d) The chairman of the House Committee on Appropriations
- (2) The secretary of the Department of Wildlife and Fisheries or his designee.
- (3) The secretary of the Department of Public Safety and Corrections or his designee.
- (4) The secretary of the Department of Natural Resources or his designee.
- (5) The secretary of the Department of Environmental Quality or his designee.
- (6) The attorney general or his designee, who shall serve as a nonvoting member.
- (7) The executive assistant for coastal activities in the office of the governor.
- (8) The executive assistant for environmental affairs in the office of the governor.
- (9) The assistant director of the office of emergency preparedness.
- (10) The Louisiana oil spill coordinator.

B. The council shall consider matters relating to the coordination of state prevention, response, and cleanup operations related to unauthorized discharges of oil, including but not limited to:

- (1) Assisting the coordinator in the development of a statewide oil spill prevention and contingency plan.
- (2) Assisting the coordinator in preparing and approving an annual work plan, identifying state agency needs which must be met in order to comply with the state oil spill contingency plan.
- (3) Developing recommendations for additional legislation.
- (4) Assisting the coordinator in preparing and approving a budget necessary to implement the provisions of this Chapter.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

Part III. State Oil Spill Contingency Plan

§ 2459. State oil spill contingency plan

A. The coordinator shall adopt and promulgate, in accordance with the procedures provided herein, a state oil spill contingency plan of response for actual or threatened unauthorized discharges of oil and clean up of pollution from such discharges. In addition, the Department of Environmental Quality, in cooperation with the coordinator, shall recommend provisions of the plan relating to unauthorized discharges of oil. The Department of Wildlife and Fisheries, in cooperation with the coordinator, shall recommend provisions of the plan providing for protection, rescue, and rehabilitation of aquatic life and wildlife and appropriate habitats on which they depend under its jurisdiction. The Department of Natural Resources, in cooperation with the coordinator, shall recommend provisions of the plan providing for protection and rehabilitation of appropriate resources under its jurisdiction. The Department of Public Safety and Corrections, in cooperation with the coordinator, shall recommend provisions of the plan providing for emergency response coordination to protect life and property, excluding prevention, abatement, containment, and removal of pollution from an unauthorized discharge.

B. In promulgating the plan, the coordinator shall provide for clear designation of responsibilities and jurisdiction and avoid unnecessary duplication and expense. In promulgating the plan, the coordinator shall also provide for participation by local political subdivisions contiguous to coastal waters.

C. The plan shall be fully operational and implemented not later than one year after the latest effective date of the area and regional contingency plans designated for Louisiana pursuant to federal law and implemented by the United States Coast Guard and Environmental Protection Agency.

D. Prior to adopting the state oil spill contingency plan, the coordinator shall, by rule, adopt a fully delineated inland boundary for coastal waters as defined in this Chapter, which boundary shall be based upon data provided by, including but not limited to the United States Army Corps of Engineers, United States Department of the Interior, Minerals Management Service, the Louisiana Department of Natural Resources, and the oil and gas industry. The coordinator shall be authorized to amend the boundary by rule as conditions may warrant. The boundary, as adopted, shall be clearly marked on large scale maps or charts, official copies of which shall be available for public inspection in the office of coastal restoration and management in the Department of Natural Resources, in each agency comprising the interagency council, and in the parish seat of each parish located within the boundary.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2460. Contingency plan provisions

A. The plan shall include all of the following:

- (1) Detailed emergency operating procedures for initiating actions in response to unauthorized discharges.
- (2) A response command structure and state response team.
- (3) An inventory of public and private equipment and its location and a list of available sources of supplies necessary for response.
- (4) A table of organizations with the names, addresses, and telephone numbers of all persons and agencies responsible for implementing each phase of the plan and provisions for notification to such persons and agencies in the event of an unauthorized discharge.
- (5) Plans for practice drills for the response command structure and the state response team.
- (6) Establishment of a single state hotline for reporting incidents that will satisfy all state notification requirements under this Chapter and R.S.32:1501 et seq., R.S. 30:2025(J), and R.S. 30:2361 et seq.

(7) Provisions for notifying the Department of Environmental Quality under the state oil spill contingency plan.

(8) Plans for volunteer coordination and training.

(9) Use of both proven and innovative prevention and response methods and technologies.

(10) The circumstances under which an unauthorized discharge may be declared to be a state of emergency under applicable law.

(11) The circumstances under which the unauthorized discharge may be declared to be abated and pollution may be declared to be satisfactorily removed.

(12) Designation of environmental and other priority zones to determine the sequence and methods of response and cleanup.

(13) Procedures for disposal of removed oil or hazardous substances.

(14) Procedures established in cooperation with the Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources for assessment of natural resources damages and plans for mitigation of damage to and restoration, protection, rehabilitation, or replacement of damaged natural resources.

(15) Any plan developed by the coordinator pursuant to this Chapter shall include appropriate local governmental authorities and shall provide for the participation and involvement of the appropriate local governmental authorities that may be affected by or involved in the prevention, response, and removal of an oil spill.

(16) Any other matter necessary or appropriate to carry out response activities, including but not limited to preapproval of the use of dispersants.

B. (1) The coordinator shall promulgate rules and a state contingency plan that, to the greatest extent practicable, conform to the national contingency plan and rules promulgated under federal law.

(2) The coordinator may impose requirements under such rules and the state oil spill contingency plan that are in addition to or vary materially from federal requirements if the state interests served by the requirements substantially outweigh the burdens imposed on those subject to the requirements.

C. The plan shall be filed with all state agencies participating in response operations and federal officials responsible for federal discharge response within waters of the state, and local political subdivisions deemed appropriate by the coordinator.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

Part IV. Oil Spill Prevention and Response

§ 2461. Coordinator; notification

On notification of an actual or threatened unauthorized discharge of oil, the coordinator shall take immediate action to assess the discharge and prevent, abate, or contain any pollution from the discharge.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2462. Administration of oil spill response and cleanup

A. The coordinator, in consultation with the Department of Environmental Quality, is authorized to administer this Chapter and direct all state discharge response and cleanup operations resulting from unauthorized discharges of oil in coastal waters, as directed by the governor or upon a declaration of emergency as declared by the governor. The Department of Environmental Quality, under the direction and control of the coordinator, is lead technical agency of the state for response to actual or threatened unauthorized discharges of oil and for cleanup of pollution from unauthorized discharges of oil.

B. All persons and all other officers, agencies, and subdivisions of the state shall carry out response and cleanup operations related to unauthorized discharges of oil subject to the authority granted to the coordinator under this Chapter.

C. In the event of an unauthorized discharge of oil nothing in this Chapter shall preclude the Department of Environmental Quality from, at the earliest time practicable, assuming response and cleanup duties for the discharge of oil pursuant to R.S. 30:2001 et seq., provided, however, the coordinator is notified within twenty-four hours.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2463. Notification and response

A. Any person responsible for an unauthorized discharge of oil or the person in charge of any vessel or a terminal facility from or at which an unauthorized discharge of oil has occurred, as soon as that person has knowledge of the discharge, shall:

- (1) Immediately notify the hotline of the discharge.
- (2) Undertake all reasonable actions to abate, contain, and remove pollution from the discharge.

B. If the persons responsible or in charge are unknown or appear to the coordinator to be unwilling or unable to abate, contain, and remove pollution from an unauthorized discharge of oil in an adequate manner, the coordinator may abate, contain, and remove pollution from the discharge and may contract with and appoint agents who shall operate under the direction of the coordinator to abate, contain, or remove pollution from the discharge.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2464. Response coordination

A. In responding to actual or threatened unauthorized discharges of oil, the coordinator shall appoint a state-designated on-scene coordinator to act in the coordinator's absence in the event that the coordinator is unable to be physically present at the scene of the discharge.

B. If the unauthorized discharge of oil is subject to the national contingency plan, in responding to the discharge the coordinator or the state-designated on-scene coordinator shall act in accordance with the national contingency plan as is practicable under the circumstances and cooperate with the federal on-scene coordinator or other federal agency or official exercising authority under the national contingency plan.

C. The coordinator or the state-designated on-scene coordinator may act independently to the extent no federal on-scene coordinator or authorized agency or official of the federal government has assumed federal authority to oversee, coordinate, and direct response and cleanup operations.

D. The coordinator or the state-designated on-scene coordinator may act to protect any interests of the state that are not covered by the national contingency plan, and are consistent with the state or national contingency plans.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2465. Assistance and compensation

A. Subject to the coordinator's authority as authorized by this Chapter to determine otherwise, any person or discharge cleanup organization may assist in abating, containing, or removing pollution from any unauthorized discharge of oil.

B. Any person or discharge cleanup organization that renders assistance in abating, containing, or removing pollution from any unauthorized discharge of oil may receive compensation from the fund for removal costs, provided the coordinator approves compensation prior to the assistance being rendered. Prior approval for compensation may be provided for in the state oil spill contingency plan. The coordinator, on petition and for good cause shown, may waive the prior approval prerequisite.

(Added by Acts 1991, 1st Ex.Sess. No. 7, s 1 eff. April 23, 1991.)

§ 2466. Qualified immunity for response actions

A. No action or omission taken by any person, including any discharge cleanup organization, to abate, contain, remove, clean up, or otherwise respond to pollution from a threatened or actual unauthorized discharge of oil or refined petroleum product, or to otherwise render care, assistance, or advice, whether such action or omission is taken voluntarily, or pursuant to or consistent with the national contingency plan or state oil spill contingency plan, or pursuant to or consistent with a response plan required under this Chapter, or pursuant to or consistent with the request of an authorized federal or state official, or pursuant to or consistent with the request of the responsible person, shall be construed as an admission of responsibility or liability for the discharge.

B. Notwithstanding any other provision of law, and except for the responsible person, no person, including any discharge cleanup organization, that voluntarily, pursuant to or consistent with the national contingency plan or the state oil spill contingency plan, or pursuant to or consistent with any response plan required under this Chapter, or pursuant to or consistent with the request or direction of an authorized federal or state official, or pursuant to or consistent with the request of the potentially responsible person, renders care, assistance, or advice in abating, containing, removing, cleaning up, or otherwise responding to pollution from an unauthorized discharge or threat of discharge of oil or refined petroleum products is liable for removal costs, damages, or civil penalties, whether under this Chapter or other laws of this state, resulting from acts or omissions committed in rendering such care, assistance, or advice. This Section shall not apply to actions for personal injury or wrongful death or for acts or omissions of gross negligence or willful misconduct. A party responsible for the initial discharge is liable for any removal costs or damages for which another person is relieved under this Subsection.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2467. Equipment and personnel

The coordinator may contract with any private person or entity for the use of equipment and personnel at places the coordinator determines may be necessary for response and prevention operations, in accordance with the state oil spill contingency plan. The coordinator may contract with any public agency, via interagency transfer of funds, to conduct baseline environmental, wetlands, water quality, habitat, wildlife, and natural resources assessments, or for any other matter deemed necessary to comply with the state and national oil spill contingency plans.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2468. Refusal to cooperate

A. If a responsible person, or a person or discharge cleanup organization under the control of a responsible person, participating in operations to abate, contain, and remove pollution from any unauthorized discharge of oil, reasonably believes that any directions or orders given by the coordinator or the coordinator's designee under this Chapter will unreasonably endanger public safety or natural resources or conflict with directions or orders of the federal on-scene coordinator, the party may refuse to comply with the direction or orders.

B. The party shall state at the time of refusal the reasons for his failure to comply. The party shall give the coordinator written notice of the reason or the reasons for the refusal within forty-eight hours of the refusal.

(Added by Acts 1991 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2469. Derelict vessels and structures

A. A person may not leave, abandon, or maintain any structure or vessel involved in an actual or threatened unauthorized discharge of oil in coastal waters or on public or private lands or at a public or private port or dock, in a wrecked, derelict, or substantially dismantled condition, without the consent of the coordinator.

B. Before removing any abandoned or derelict vessels or structures the coordinator shall locate, identify, mark, and analyze the contents of any abandoned or derelict vessels or structures found within the state. If the vessel or structure contains oil or oil based materials he shall establish a priority for removal of those vessels and structures on the basis of highest risk to human health and safety, the environment, and wildlife habitat. The coordinator shall compile a computerized list of all vessels or structures indicating the location, identity, and contents of each.

C. The coordinator may remove any vessel or structure described in Subsection A of this Section and may recover the costs of removal from the owner or operator of the vessel or structure. In the event that the owner or operator cannot be located, the coordinator may use the monies in the fund up to one million dollars in any fiscal year for the removal of any vessel or structure described in Subsection A of this Section.

D. The Department of Environmental Quality may petition the coordinator for the removal of any vessel or structure as described in Subsection A of this Section and the coordinator shall either comply or submit the matter to the interagency council for review.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991. Amended by Acts 1992, No. 426, s 1.)

§ 2469.1. Facilities; sumps; pits; reservoirs

A. The coordinator, in conjunction with the office of conservation, shall conduct a study to identify, locate, mark, and catalog all facilities, sumps, pits, or reservoirs involved in an actual or threatened unauthorized discharge of oil in coastal waters, and where possible, identify the owners thereof.

B. The study shall also establish a priority for cleanup and abatement of those facilities, sumps, pits, and reservoirs on the basis of highest risk to human health and safety, the environment, and wildlife habitat.

C. The coordinator may use an amount not to exceed two hundred thousand dollars from the Oil Spill Contingency Fund to conduct and complete the study.

D. The study may be funded on a cost-share basis with any federal agency that is authorized to fund such a study.

E. The coordinator and the commissioner of conservation shall make annual reports to the legislature on the progress of the study. The study shall be completed and a final report submitted by the coordinator to the legislature no later than March 1, 1994.

(Added by Acts 1992 No. 426, s 1.)

§ 2470. Registration of terminal facilities

A. A person may not operate or cause to be operated a terminal facility without a discharge prevention and response certificate issued pursuant to rules promulgated under this Chapter; however, such facility may be operated without a certificate for those purposes that do not involve the transfer or storage of oil.

B. (1) As a condition precedent to the issuance or renewal of a certificate, the coordinator shall require satisfactory evidence that:

(a) The applicant has implemented a discharge prevention and response plan consistent with state and federal plans and regulations for prevention of unauthorized discharges of oil and abatement, containment, and removal of pollution when such discharge occurs.

(b) The applicant can provide, directly or through membership or contract with a discharge cleanup organization, all required equipment and personnel to prevent, abate, contain, and remove pollution from an unauthorized discharge of oil as provided in the plan.

(2) A terminal facility response plan that complies with requirements under federal law and regulations for a terminal facility response plan satisfies the requirements of Subparagraph (1)(a) of this Subsection.

C. Notwithstanding other provisions of this Chapter, the owner of a facility shall qualify for a certificate if all persons leasing or operating the facility have received a certificate.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2471. General terms

A. Discharge prevention and response certificates are valid for a period of five years. The coordinator by rule shall require each registrant to report annually on the status of its discharge prevention and response plan and response capability.

B. The coordinator may review a certificate at any time there is a material change affecting the terminal facility's discharge prevention and response plan or response capability.

C. Certificates shall be issued subject to such terms and conditions as the coordinator may determine are reasonably necessary to carry out the purposes of this Chapter.

D. Certificates issued to any terminal facility shall take into account the vessels used to transport oil to or from the facility.

E. The coordinator, by rule, shall establish and require payment of a reasonable fee for processing applications for certificates. This fee is in addition to the fee levied under R.S. 30:2485 and must be reasonably related to the administrative costs of verifying data submitted pursuant to obtaining the certificates and reasonable inspections.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2472. Information

Each applicant for a discharge prevention and response certificate shall submit information, in a form satisfactory to the coordinator, describing all of the following:

- (1) The barrel or other measurement capacity of the terminal facility.
- (2) The dimensions and barrel capacity of the largest vessel docking at or providing service from the terminal facility.
- (3) The storage and transfer capacities and average daily throughput of the terminal facility.
- (4) The types of oil stored, handled, or transferred at the terminal facility.
- (5) Information related to implementation of the applicant's discharge prevention and response plan, including:
 - (a) All response equipment including but not limited to vehicles, vessels, pumps, skimmers, booms, bioremediation supplies and application devices, dispersants, chemicals, and communication devices to which the terminal facility has access, as well as the estimated time required to deploy the equipment after an unauthorized discharge.
 - (b) Personnel available to deploy and operate the response equipment, as well as the estimated time required to deploy the personnel after an unauthorized discharge.
 - (c) The measures employed to prevent unauthorized discharges.
 - (d) The terms of agreement and operation plan of any discharge cleanup organization to which the owner or operator of the terminal facility belongs.
- (6) The source, nature of, and conditions of financial responsibility for removal costs and damages.
- (7) Any other information necessary or appropriate to the review of a registrant's discharge prevention and response capabilities.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2473. Issuance

Upon compliance with the applicable provisions of this Chapter and upon payment of the certificate application fee, the coordinator shall issue the applicant a discharge prevention and response certificate covering the terminal facility.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2474. Suspension

If the coordinator determines that a registrant does not have a suitable or adequate discharge prevention and response plan or that the registrant's preventive measures or containment and cleanup capabilities are inadequate, the coordinator may, after an adjudicatory hearing pursuant to the regulatory authority provided in Part II of this Chapter, suspend the registrant's certificate until such time as the registrant complies with the requirements of this Chapter.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2475. Contingency plans for vessels and facilities

Every owner or operator covered by this Chapter shall provide to the coordinator the tank vessel and facility response plans as provided in Section 4202(a)(5) of the Oil Pollution Act of 1990 (P.L. 101-380).

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2476. Entry into port

In conjunction with the United States Coast Guard and prior to being granted entry into any port in this state the person in charge of a vessel subject to the provisions of this Chapter may be required to report or show to the coordinator:

- (1) Any unauthorized discharges from the vessel since leaving the last port.
- (2) Any mechanical or operational problem on the vessel creating the possibility of an unauthorized discharge.
- (3) Any denial of entry into any port during the current voyage of the vessel.
- (4) That the vessel has a discharge prevention and response plan and the personnel and equipment to implement it as required under this Chapter.
- (5) That the vessel has evidence of financial responsibility as required under this Chapter.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2477. Audits, inspections, and drills

The coordinator, in conjunction with the United States Coast Guard, may subject a vessel covered by this Chapter as a condition to being granted entry into any port in this state, or a terminal facility to an announced or unannounced audit, inspection, or drill to determine the discharge prevention and response capabilities of the terminal facility or vessels.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

Part V. Liability of Persons Responsible

§ 2478. Financial responsibility

A. Each owner or operator of a tank vessel with a capacity to carry ten thousand gallons or more of oil as fuel or cargo subject to the provisions of this Chapter operating within coastal waters or a terminal facility shall maintain and furnish evidence of their financial responsibility for costs and damages from unauthorized discharges of oil in accordance with the Oil Pollution Act of 1990 (P.L. 101-380).

B. If a tank vessel with a capacity to carry ten thousand gallons or more of oil as fuel or cargo covered by this Chapter or terminal facility is not required under federal law to establish and maintain evidence of financial responsibility, the owner or operator of that vessel or terminal facility shall establish and maintain evidence in a form prescribed by rules promulgated under this Chapter that such registrant or vessel has the ability to meet liability that may be incurred under this Chapter.

C. After an unauthorized discharge of oil, a vessel shall remain in the jurisdiction of the coordinator until the owner, operator, or person in charge has shown the coordinator evidence of financial responsibility. The coordinator may not detain the vessel longer than twelve hours after proving financial responsibility.

D. In addition to any other remedy or enforcement provision, the coordinator may suspend a registrant's discharge prevention and response certificate or may deny a vessel entry into any port in waters of the state for failure to comply with this Section.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2479. Limitation of liability

A. The total of the liability of a responsible party for all damages and removal costs shall not exceed the following:

(1) For a tank vessel, the greater of:

(a) One thousand two hundred dollars per gross ton; or

(b) (i) In the case of a vessel greater than three thousand gross tons, ten million dollars.

(ii) In the case of a vessel of three thousand gross tons or less, two million dollars.

(2) For any other vessel, six hundred dollars per gross ton or five hundred thousand dollars, whichever is greater.

(3) For an offshore facility except a deepwater port, the total of all removal costs plus seventy-five million dollars.

(4) (i) For any onshore facility or a deepwater port, three hundred fifty million dollars; provided that, for onshore facilities, where the president of the United States, in accordance with Section 1004(d)(1) of the Oil Pollution Act of 1990 (P.L. 101-380), has established a limitation of less than three hundred fifty million dollars, the limitation of liability provided under this Paragraph shall be the limitation of liability established by the president of the United States.

(ii) Provided that for a deepwater port, where the secretary designated by Section 1004(d)(2)(C) of the Oil Pollution Act of 1990 (P.L. 101-380) has established a limitation of less than three hundred fifty million dollars, in accordance with Section 1004(d)(2)(C) of the Oil Pollution Act of 1990 (P.L. 101-380), the limitation of liability under this Paragraph shall be the limitation of liability established by the secretary.

B. (1) For the purposes of determining the responsible party and applying this Chapter, and except as provided in Paragraph (2) of this Subsection, a mobile offshore drilling unit which is being used as an offshore facility is deemed to be a tank vessel with respect to the discharge, or substantial threat of discharge, of oil on or above the surface of the water.

(2) To the extent that removal costs and damages from any incident described in Paragraph (1) of this Subsection exceed the amount for which a responsible party is liable, as that amount may be limited under R.S. 30:2479(A)(1), the mobile offshore drilling unit is deemed to be an offshore facility. For the purposes of applying R.S. 30:2479(A)(3) the amount specified by that provision shall be reduced by the amount for which the responsible party is liable under R.S. 30:2479(A)(1).

C. (1) The limits of liability provided for in this Section do not apply if the incident was primarily caused by gross negligence or willful misconduct of, or the violation of an applicable federal, state, or local safety, construction, or operating regulation by the responsible party, an agent or employee of the responsible party, or a person acting pursuant to a contractual relationship with the responsible party, except where the sole contractual arrangement arises in connection with carriage by a common carrier by rail.

(2) The limits of liability provided for in this Section do not apply if the responsible party fails or refuses:

(a) To report the incident as required by law and the responsible party knows or has reason to know of the incident; or

(b) To provide all reasonable cooperation and assistance requested by a responsible state or federal official in connection with removal activities.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2480. Presumption of natural resources damages

A. In any action to recover natural resources damages, the amount of damages established by the coordinator in conjunction with state-designated natural resources trustees, according to the procedures and plans contained in the state oil spill contingency plan, shall create a rebuttable presumption of the amount of such damages.

B. The coordinator may establish the rebuttable presumption by submitting to the court a written report of the amounts computed or expended according to the state plan. The written report shall be admissible in evidence.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2481. Defenses

A person shall not be liable under the provisions of this Chapter if the discharge resulted solely from any of the following:

(1) An act of God, war, or terrorism.

(2) An act of government, either state, federal, or local.

(3) An unforeseeable occurrence exclusively occasioned by the violence of nature without the interference of any human act or omission.

(4) The willful misconduct or a negligent act or omission of a third party, other than an employee or agent of the person responsible or a third party whose conduct occurs in connection with a contractual relationship with the responsible person, unless the responsible person failed to exercise due care and take precautions against foreseeable conduct of the third party.

(5) Any combinations of Paragraphs (1), (2), and (3).

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2482. Claims against third parties

If a responsible person alleges a defense under R.S. 30:2481 the responsible person shall pay all removal costs and damages; however, the responsible person shall be subrogated to any rights or cause of action belonging to those to whom such payment is made.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

Part VI. Oil Spill Contingency Fund

§ 2483. Oil Spill Contingency Fund

A. "Secretary" as used in this Part shall mean the secretary of the Department of Revenue and Taxation.

B. In order to fulfill the constitutional mandate of Article IX, Section 1 of the Constitution of Louisiana to protect, conserve, and replenish the natural resources of the state, the legislature hereby declares that sufficient funds shall be made available to the Oil Spill Contingency Fund, in order for prevention of and response to unauthorized discharges of oil.

C. The purpose of the fund is to immediately provide available funds for response to all threatened or actual unauthorized discharges of oil, for clean up of pollution from unauthorized discharges of oil, natural resources damages, damages sustained by any state agency or political subdivision, and removal costs from threatened, unauthorized discharges of oil.

D. All fees, taxes, penalties, judgments, reimbursements, charges, and federal funds collected pursuant to the provisions of this Chapter shall be deposited immediately upon receipt into the state treasury.

E. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited, as required in Subsection D hereof, and monies appropriated by the legislature shall be credited to a special fund hereby created in the state treasury to be known as the "Oil Spill Contingency Fund". The monies in this fund shall be used solely as provided in this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in the fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall remain in the fund. The balance of the fund shall not exceed thirty million dollars, exclusive of all fees, other than all fees collected pursuant to R.S. 30:2485 and 2486, penalties, judgments, reimbursements, charges, interest, and federal funds collected pursuant to the provisions of this Chapter.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2484. Uses of fund

Money in the fund may be disbursed for the following purposes and no others:

(1) Administrative and personnel expenses of the office of the coordinator, not to exceed three hundred fifty thousand dollars in any fiscal year.

(2) Removal costs related to abatement and containment of actual or threatened unauthorized discharges of oil incidental to unauthorized discharges of hazardous substances.

(3) Removal costs and damages related to actual or threatened unauthorized discharges of oil as provided in this Chapter.

(4) Protection, assessment, restoration, rehabilitation, or replacement of or mitigation of damage to natural resources damaged by an unauthorized discharge of oil as provided in this Chapter.

(5) Grants, with the approval of the interagency council, for interagency contracts as provided in R.S. 30:2495, not to exceed seven hundred fifty thousand dollars in any fiscal year.

(6) Operating costs and contracts for response and prevention as provided in this Chapter not to exceed five hundred thousand dollars in any fiscal year.

(7) Other costs and damages authorized by this Chapter.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991. Amended by Acts 1992, No. 426, s 1.)

§ 2485. Oil spill contingency fee

A. There is hereby imposed a fee on every person owning crude oil in a vessel at the time such crude oil is transferred to or from a vessel at a marine terminal within the state of Louisiana. This fee is in addition to all taxes or other fees levied on crude oil.

B. The operator of the marine terminal shall collect the fee from the owner of the crude oil and remit the fee to the secretary. The fee shall be imposed only once on the same crude oil. The fee shall be paid quarterly by the last day of the month following the calendar quarter in which liability for the fee is incurred. Fees collected during a quarter must be remitted to the state even if the fee is suspended during that quarter. For the expenses of collecting this fee, the operator is authorized to withhold one and one-half percent of the fees collected during each quarter provided that the amount due was not delinquent at the time of payment.

C. The fee levied by this Part shall be subject to the provisions of Chapter 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. The coordinator in conjunction with the secretary shall adopt rules for the collection and administration of the fee provided for in this Section.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2486. Determination of fee

A. Except as otherwise provided in this Section, the rate of the fee shall be two cents per barrel of crude oil until the state treasurer certifies that the balance in the fund has reached fifteen million dollars. The state treasurer shall certify to the secretary of the Department of Revenue and Taxation the date on which the balance in the fund equals fifteen million dollars. The fee shall not be collected or required to be paid on or after the first day of the second month following the treasurer's certification to the secretary.

B. If the balance in the fund falls below eight million dollars, the treasurer shall certify such fact to the secretary of the Department of Revenue and Taxation. On receiving the state treasurer's certification, the secretary of the Department of Revenue and Taxation shall resume collecting the fee until suspended in the manner provided in Subsection A of this Section.

C. Notwithstanding the provisions of Subsection A or B of this Section, the fee shall be levied at the rate of four cents per barrel if the state treasurer certifies to the secretary of the Department of Revenue and Taxation a written finding of the following facts:

(1) The balance in the fund is less than eight million dollars.

(2) An unauthorized discharge of oil in excess of one hundred thousand gallons has occurred within the previous thirty days as certified by the coordinator.

(3) Expenditures from the fund for damages and removal costs are reasonably expected by the coordinator and interagency council to deplete the fund by more than fifty percent of the balance of the fund, and certification of this expectation and the estimated damages and removal costs have been submitted to the state treasurer.

D. In the event of a certification to the secretary under Subsection C of this Section, the secretary shall collect the fee at the rate of four cents per barrel until the balance in the fund reaches fifteen million dollars. The state treasurer shall certify to the secretary the date on which the balance in the fund equals fifteen million dollars. The fee shall not be collected or required to be paid on or after the first day of the second month following the state treasurer's certification to the secretary.

E. For the purposes of this Section, the balance of the fund shall be determined by the cash balance of the fund at the end of each month or on the date of a finding under Subsection C of this Section.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2487. Administration of fee

A. The state treasurer shall notify the coordinator when the balance of the fund reaches fifteen million dollars or falls below eight million dollars as specified in R.S. 30:2486, whereupon the coordinator shall publish the finding in the Louisiana Register. In the event of any suspension or other reinstatement of the fee, and upon notice thereof, the coordinator shall publish the suspension or reinstatement in the Louisiana Register at least thirty days prior to the scheduled effective date of the suspension or reinstatement.

B. In the event of a declaration of emergency or as provided in R.S.30:2486(B) and (C), the secretary shall reinstate the fee in accordance with rules promulgated for that purpose.

C. The fee levied under this Part shall be due and collected beginning on the first day of the first month beginning sixty days after the effective date of this Chapter.

D. If refunds are determined to be due, they shall be paid only from the fund.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2488. Liability of the fund

A. The coordinator shall prescribe appropriate forms and requirements and by rule shall establish procedures for filing claims for compensation from the fund and for removal costs reimbursements to other state agencies from the fund.

B. The fund shall not be liable to any person for damage to equipment resulting from an oil spill discharge and which are compensable under the Fisherman's Gear Compensation Fund.

C. The fund shall be liable for the following removal costs and damages, provided that such are not recoverable under the federal Oil Pollution Act of 1990 (P.L. 101-380) and the claimant has exhausted all federal remedies:

(1) All proven, reasonable damages and removal costs incurred by state agencies or local governing authorities, authorized by this Chapter from a threatened or unauthorized discharge of oil.

(2) All natural resources damages from an unauthorized discharge of oil.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2489. Reimbursement of fund

A. The coordinator shall diligently pursue reimbursement to the fund of any sum expended or paid from the fund in accordance with the state and national oil spill contingency plans.

B. The coordinator shall recover for the use of the fund, either from persons responsible for the unauthorized discharge or otherwise liable, or from the federal Oil Spill Liability Trust Fund, all sums owed to or expended from the fund.

C. In any action to recover such sums, the coordinator shall submit to the court a written report of the amounts paid from or owed by the fund to claimants. The amounts paid from or owed by the fund to the claimants stated in the report shall create a rebuttable presumption of the amount of the fund's damages. The written report shall be admissible in evidence.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2490. Awards exceeding fund

A. In the event that the awards against the fund exceed the existing balance of the fund, the claimant or claimants shall be paid from the future income of the fund. Each claimant or claimants applying for reimbursement shall receive a pro rata share of all money available in the fund until the total amount of awards is paid.

B. The coordinator by rule may make exceptions to Subsection A of this Section in cases of hardship. Amounts collected by the fund from the prosecution of actions shall be used to satisfy the claims as to which such prosecutions relate to the extent unsatisfied.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

Part VII. Remedies and Enforcement

§ 2491. Exclusive remedies

A. When applicable, the limitations of liability and immunities provided in this Chapter shall be exclusive and shall supersede any other liability provisions provided by any other applicable state law. The provisions of this Chapter shall supersede, but not repeal, any conflicting laws of this state. Any conflicting applicable federal law shall take precedence over this Chapter.

B. Notwithstanding any other provision of this law, nothing herein shall be construed to preclude the Department of Wildlife and Fisheries from bringing a civil suit to recover penalties for the value of each fish, wild bird, wild quadruped, and other wildlife and aquatic life unlawfully killed, caught, taken, possessed, or injured pursuant to R.S. 56:40.1 et seq.

(Added by Acts 1991, 1st Ex.Sess. No. 7 s 1 eff. April 23, 1991.)

§ 2492. Enforcement

Any violation of the provisions of this Chapter shall be subject to the enforcement, penalty, procedural, and adjudicatory provisions of this Subtitle. In addition to other factors required to be considered by the secretary in such proceedings, the coordinator shall submit his report regarding a violation of this Chapter to the secretary, and the secretary shall give due consideration to the report.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

Part VIII. Miscellaneous Provisions

§ 2493. Federal funds

A. In implementing this Chapter, the coordinator to the greatest extent practicable shall employ federal funds unless federal funds will not be available in an adequate period of time.

B. All federal funds received by the state relating to removal costs for threatened or unauthorized discharges of oil under this Chapter shall be deposited in the fund.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2494. Interstate compacts

The coordinator may enter into agreements with other states consistent with and to further the purposes of this Chapter and may recommend legislation establishing interstate compacts consistent with federal law. The coordinator may also participate in initiatives to develop multistate and international standards and cooperation on unauthorized discharge prevention and response.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2495. Institutions of higher education

The coordinator by interagency contract, as budgeted by the interagency council, may provide grants to state institutions of higher education for research, testing, and development of discharge prevention and response technology, discharge response training, wildlife and natural resources protection, rescue, and rehabilitation, development of computer models to predict the movements and impacts of discharges, and other purposes consistent with and in furtherance of the purposes of this Chapter. Contracts or agreements relating to wildlife, aquatic resources, and habitats under the jurisdiction of the Department of Wildlife and Fisheries shall be made in coordination with that department. Contracts or agreements relating to wetlands and coastal resources under the jurisdiction of the Department of Natural Resources shall be made in coordination with that department. To the greatest extent possible, contracts shall be coordinated with studies being done by other state agencies, the federal government, or private industry to minimize duplication of efforts.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

§ 2496. Exclusive authority

The provisions of this Chapter shall be the exclusive authority on oil spill prevention, response, removal, and liability and the limitations of liability.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

Regular Session, 1995

SENATE BILL NO. 1310

BY SENATOR CHABERT

AN ACT

To amend and reenact R.S. 30:2452(A), 2454(5)(a), (c), and (d), 2456(B) and (D)(2), 2457(B), 2458(B)(2) and (4), 2459(A) and (D), 2462(A), 2469(B), 2480, 2484(5), (6), and (7), 2486(A) and (D), 2487(A), 2489(B), 2495, and 2496 and to enact R.S. 30:2454(30) and (31), 2469(E), 2484(8), (9), and (10) and 2489(D) and to repeal R.S. 30:2454(5)(e) and (f) and 2469.1, relative to the office of the oil spill coordinator; to provide for technical amendments; to provide for funds to be used by the office of conservation; to provide for inventory of threatened or actual discharges; to provide for appropriations from the fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:2452(A), 2454(5)(a), (c), and (d), 2456(B) and (D)(2), 2457(B), 2458(B)(2) and (4), 2459(A) and (D), 2462(A), 2469(B), 2480, 2484(5), (6), and (7), 2486(A) and (D), 2487(A), 2489(B), 2495, and 2496 are hereby amended and reenacted and R.S. 30:2454(30) and (31), 2469(E), 2484(8), (9), and (10) and 2489(D) are hereby enacted to read as follows:

SB NO. 1310

ENROLLED

§2452. Legislative findings

A. Louisiana is subject to greater exposure to a major oil spill disaster than any other state. This is the result of the large volumes of stored oil, numerous production platforms and miles of pipelines, large numbers of inland barges, and heavy tanker traffic, including the Louisiana Offshore Oil Port which receives fifteen percent of the oil imported into the United States. This exposure, coupled with the limited adequate highway access to the coast and remote inland areas for rapid transport of oil spill equipment and few areas suitable for staging facilities, creates great potential for a major oil spill event and its consequences in a state which has twenty-six percent of the nation's commercial fisheries, has the nation's highest marine recreational fishery catches, leads the nation in fur production and the world in alligator production, and has more overwintering waterfowl than any other state. Commercial and recreational marine fisheries are concentrated within a few miles inshore and offshore of the coastline where oil from a major coastal spill would concentrate.

* * *

§2454. Definitions

In this Chapter:

* * *

(5) "Damages" means and includes any of the following:

(a) Natural resources - damages for injury to, destruction of, or loss of natural resources as defined in this Section, include the reasonable and any direct, documented cost to assess, restore, rehabilitate, or replace injured natural resources, or to mitigate further injury, and their diminution in value after such restoration, rehabilitation, replacement, or mitigation, which shall be recoverable

by the state of Louisiana.

• • •

(c) Revenues - damages equal to the net loss of taxes, royalties, rents, fees, or net profit share due to the injury, destruction, or loss of immovable or corporeal movable property, or natural resources, which shall be recoverable by the state of Louisiana.

(d) Public services - damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil, recoverable by the state of Louisiana or any of its political subdivisions.

• • •

(30) "Comprehensive assessment method" means a method including sampling, modeling, and other appropriate scientific procedures to make a reasonable and rational determination of injury and cost-effective restoration alternatives to natural resources resulting from an unauthorized discharge of oil.

(31) "Negotiated assessment" means a restoration plan agreed upon by the coordinator, in consultation and agreement with any other state trustees, and the responsible party.

• • •

§2456. General powers and duties of the coordinator

• • •

B. The coordinator, in consultation with the interagency council, as provided in this Chapter, shall adopt and promulgate rules necessary and convenient to the administration of this Chapter in accordance with the Louisiana Administrative Procedure Act.

• • •

D. . . .

(2) The coordinator may enter into any contracts for the purchase of goods or for services in accordance with the Louisiana Procurement Code and in consultation with the interagency council, including the emergency procurement procedures provided in R.S. 39:1598.

. . . .

§2457. Regulatory authority; coordinator

. . . .

B. The coordinator may establish as a prerequisite for certification of any discharge cleanup organization, other than the Marine Spill Response Corporation and any discharge cleanup organization operated for profit or that has multi-state response jurisdiction, that the organization maintain on its governing body a minimum of two representatives from local governments within the area served by the organization.

. . . .

§2458. Interagency council

. . . .

B. The council shall consider matters relating to the coordination of state prevention, response, and cleanup operations related to unauthorized discharges of oil, including but not limited to:

. . . .

(2) Assisting the coordinator in preparing an annual work plan, identifying state agency needs which must be met in order to comply with the state oil spill contingency plan.

. . . .

(4) Assisting the coordinator in preparing a budget necessary

to implement the provisions of this Chapter.

§2459. State oil spill contingency plan

A. The coordinator shall develop and distribute to the public a state oil spill contingency plan of response for actual or threatened unauthorized discharges of oil and clean up of pollution from such discharges. In addition, the Department of Environmental Quality, in cooperation with the coordinator, shall recommend provisions of the plan relating to unauthorized discharges of oil. The Department of Wildlife and Fisheries, in cooperation with the coordinator, shall recommend provisions of the plan providing for protection, rescue, and rehabilitation of aquatic life and wildlife and appropriate habitats on which they depend under its jurisdiction. The Department of Natural Resources, in cooperation with the coordinator, shall recommend provisions of the plan providing for protection and rehabilitation of appropriate resources under its jurisdiction. The Department of Public Safety and Corrections, in cooperation with the coordinator, shall recommend provisions of the plan providing for emergency response coordination to protect life and property, excluding prevention, abatement, containment, and removal of pollution from an unauthorized discharge.

D. Prior to adopting the state oil spill contingency plan, the coordinator shall adopt a fully delineated inland boundary for coastal waters as defined in this Chapter, which boundary shall be based upon data provided by, including but not limited to the United States Army Corps of Engineers, United States Department of the Interior, Minerals Management Service, the Louisiana Department of Natural

Resources, and the oil and gas industry. The coordinator shall be authorized to amend the boundary by rule as conditions may warrant. The boundary, as adopted, shall be clearly marked on large scale maps or charts, official copies of which shall be available for public inspection in the office of coastal restoration and management in the Department of Natural Resources, in each agency comprising the interagency council, and in the parish seat of each parish located within the boundary.

* * *

§2462. Administration of oil spill response and cleanup

A. The coordinator, in consultation with the Department of Environmental Quality, is authorized to administer this Chapter and direct all state discharge response and cleanup operations resulting from unauthorized discharges of oil or threatened unauthorized discharges of oil in coastal waters, the land, or any other waters of Louisiana as directed by the governor or upon a declaration of emergency as declared by the governor. The Department of Environmental Quality, under the direction and control of the coordinator, is lead technical agency of the state for response to actual or threatened unauthorized discharges of oil and for cleanup of pollution from unauthorized discharges of oil.

* * *

§2469. Derelict vessels and structures

* * *

B. The coordinator shall locate, identify, mark, and analyze the contents of any abandoned or derelict vessels or structures found within the state. If the vessel or structure contains oil or oil based materials he shall establish a priority for removal of those vessels and

structures on the basis of highest risk to human health and safety, the environment, and wildlife habitat. The coordinator shall compile a computerized list of all vessels or structures indicating the location, identity, and contents of each.

* * *

E. The office of conservation in the Department of Natural Resources may petition the coordinator to abate an unauthorized discharge or the threat of a discharge from a facility or structure which the secretary certifies to be involved in an actual discharge or poses a threat of a discharge and for which the secretary certifies that the office of conservation cannot immediately locate a viable responsible party. Upon approval of the department's petition the coordinator shall reimburse the office of conservation for all expenses incurred, within the limits of provisions of this Section, and he shall seek reimbursement for the fund as provided elsewhere in this Chapter. The coordinator shall use monies in the fund for this purpose, which shall not exceed two million dollars in any fiscal year.

* * *

§2480. Natural resource damages

A. In any action to recover natural resources damages, the coordinator, in consultation with any other state trustees, shall make the determination whether to assess natural resource damages and the amount of damages according to the procedures and plans contained in the state oil spill contingency plan, and such determination shall create a rebuttable presumption of the amount of such damages.

B. The coordinator may establish the rebuttable presumption by submitting to the court a written report of the damages computed

or state funds expended according to the state plan. The written report shall be admissible in evidence, but the facts surrounding the cause of the unauthorized discharge of oil as set out in the report shall be subject to de novo review.

C.(1) The coordinator, in consultation with the state trustees, shall develop an inventory that identifies and catalogs the physical locations, the seasonal variations in location, and the current condition of natural resources; provides for data collection related to coastal processes, abandoned pits, facilities, sumps, reservoirs and oil spills; and identifies the recreational and commercial use areas that are most likely to suffer injury from an unauthorized discharge of oil. The inventory shall be completed by September 1, 1998; and shall be incorporated into the state oil spill contingency plan after public review and comment.

(2)(a) The physical locations surveyed for the inventory of natural resources shall consist of coastal waters as defined in this Chapter and depicted on the official state inland boundary map for coastal waters.

(b) The inventory shall initially concentrate on areas exhibiting a high probability for oil spills.

(3) The current condition of selected natural resources inventoried and cataloged shall be determined by, at a minimum, a baseline sampling and analysis of current levels of constituent substances selected after considering the types of oil most frequently transported through and stored near coastal waters.

(4)(a) The inventory shall consist of Phase I and Phase II. In Phase I of the inventory, the coordinator shall define and coordinate the formulation of the Oil Spill Technical Assistance Program which

shall consist of a management and implementation plan for coastal waters as defined in this Chapter. The management and implementation plan shall provide for data gathering techniques, monitoring protocols, maintaining the state inland coastal waters boundary map and data management during the actual inventory and during any response and natural resources damages assessment phase of an unauthorized discharge of oil. The coordinator shall solicit input from the state trustees and other interested parties. Phase I shall be completed by September 1, 1996.

(b) Phase II of the inventory shall consist of the coordinator retaining a manager and program staff within the office of the coordinator for the Oil Spill Technical Assistance Program. In Phase II the coordinator, in consultation with the trustees, shall conduct and maintain an environmental baseline inventory. The environmental baseline inventory shall be developed and maintained in such a manner that it will provide the coordinator with the technical data regarding the coastal waters before, during and after an unauthorized discharge of oil. This data shall also be available to the trustees, other agencies of the state and to the potentially responsible party within twenty-four hours after being collected.

(5) The coordinator shall adopt administrative procedures and protocols for the assessment of natural resource damages from an unauthorized discharge of oil in accordance with the Louisiana Administrative Procedure Act. As developed with the trustees and other interested parties, the procedures and protocols shall require the trustees to assess natural resource damages by considering the unique characteristics of the spill incident and the location of the natural resources affected. These procedures and protocols shall be

incorporated by reference in the state oil spill contingency plan by September 1, 1996.

(6) The administrative procedures and protocols shall include provisions which address the following:

(a) Notification by the coordinator to all trustees in the event of an unauthorized discharge of oil.

(b) Coordination with and among trustees, spill response agencies, potentially responsible parties, experts in science and economics, and the public.

(c) Participation in all stages of the assessment process by the potentially responsible party, as is consistent with trustee responsibilities.

(7) The administrative procedures and protocols shall also require the trustees to do the following:

(a) Assist the on-scene coordinator, during spill response activities and prior to the time that the state on-scene coordinator determines that the cleanup is complete, in predicting the impact of the oil and in devising the most effective methods of protection for the natural resources at risk.

(b) Identify appropriate sampling and data collection techniques to efficiently determine the impact on natural resources of the unauthorized discharge of oil.

(c) Initiate, within twenty-four hours after approval for access to the site by the on-scene coordinator, an actual field investigation which may include sampling and data collection; the protocols shall require that the responsible party and the trustees be given, on request, split samples and copies of each other's photographs and videos utilized in assessing the impact of the unauthorized discharge

of oil.

(d) Establish plans, including alternatives that are cost-effective and efficient, including natural recovery, to satisfy the goal of restoring, rehabilitating, replacing, and/or acquiring the equivalent of the injured natural resources.

(8)(a) The administrative procedures and protocols shall also include the following types of assessments procedures and deadlines for their completion:

(i) An expedited assessment procedure which may be used in situations in which the spill has limited observable mortality and restoration activities can be speedily initiated and/or in which the quantity of oil discharge does not exceed one thousand gallons; the purpose of utilizing the expedited assessment procedure is to allow prompt initiation of restoration, rehabilitation, replacement, and/or acquisition of an equivalent natural resource without lengthy analysis of the impact on affected natural resources; this procedure shall, at a minimum, require that the trustees consider the following items:

(aa) the quantity and quality of oil discharged;

(bb) the time period during which coastal waters are affected by the oil and the physical extent of the impact;

(cc) the condition of the natural resources prior to the unauthorized discharge of oil; and

(dd) the actual costs of restoring, rehabilitating, and/or acquiring the equivalent of the injured natural resources;

(ii) a comprehensive assessment procedure for use in situations in which expedited or negotiated assessment procedures are not appropriate; and

(iii) any other assessment method agreed upon between the

responsible person and the trustees, consistent with their public trust duties.

(b) The coordinator, in consultation with the trustees, shall determine, within sixty days of the determination by the on-scene coordinator that the cleanup is complete, whether:

(i) Action to restore, rehabilitate, or acquire an equivalent natural resource is required;

(ii) An expedited assessment which may include early commencement of restoration, rehabilitation, replacement, and/or acquisition activities, may be required; and

(iii) A comprehensive assessment is necessary.

(9) At any time the coordinator, in consultation and with the agreement of the state trustees, deems appropriate, the coordinator may enter into a negotiated assessment.

D. The trustees may petition the coordinator for a longer period of time to make the determinations under Subsection C of this Section by showing that the full impact of the discharge on the affected natural resources cannot be determined in sixty days.

E. The coordinator shall complete the comprehensive assessment procedure within twenty months of the date of the determination by the state on-scene coordinator that the cleanup is complete. The trustees may petition the coordinator for a longer period of time to complete the assessment by showing that the full impact of the discharge on the affected natural resources cannot be determined in twenty months.

F. Any assessment generated by the coordinator shall use the protocols and the procedures implemented pursuant to this Chapter and shall be reasonable and have a rational connection to the costs of

SB NO. 1310

ENROLLED

conducting the assessment and of restoring, rehabilitating, replacing and/or acquiring the equivalent of the injured natural resources. The coordinator shall ensure that the cost of any restoration, rehabilitation, replacement, or acquisition project shall not be disproportionate to the value of the natural resource before the injury. The coordinator shall utilize the most cost-effective method to achieve restoration, rehabilitation, replacement, or acquisition of an equivalent resource. Furthermore, the coordinator shall take into account the quality of the actions undertaken by the responsible party in response to the spill incident, including but not limited to containment and removal actions and protection and preservation of natural resources.

G. The potentially responsible party shall make full payment or initiate restoration, rehabilitation, replacement, or mitigation of damages to natural resources within sixty days of the completion of the assessment by the coordinator or, if mediation pursuant to this Subsection is conducted, within sixty days of the conclusion of the mediation. To facilitate an expedited recovery of funds for natural resource restoration and to assist the coordinator and the responsible party in the settlement of disputed natural resource damage assessments at their discretion and at any time, all disputed natural resource damage assessments shall be referred to mediation as a prerequisite to the jurisdiction of any court. Results of the mediation and any settlement offers tendered during the mediation shall be treated as settlement negotiations for the purposes of admissibility in a court of law. Either the coordinator or the potentially responsible person may initiate the mediation process, after an assessment has been issued, by giving written notice to the coordinator within forty-five days of the date all assessment documents are received, who

shall in turn give written notice to all parties. One mediator shall be chosen by the coordinator and one mediator shall be chosen by the responsible parties. Within forty-five days of the receipt of the assessment from the trustees, the mediators shall be designated. The mediation shall end no later than one hundred thirty-five days after the receipt of the assessment from the coordinator.

H. For the purposes of this Section, mediation shall consist of a minimum of three meetings whereby the mediators seek to facilitate a consensus decision by trustees and the potentially responsible party concerning all aspects of the assessment.

I. Any assessment issued by the coordinator shall be subject to a public hearing and comment period not to exceed ten working days.

* * *

§2484. Uses of fund

Money in the fund may be disbursed for the following purposes and no others:

* * *

(5) Grants, with the approval of the interagency council, for interagency contracts as provided in R.S. 30:2495, not to exceed seven hundred fifty thousand dollars in any fiscal year. However, in Fiscal Year 96-97 and each fiscal year thereafter until Fiscal Year 2000-2001 the monies expended from the fund for grants pursuant to this Subsection shall be decreased by one hundred thousand dollars each fiscal year whereupon funding for such grants shall cease in its entirety.

(6) Beginning in Fiscal Year 96-97 and each fiscal year thereafter, until Fiscal Year 1999-2000 the monies expended from the

fund for the Oil Spill Technical Assistance Program established in R.S. 30:248(CX4) shall be increased by one hundred thousand dollars each fiscal year whereupon funding for the Oil Spill Technical Assistance Program shall reach five hundred thousand dollars during Fiscal Year 2000-2001.

(7) Operating costs and contracts for response and prevention as provided in this Chapter not to exceed five hundred thousand dollars in any fiscal year.

(8) Other costs and damages authorized by this Chapter.

(9) Any state agency or political subdivision seeking an appropriation from the fund or proposing expenditures utilizing money from the fund must notify the coordinator in writing before submitting the appropriation request to the legislature.

(10) An inventory under R.S. 30:2480, to be completed by September 1, 1998, in an amount not to exceed eight million dollars in total and in an amount not to exceed two and one-quarter million dollars, in total, in any fiscal year.

* * *

§2486. Determination of fee

A. Except as otherwise provided in this Section, the rate of the fee shall be two cents per barrel of crude oil until the state treasurer certifies that the balance in the fund has reached ten million dollars. The state treasurer shall certify to the secretary of the Department of Revenue and Taxation the date on which the balance in the fund equals ten million dollars. The fee shall not be collected or required to be paid on or after the first day of the second month following the treasurer's certification to the secretary.

* * *

D. In the event of a certification to the secretary under Subsection C of this Section, the secretary shall collect the fee at the rate of four cents per barrel until the balance in the fund reaches ten million dollars. The state treasurer shall certify to the secretary the date on which the balance in the fund equals ten million dollars. The fee shall not be collected or required to be paid on or after the first day of the second month following the state treasurer's certification to the secretary.

* * *

§2487. Administration of fee

A. The state treasurer shall notify the coordinator when the balance of the fund reaches ten million dollars or falls below eight million dollars as specified in R.S. 30:2486, whereupon the coordinator shall publish the finding in the Louisiana Register. In the event of any suspension or other reinstatement of the fee, and upon notice thereof, the coordinator shall publish the suspension or reinstatement in the Louisiana Register at least thirty days prior to the scheduled effective date of the suspension or reinstatement.

* * *

§2489. Reimbursement of fund

* * *

B. The coordinator shall recover for the use of the fund, either from persons responsible for the unauthorized discharge or otherwise liable, or from the federal Oil Spill Liability Trust Fund, all sums owed to or expended from the fund. The coordinator, on behalf of the state of Louisiana and the trustees, shall seek reimbursement from the federal fund for damages to natural resources in excess of the liability limits prescribed by this Act. If that request is denied or

additional money is required following receipt of the federal money, the coordinator has the authority to pay the requested reimbursement from the fund for a period of two years from the date the federal fund grants or denies the request for reimbursement.

* * *

D. The coordinator shall ensure that there will be no double recovery of damages or response costs.

* * *

§2495. Institutions of higher education

The coordinator by interagency contract may provide grants to state institutions of higher education for research, testing, and development of discharge prevention and response technology, discharge response training, wildlife and natural resources protection, rescue, and rehabilitation, development of computer models to predict the movements and impacts of discharges, and other purposes consistent with and in furtherance of the purposes of this Chapter. Contracts or agreements relating to wildlife, aquatic resources, and habitats under the jurisdiction of the Department of Wildlife and Fisheries shall be made in coordination with that department. Contracts or agreements relating to wetlands and coastal resources under the jurisdiction of the Department of Natural Resources shall be made in coordination with that department. To the greatest extent possible, contracts shall be coordinated with studies being done by other state agencies, the federal government, or private industry to minimize duplication of efforts.

§2496. Exclusive Authority

The provisions of this Chapter shall be the exclusive authority on oil spill prevention, response, removal, and the limitations of

SB NO. 1310

ENROLLED

liability.

Section 2. R.S. 30:2454(5)(e) and (f) and 2469.1 are hereby specifically repealed in their entirety.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

Section 4202 (a) (5) ²

"(5) TANK VESSEL AND FACILITY RESPONSE PLANS.—(A) The President shall issue regulations which require an owner or operator of a tank vessel or facility described in subparagraph (B) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.

"(B) The tank vessels and facilities referred to in subparagraph (A) are the following:

"(i) A tank vessel, as defined under section 2101 of title 46, United States Code.

"(ii) An offshore facility.

"(iii) An onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone.

"(C) A response plan required under this paragraph shall—

"(i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;

"(ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);

"(iii) identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;

"(iv) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;

"(v) be updated periodically; and

"(vi) be resubmitted for approval of each significant change.

"(D) With respect to any response plan submitted under this paragraph for an onshore facility that, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone, and with respect to each response plan submitted under this paragraph for a tank vessel or offshore facility, the President shall—

"(i) promptly review such response plan;

"(ii) require amendments to any plan that does not meet the requirements of this paragraph;

"(iii) approve any plan that meets the requirements of this paragraph; and

"(iv) review each plan periodically thereafter.

"(E) A tank vessel, offshore facility, or onshore facility required to prepare a response plan under this subsection may not handle, store, or transport oil unless—

"(i) in the case of a tank vessel, offshore facility, or onshore facility for which a response plan is reviewed by

the President under subparagraph (D), the plan has been approved by the President; and

"(ii) the vessel or facility is operating in compliance with the plan.

"(F) Notwithstanding subparagraph (E), the President may authorize a tank vessel, offshore facility, or onshore facility to operate without a response plan approved under this paragraph, until not later than 2 years after the date of the submission to the President of a plan for the tank vessel or facility, if the owner or operator certifies that the owner or operator has ensured by contract or other means approved by the President the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

"(G) The owner or operator of a tank vessel, offshore facility, or onshore facility may not claim as a defense to liability under title I of the Oil Pollution Act of 1990 that the owner or operator was acting in accordance with an approved response plan.

"(H) The Secretary shall maintain, in the Vessel Identification System established under chapter 125 of title 46, United States Code, the dates of approval and review of a response plan under this paragraph for each tank vessel that is a vessel of the United States.

President of U.S.

A-46

La. R.S. 30: 2475³

§ 2475. Contingency plans for vessels and facilities

Every owner or operator covered by this Chapter shall provide to the coordinator the tank vessel and facility response plans as provided in Section 4202(a)(5) of the Oil Pollution Act of 1990 (P.L. 101-380).

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

La. R.S. 30:2470⁴

§ 2470. Registration of terminal facilities

A. A person may not operate or cause to be operated a terminal facility without a discharge prevention and response certificate issued pursuant to rules promulgated under this Chapter; however, such facility may be operated without a certificate for those purposes that do not involve the transfer or storage of oil.

B. (1) As a condition precedent to the issuance or renewal of a certificate, the coordinator shall require satisfactory evidence that:

(a) The applicant has implemented a discharge prevention and response plan consistent with state and federal plans and regulations for prevention of unauthorized discharges of oil and abatement, containment, and removal of pollution when such discharge occurs.

(b) The applicant can provide, directly or through membership or contract with a discharge cleanup organization, all required equipment and personnel to prevent, abate, contain, and remove pollution from an unauthorized discharge of oil as provided in the plan.

(2) A terminal facility response plan that complies with requirements under federal law and regulations for a terminal facility response plan satisfies the requirements of Subparagraph (1)(a) of this Subsection.

C. Notwithstanding other provisions of this Chapter, the owner of a facility shall qualify for a certificate if all persons leasing or operating the facility have received a certificate.

(Added by Acts 1991. 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

LAC 33: IX.901-907 ⁵

Chapter 9. Spill Prevention and Control

§901. Purpose and Scope

A. This Chapter establishes requirements for contingency planning and implementation of operating procedures and best management practices to prevent and control the discharge of pollutants resulting from spill events. For the purpose of this Chapter, "spill event" means the accidental or unauthorized leaking or releasing of a substance from its intended container or conveyance structure that has the potential to be discharged or results in a discharge to the waters of the state. Discharges resulting from circumstances identified, reviewed, and made part of the public record with respect to a valid LWDPs permit are not considered spill events.

B. The preparation and implementation of a Spill Prevention and Control Plan (hereinafter referred to as "plan") is required for any facility or person meeting the applicability criteria.

C. This Chapter establishes minimal procedures, methods, equipment, control structures and response actions necessary for compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§903. Applicability

A. The provisions of this Chapter apply to:

1. Oil of any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

2. All substances listed in LAC 33:1.3931 of the Notification Regulations and Procedures For Unauthorized Discharges (Louisiana Department of Environmental Quality; effective November 1985) that are in liquid form at temperatures ranging between 0 - 35 C and pressures at or near 760 mm Hg.

3. The administrative authority reserves the right to declare the provisions of this Chapter to be applicable to other substances as circumstances warrant.

B. Minimum aboveground storage capacity at which this Chapter applies is 1,320 U.S. gallons for two or more individual containers in aggregate within a common storage area, or 660 U.S. gallons for an individual container.

C. The provisions of this Chapter apply also to any equipment or structures utilized for the conveyance or transfer (loading/unloading) of applicable substances to/from transportation vehicles or vessels to/from facility storage, processing, or disposal areas. For the purposes of this Chapter, facility includes those of fixed location when in operation, and are land based or situated upon or within wetlands and/or surface waters of the state. The requirements of this Chapter shall not apply to off-site transmission pipelines.

D. The storage and conveyance applicability of this Chapter includes, but is not limited to, all substances meeting the applicability criteria outlined in LAC 33:IX.903.A whether handled as raw materials, products, process intermediaries, by-products, wastes, process catalysts, lubricants, or fuels.

E. The provisions of this Chapter shall not apply in those cases where applicable substances are stored within process equipment or conveyance structures located in process areas provided that the drainage these areas from which is routed via an LWDPs treatment train to a permitted LWDPs outfall.

F. The provisions of this Chapter do not require the preparation of a plan for storage or conveyance of substances in solid form except in instances or at facilities where there exists the potential for solid substances to be spilled, released or discharged either directly to waters of the state or to a flowing drainage conveyance that would immediately transport spilled solid substances to waters of the state. In such cases the requirements for preparation of a plan may apply to solid substances for which there is reasonable evidence or cause to believe that an appreciable degradation of water quality would result from a spill or release due to the nature and/or quantity of the solid substances handled. Even if it has been determined that the preparation of a plan is not required for the storage or conveyance of solid substances at a given facility, it is incumbent upon the operator of that facility to avoid potential contamination to the waters of the state.

G. Upon notification to the owner/operator of a facility and demonstration of reasonable cause, the administrative authority may require the preparation of a plan for substances not expressly covered by the applicability requirements of this Chapter.

H. The requirements of this Chapter are intended to complement existing laws, rules, regulations and standards pertaining to the prevention of water pollution. Compliance with this Chapter does not relieve the operator of a facility from compliance with other federal, state or local laws and regulations. Spill Prevention Control and Countermeasure (SPCC) Plans prepared pursuant to 40 CFR Part 112, or manuals prepared relative to any other state or federal requirement will be acceptable for inclusion in the plan required by this Chapter. A complete plan, however, shall address all applicable substances.

I. Underground Storage Containers. Reserved

J. Drum and Barrel Storage. Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§905. Requirements for Preparation and Implementation of Plans

A. Operators of facilities in operation or under construction on or before the effective date of these regulations that meet the criteria outlined in LAC 33:IX.903 shall prepare a plan within 180 days of the effective date of these regulations. The plan shall be fully implemented as soon as possible after preparation, but not later than one year after it was prepared. The office may, upon written request, grant additional implementation time to existing facilities in those cases where substantial upgrading or modification may be required in order to comply with this Chapter.

B. Operators of facilities meeting the criteria outlined in LAC 33:IX.903 that become operational 180 days after the effective date of these regulations shall prepare a plan within 180 days after the facility begins operation and shall be fully implemented as soon as possible, but not later than one year after such facility begins operation.

C. Operators of facilities for which a plan is required shall keep a complete copy of the plan at the facility if the facility is normally attended at least eight hours per day, or at the nearest office within the state if the facility is not so attended. The plan shall be made available to authorized representatives of the office for on-site review during normal working hours. Plans need not be submitted to the office unless a request to do so has been made by an authorized representative of the office.

D. Amendment of Plans by the Office. After review of the plan by the office and/or upon receiving notice of a spill pursuant to the notification requirements of L.R.S. 30:2025(D), the office may require the operator of the facility to amend the plan if it finds that the plan does not meet the requirements of this Chapter.

E. Amendments of Plans by Owners/Operators. Owners or operators of facilities shall amend the plan for such facility whenever there is a modification in facility design, construction, storage capacity, operation or maintenance which renders the existing plan inadequate. The amendment shall be implemented prior to or concurrent with the facility modification.

F. Periodic Review of Plans. Operators of facilities shall review the plan every three years and shall amend the plan within 90 days of the review to include more effective prevention and control technology if such technology will significantly reduce the likelihood of a spill event and if such technology has been field proven at the time of the review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§907. Guidelines for the Preparation and Implementation of a Plan

A. The plan shall be prepared in accordance with sound engineering practices. If the plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items shall be discussed, and the details of installation and operational start-up shall be explained individually. The office recognizes that the designs of major facilities differ and that in certain cases the appropriate methods for spill prevention and control must be site-specific. While the guidelines presented herein suggest the use of specific methodologies for this purpose, alternate methods may be employed if it can be demonstrated to the satisfaction of the office that the alternate methods will adequately prevent and control spills, and that they are reasonably equivalent to the suggested methods. A complete plan shall follow the sequence outlined in LAC 33:IX.903.B - E.

B. A complete plan shall include the following:

1. name of facility;
2. name of the operator of the facility;
3. mailing address of the facility;
4. location of the facility;
5. date and year of initial facility operation;
6. a brief but adequate description of the facility, including an indication of the nearest potential receiving waters;
7. the identity, amount, and location of substances stored at the facility meeting the applicability criteria outlined in Section 903 of this Chapter; and
8. facility capability and procedures for taking corrective actions and/or countermeasures when a spill event occurs.

C. The plan shall include a prediction of the direction, rate of flow and total quantity of applicable substances which could be spilled at the facility where experience indicates a reasonable potential for equipment failure and/or human error.

D. Appropriate containment and/or diversionary structures or equipment to prevent an applicable spilled substance from reaching waters of the state should be provided. One of the following should be used as a minimum:

1. dikes, berms or retaining walls sufficiently impervious to contain spills;
2. curbing, drip pans;
3. culverts, gutters or other drainage systems;
4. weirs, booms or other barriers;
5. spill diversion ponds;
6. retention ponds;
7. sorbent substances; and
8. sumps and collection systems.

E. When it is determined that the installation of structures or equipment listed in LAC 33:IX.907.D of this Chapter is not practical, the owner/operator of an applicable facility shall clearly demonstrate such impracticality and provide a strong spill contingency plan, including a written commitment of the manpower, equipment, and materials required to ensure timely and effective action to minimize damage resulting from a spill event.

F. In addition to the minimal prevention standards listed under LAC 33:IX.907.D of this Chapter, sections of the plan should include a complete discussion of conformance with the following applicable guidelines or other effective spill prevention and containment procedures:

1. All storage tank installations should be constructed so that a secondary means of containment is provided for the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation. Diked areas should be sufficiently impervious to contain spills.

2. Drainage from diked storage areas should be restrained by valves or other positive means to prevent a spill event, except where facility treatment systems are designed to handle such spills. Flapper-type drain valves should not be used as a restraint device. Valves used for the drainage of diked areas should, as far as practical, be of manual, open-and-closed design. In all cases, drainage from diked areas shall be in accordance with all applicable rules, regulations and laws.

3. New and old tank installations should, as far as practical, be fail-safe engineered or updated into a fail-safe engineered installation to avoid spills. Liquid level sensing devices should be regularly tested to insure proper operation. Consideration should be given to providing one or more of the following devices (optional for tanks served by adequate secondary containment systems):

- a. high liquid level alarms with an audible or visual signal at a constantly manned operation or surveillance station; in smaller plants an audible air vent may suffice;
- b. high liquid level pump cutoff devices set to stop flow at predetermined tank content level;
- c. direct audible or code signal communication between the tank gauger and the pumping station;
- d. a fast response system for determining the liquid level of each bulk storage tank such as digital computers, telepulse, or direct vision gauges or their equivalent; and
- e. additional tank(s) connected to automatically receive overflow.

4. All above-ground tanks should be visually inspected by a competent person for condition and need for maintenance on a scheduled periodic basis. Such examination should include the foundation and supports of tanks that are above the surface of the ground. Visible leaks from a tank and its appurtenances shall be promptly corrected.

5. Buried metallic piping installations should have a protective wrapping and coating or the equivalent, and should be cathodically protected if soil conditions warrant. If a section of buried line is exposed for any reason, it shall be carefully examined for deterioration. If corrosion damage is found, additional examination and corrective action shall be taken as indicated by the magnitude of the damage.

6. When a pipeline is not in service or in standby service for an extended time, the terminal connection at the transfer point should be isolated, capped, or blank-flanged as well as marked, or the on/off switch tagged as to origin.

7. Pipe supports shall be properly designed to minimize abrasion and corrosion; to allow for expansion and contraction, and to adequately support thrust loadings at bends.

8. All above-ground valves and pipelines should be subjected to regular examinations by operating personnel at which time the general conditions of items such as flange joints, pipeline supports, locking of valves, and metal

surfaces should be assessed. In addition, periodic pressure testing may be warranted for piping in areas where facility drainage is such that a failure might lead to a spill event if there is reason to suspect the integrity of the piping. Records of such inspections and tests shall be kept for three years and include all items addressed.

9. All tank car and tank truck loading/unloading area drainage shall flow into a catchment basin, treatment system or other containment system designed to hold at least the maximum capacity of any single compartment of a tank car or truck loaded or unloaded at the facility.

10. An interlocked warning light, physical barrier system, or warning signs shall be provided in loading/unloading areas to prevent vehicular departure before complete disconnect of flexible or fixed transfer lines.

11. Prior to filling and departure of any tank car or truck, the lowermost drain and all outlets of such vehicles shall be closely examined for leakage, and if necessary, tightened, adjusted, or replaced to prevent leakage.

G. The plan, as applicable, should include a complete discussion of conformance with the following guidelines for facility drainage:

1. Facility drainage from undiked areas subject to spill events should if possible, flow into ponds, lagoons or catchment basins designed to retain spills or return them to the facility. Catchment basins should not be located in areas subject to flooding.

2. Facility drainage systems should be adequately engineered to prevent spills from reaching the waters of the state in the event of equipment failure or human error at the facility.

H. The plan, as applicable, should include a complete discussion of conformance with the following guidelines for facility security:

1. Means for restricting unauthorized entry or other security procedures should be provided when the facility is not attended.

2. Master flow and drain valves and any other valves that permit direct outward flow of spilled substances to the waters of the state should be securely locked, tagged, or sealed in the closed position when unattended. Sample cocks, gauge valves, and other small valves are not subject to this requirement.

3. The starter control on all pumps with discharge piping open to the waters of the state should be locked in the "off" position, or accessible only to authorized personnel when in non-operating or non-standby status.

4. The loading/unloading connections of pipelines should be securely capped or blank-flanged when not in service or standby service. This security

practice should also apply to pipelines that are emptied either by draining or by inert gas pressure.

5. Facility lighting should be commensurate with the type and location of the facility and should provide for the following: (These provisions may not apply to oil and gas production sites.)

a. discovery of spills occurring during hours of darkness, both by operating personnel and by non-operating personnel (the general public, local police, etc.); and

b. prevention of spills that may result through acts of vandalism.

I. Personnel training and spill prevention procedures should be employed, and brief discussions of the following should be included in the plan:

1. Operators are responsible for properly instructing the appropriate personnel in the operation and maintenance of equipment to prevent or contain spills and all applicable spill control rules and regulations.

2. Each facility should have a designated person who is accountable for spill prevention who reports to line management.

3. Operators should schedule and conduct spill prevention briefings for their operating personnel and appropriate contractors at intervals frequent enough to assure adequate understanding of the plan for that facility. Such briefings should highlight and describe known spill events or failures, malfunctioning components, and recently developed precautionary measures.

J. Inspections and Records. The plan shall provide for inspections required by this Chapter. Inspections shall be in accordance with written procedures developed for the facility by the operator. These written procedures shall be part of the plan. Inspection records shall be signed or initialed by the inspector, appropriate supervisor or the facility designee (LAC 33:IX.303.H), and shall be retained for a minimum of three years.

(K) Verification by the Office. Facilities at which this Chapter applies may be inspected by an authorized representative of the office to assure implementation and adequacy of the plan. Such inspections shall be covered by the conditions provided for in LAC 33:IX.311.I of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

LAC 33:V.10115⁶

§10115. Hazard Communication

The Department of Public Safety and Corrections adopts the Hazard Communication Standard as detailed in Title 29 CFR Parts 1910.1200 et seq., as part of these rules. All facilities subject to these state rules (other than any federal, state, or political subdivisions of a state) must also comply with the Hazard Communication Standard as specified in the Occupational Safety and Health Administration (OSHA) rules listed in Title 29 CFR Parts 1910.1200 et seq. These standards refer to marking of the workplace, communicating to employees of any known hazardous properties of various substances, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.
HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), LR 14:804 (November 1988).

LAC 33:IX.708⁷

Chapter 7. Effluent Standards

§701. Purpose

The purpose of this Chapter is to establish a list of categories and classes of discharges for which effluent limitations, standards of performance, pretreatment standards, standards for toxic substances, and other standards have been or are to be established; and to set forth general terms for the application of such limitations and standards to the control of wastewater discharges through the Louisiana Water Discharge Permit System (LWDPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§703. Scope

A. The following categories and classes of discharges are covered by this Chapter:

Sand and Gravel Extraction	LAC 33:IX.705
Sugar Processing	LAC 33:IX.707
Exploration for and Production of Oil and Natural Gas	LAC 33:IX.708
Miscellaneous Small Dischargers	LAC 33:IX.709
Secondary Treatment for Sanitary Sewage	LAC 33:IX.711
Chlorine-bleaching Pulp and Paper Mill Dischargers	LAC 33:IX.713

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., add in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985), amended LR 17:965 (October 1991).

§708. Exploration for and Production of Oil and Natural Gas

A. Applicability. The provisions of this Section are applicable to discharges of wastewater associated with oil and natural gas exploration and production activities.

B. Definitions. The following definitions apply to terms used in this Section. Definitions of other terms and meanings of abbreviations are set forth in LAC 33:IX.107 and 1105.

Average Monthly Discharge Limitation—the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Ballast Water—uncontaminated surface water used to maintain proper draft or to stabilize drilling or workover vessels.

Bilge Water—water that accumulates in the bilge areas of drilling or workover vessels.

Blow-out Preventer (BOP) Control Fluid—fluid used to actuate the hydraulic equipment on the blow-out preventer.

Boiler Blowdown—discharge from boilers necessary to minimize solids buildup in the boilers, including vents from boilers and other heating systems.

Brackish Marshes—those areas that are inundated or saturated by surface water or groundwater of moderate salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes wiregrass (*Spartina patens*), three-cornered grass (*Scirpus olneyi*), coco (*Scirpus robustus*), and widgeongrass (*Ruppia maritima*). Interstitial water salinity normally ranges between seven and 15 parts per thousand.

Cement—portland cement, either dry or in slurry form, including additives. Additives include such materials as accelerators (e.g., calcium chloride), retarders (e.g., lignosulfonates), weighting materials (e.g., barium sulfate), extenders (e.g., bentonite), and lost circulation materials (e.g., walnut shells).

Composite Sample—a sample consisting of a minimum of eight grab samples of effluent collected at regular intervals over a normal operating day and combined in proportion to flow, or a sample continuously collected in proportion to flow over a 24-hour period.

Daily Discharge—the discharge of a pollutant measured during a calendar day or within any specified 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Daily Maximum Concentration—the daily determination of concentration for any calendar day or specified 24-hour period that reasonably represents the calendar day for purposes of sampling.

Deck Drainage—all waste resulting from platform washing, deck washing, equipment washing, rainwater and runoff from curbs, gutters, and drains, including drip pans and wash areas.

Desalination Unit Discharge—wastewater associated with the process of creating fresh water from salt water.

Domestic Wastes—wastewater generated from galleys, sinks, showers, and laundries.

Drill Cuttings—particles generated by drilling into subsurface geological formations.

Drilling Fluids—any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

Drilling Mud—a heavy suspension used in drilling a well, introduced down the drill pipe and through the drill bit.

Effluent Limitation—any applicable state or federal quality or quantity limitation that imposes any restriction or prohibition on quantities, discharge rates, and concentrations of pollutants discharged into the waters of the state.

Facility—a pollution source or any public or private property or site and all contiguous land and structures, and other appurtenances and improvements, where any activity is conducted that discharges or may result in the discharge of pollutants into waters of the state.

Fire Control System Test Water—surface water and fire fighting agents discharged during periodic testing of fire control systems.

Freshwater Swamps and Marshes—those areas that are inundated or saturated by surface water or groundwater of negligible to very low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes maiden cane (*Panicum hemitomon*), Hydrocotyl sp., water hyacinth (*Eichhornia crassipes*), pickerelweed (*Pontederia cordata*), alligatorweed (*Alternanthera philoxeroides*), and bulltongue (*Sagittaria sp.*). Interstitial water salinity is normally less than two parts per thousand.

Intermediate Marshes—those areas that are inundated or saturated by surface water or groundwater of low salinity at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes wiregrass (*Spartina patens*), deer pea (*Vigna repens*), bulltongue (*Sagittaria sp.*), wild millet (*Echinochloa walteri*), bullwhip (*Scirpus californicus*), and sawgrass (*Cladium jamaicense*). Interstitial water salinity normally ranges between three and six parts per thousand.

Native Mud Drilling Fluids—those drilling fluids that do not contain heavy-metal-based additives such as chrome lignosulfonate or weighting agents such as barite or hematite.

Non-contact Cooling Water—water that is used to remove heat and which does not come into direct contact with any raw material, intermediate, or finished product.

Pollutant—any substance introduced into the waters of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of the environment.

Pollution Source—the immediate site or location of a discharge or potential discharge, including such surrounding property as is necessary to secure or quarantine the area from access by the general public.

Produced Sand—sand and other solids removed from produced water, oil, or gas.

Produced Water—liquid and suspended particulate waste material generated by the processing of fluids brought to the surface in conjunction with recovery of oil or natural gas from underground geologic formations or with underground storage of hydrocarbons.

Saline Marshes—those wetland areas that are inundated or saturated by surface water or groundwater of salinity characteristic of near Gulf of Mexico ambient water at a frequency and duration sufficient to support, and that under normal circumstances do support, emergent vegetation characterized by a prevalence of species typically adapted for life in these soil and contiguous surface water conditions. Typical vegetation includes oystergrass (*Spartina alterniflora*), glasswort (*Salicornia sp.*), black rush (*Juncus roemerianus*), *Batis maritima*, black mangrove (*Avicennia nitida*), and saltgrass (*Distichlis spicata*). Interstitial water salinity normally exceeds 16 parts per thousand.

Sanitary Waste—treated or untreated wastewaters that contain human metabolic wastes.

Source Water and Sand—water, including the entrained solids, from nonhydrocarbon-bearing formations used for the purpose of pressure maintenance or secondary recovery.

Stormwater Runoff—aqueous surface runoff including any soluble or suspended material mobilized by naturally occurring precipitation events.

Territorial Seas—the belt of the seas measured from the line of ordinary low water along that portion of the coast in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles (as defined at 33 U.S.C. 1362.8).

Toxicity Unit (TU)—a numerical value defined as the quotient of the discharged effluent concentration divided by the effluent concentration producing lethality (TUA Toxicity Units, acute toxicity) or the effluent concentration producing no observable effect (TUC Toxicity Units, chronic toxicity).

Upland—any land area that is not normally inundated with water and that would not, under normal circumstances, be characterized as swamp or fresh, intermediate, brackish, or saline marsh. The term shall have both a regional and site-specific connotation; for example, naturally occurring and man-made topographic highs that are partially or totally surrounded by swamp, marsh, or open water will be considered upland on a local basis, but will not necessitate characterization of the surrounding area as upland. The land and water bottoms of all parishes north of the nine parishes contiguous with the Gulf of Mexico will be considered in toto as upland regions. The designation of upland in those parishes bordering the Gulf of Mexico shall be determined on a case-by-case basis with reference to the presence of a regional expanse of emergent aquatic vegetation or open water.

Visible Sheen—a silvery or metallic sheen, gloss, or increased reflectivity; visual color; or iridescence on the water surface.

Well Completion Fluid—salt solutions, sometimes containing various additives, which are used to prevent damage to the wellbore during operations which prepare the drilled well for hydrocarbon production. Drilling fluids remaining in the wellbore during logging, casing and cementing operations or during temporary abandonment of the well are not considered completion fluids.

Well Treatment Fluid—fluids used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled. These fluids include substances such as acids, solvents, and propping agents.

Workover Fluid—salt solutions, sometimes containing specialty additives, which are used in a producing well to allow safe repair and maintenance procedures. High solids drilling fluids used during workover operations are not considered workover fluids by definition and therefore must meet drilling fluid effluent limitations before discharge may occur. Packer fluids, low solid fluids between the packer, production string and well casing, are considered to be workover fluids.

C. Effluent Guidelines. The following effluent guidelines establish general and discharge-specific guidelines for discharges associated with oil and natural gas exploration and production activities.

1. General Guidelines

a. There shall be no unpermitted discharge of waste oil, produced water, drilling fluids, drill cuttings, or other wastes, nor any uncontrolled discharges of wastewater, including stormwater runoff, from exploration and production sites.

b. A Spill Prevention and Control Plan shall be prepared and implemented in accordance with the provisions specified in LAC 33:IX.901 through 907. This plan shall establish a program for regular inspection of all storage tanks, separators, and related production and transfer equipment. The plan shall also include provisions for, at a minimum, annual monitoring of flow line integrity through a combination of visual inspection and pressure testing or through the use of an approved alternate methodology. Inspection and test records shall be maintained for a minimum of three years. The plan shall also establish provisions for ready access to, and rapid deployment of, containment booms and ancillary spill containment and cleanup equipment. Discharges shall be controlled through the following measures:

(i) All workover and drilling barges, and production facilities shall be equipped with pollution containment devices that under normal operating conditions prevent unauthorized discharges.

(ii) All storage tanks, separators, and related production and transfer equipment to be located in open water or wetland areas, where building dikes is impossible or impracticable, shall be installed on impervious decking provided with a system of curbs, gutters, and/or sumps capable of retaining spills of oil, produced water, or any other product or waste material. Storage and processing facilities located in open water or wetland areas that lack appropriate spill prevention and control appurtenances shall be modified to achieve compliance within four years after promulgation of these regulations.

(iii) All drains from diked areas shall be equipped with valves that are kept in the closed position except during periods of supervised discharge.

(iv) In the event of an unauthorized discharge of oil, produced water, or any other product or waste material, a remedial response must be immediately initiated and the Water Pollution Control Division (WPCD) shall be notified in accordance with LAC 33:1.3901 et seq. The remedial response shall include immediate removal of discharged materials and, to the extent practicable, decontamination of any water, soil, sediment, or vegetation adversely impacted by the unauthorized discharge. If immediate cleanup is not considered to be an appropriate remedial measure, the responsible party shall notify the WPCD of the alternative remedial plan and shall promptly implement said plan upon approval by the WPCD. Submission of an alternate plan shall in no way relieve the responsible party of its duty to contain and mitigate the effects of the discharge.

(v) Use of detergents, emulsifiers, or dispersants to clean up spilled oil is prohibited unless the use has been specifically approved by the WPCD or is necessary to maintain a safe work environment (i.e., minimization of the potential for personnel injury due to slipping hazards). In all such cases, initial cleanup shall be done by physical removal. Detergents, emulsifiers, or dispersants shall not be employed to sink, obscure, or camouflage spilled materials or to in any way hinder observation of a spill event.

(vi) At least two feet of freeboard shall be maintained in all earthen pits at any time. Any discharge of wastewater from earthen pits directed to waters of the state must be conducted in accordance with the provisions of a valid Louisiana Water Discharge Permit System (LWDPS) permit.

2. Produced Water

a. Freshwater Areas

i. All produced water discharges must be specifically identified in a valid LWDPS permit.

ii. The discharge of produced water directly onto any vegetated area, soil, or intermittently exposed sediment surface is prohibited.

iii. There shall be no discharge of produced water to lakes, rivers, streams, bayous, canals, or other surface waters of the state in areas regionally characterized as upland.

iv. There shall be no discharge of produced water to freshwater swamp or freshwater marsh areas or to natural or man-made water bodies bounded by freshwater swamp or freshwater marsh vegetation unless the discharge has been specifically authorized in accordance with an approved schedule for discharge termination, or the discharge has been authorized by a valid LWDPS permit reflecting a discharge directed to a major deltaic pass of the Mississippi River or to the Atchafalaya River, including Wax Lake Outlet, below Morgan City.

v. A schedule for discharge termination shall not be approved for a surface discharge initiated after the promulgation of this regulation. The operator of a facility having a produced water discharge in existence on the date of promulgation of these regulations shall be subject to the prohibition against surface discharge of produced water unless the operator establishes that surface discharge is the only immediately available alternative and that the produced water discharge termination schedule is limited in term to the period necessary to provide an alternate waste-handling method. A compliance schedule that would delay compliance beyond July 1, 1992, will not be approved.

b. Intermediate, Brackish, and Saline Water Areas Inland of the Territorial Seas

i. All produced water discharges must be specifically identified in a valid LWDPs permit.

ii. The discharge of produced water directly onto any vegetated area, soil, or intermittently exposed sediment surface is prohibited.

iii. There shall be no discharge of produced water to natural or man-made water bodies located in intermediate, brackish, or saline marsh areas after January 1, 1995, unless the discharge or discharges have been authorized in an approved schedule for elimination or effluent limitation compliance.

iv. Each operator of a facility with a produced water discharge in existence on the date of promulgation of these regulations shall submit a schedule within six months after promulgation detailing a time frame for achieving compliance with the restrictions imposed by Subparagraph b.i - x. The compliance schedule shall be prepared in conformance with the following guidelines:

(a). An operator conducting three or more produced water discharges shall submit for approval a schedule of compliance that will result in phased elimination or compliance with applicable effluent limitations for all produced water discharges by January 1, 1995. The schedule is expected to call for termination of discharge or compliance with applicable effluent limitations for approximately one-third of the discharges existing on the date of promulgation by January 1, 1993; for two-thirds of the discharges by January 1, 1994; and for full compliance by January 1, 1995.

(b). An operator conducting no more than two produced water discharges shall submit for approval a schedule of compliance that will result in phased elimination or compliance with applicable effluent limitations for all produced water discharges by January 1, 1995. One discharge is expected to be eliminated or conducted in compliance with applicable effluent limitations by January 1, 1994.

(c). An operator conducting a single produced water discharge shall eliminate surface discharge or conduct the discharge in compliance with applicable effluent limitations by January 1, 1994.

(d). Facilities with a total produced water discharge of 250 barrels/day or less and a maximum oil production of 100 barrels/day or the monetary equivalent in natural gas, as of the effective date of this regulation, will be provided an additional year to comply with the requirements of Subparagraph b.i - x.

(e). Operators discharging to the open waters and at least one mile from any shoreline in Chandeleur Sound, Breton Sound, Barataria Bay, Caminada Bay, Timbalier Bay, Terrebonne Bay, East Cote Blanche Bay, West Cote Blanche Bay, or Vermilion Bay from production originating in these areas will have two years after the effective date of these regulations or one year after completion of the U.S. Department of Energy's (DOE) study concerning Louisiana coastal bays, whichever comes first, to show on a case-by-case basis that their particular discharge should be exempt from these regulations, if the DOE study, after scientific peer review, shows minimal acceptable environmental impacts.

v. Requests for an extension of the compliance period beyond the January 1, 1995, deadline will be considered if submitted with the original compliance schedule and if the following conditions are met:

(a). The operator establishes that surface discharge is the only immediately available and economically feasible alternative, that continued discharge does not represent gross potential for unacceptable environmental degradation, and that the produced water discharge termination schedule is limited in term to the period necessary to provide an alternate waste-handling method.

(b). The proposed extension would not extend the date of discharge termination or effluent limitation compliance beyond January 1, 1997.

vi. A compliance schedule will not be required for a surface discharge initiated after the promulgation of these regulations; however, produced water discharges authorized after the date of promulgation but before December 31, 1992, must be eliminated or conducted in compliance with applicable effluent limitations by January 1, 1995. Produced water discharges authorized after December 31, 1992, must achieve compliance with applicable effluent limitations on the date of discharge initiation.

vii. The following effluent limitations establish the quantity or quality of pollutants or pollutant properties that may be discharged by a facility subject to this Section:

Pollutant or Pollutant Property	Discharge Limitation	
Benzene maximum	0.0125	mg/L daily
Ethylbenzene	4.380	mg/L daily maximum
Toluene	0.475	mg/L daily maximum
Oil and Grease	15	mg/L daily maximum
Total Organic Carbon	50	mg/L daily maximum
pH	6-9	standard units
Temperature	(as per LAC 33-DC .1113.C.4)	
Total Suspended Solids	45	mg/L daily maximum
Chlorides	Dilution required at a ratio of 10:1 (ambient water:produced water). All other prescribed parameters must be within acceptable limits prior to dilution	
Dissolved Oxygen	4.0	mg/L daily minimum
Toxicity (Acute and Chronic)	1	Toxicity unit
Soluble Radium	60	picocuries/L (2.2 becquerels/L)
Visible Sheen	No Presence	

The numerical limitations listed above are to be construed as minimum effluent standards and should in no way be considered authorization to induce a violation of ambient water quality standards.

viii. Surface disposal of de minimis quantities (less than one barrel per day) of produced water may be authorized on a case-by-case basis. Effluent limitations for de minimis discharges will be established on a case-by-case basis in accordance with the provisions of the LWDPs permit authorizing the discharge, but will at a minimum require that the effluent be treated to a point at which the discharge does not generate a persistent visible sheen.

ix. There shall be no discharge of produced water within the boundaries of any state or federal wildlife management area, refuge, park, or scenic stream or into any water body determined by the WPCD to be of special ecological significance.

x. Produced water shall not be discharged within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No produced water shall be discharged in a manner *at, at any time, facilitates the incorporation of significant quantities of hydrocarbons or radionuclides into sediment or biota.

c. Territorial Seas

i. All produced water discharges must be specifically identified in a valid LWDPSP permit.

ii. Surface disposal of produced water into open waters of the Gulf of Mexico within the area defined as the territorial seas may be authorized on a case-by-case basis in accordance with the provisions of the LWDPSP permit authorizing the discharge.

iii. The discharge of produced water directly onto any intermittently exposed sediment surface is prohibited.

iv. Produced water shall not be discharged within the boundaries of any state or federal wildlife management area, refuge, or park or into any water body determined by the WPCD to be of special ecological significance.

v. Produced water shall not be discharged within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No produced water shall be discharged in a manner that, at any time, facilitates the incorporation of significant quantities of hydrocarbons or radionuclides into sediment or biota.

d. Radioactivity and Toxicity Analyses. A radioactivity measurement, acute toxicity test, and chronic toxicity test shall be conducted using test methods approved by the administrative authority on representative samples of all existing produced water discharges that flow to the surface waters of the state. The results of the radioactivity analysis and the average daily discharge rate (barrels per day) shall be submitted to this office by August 20, 1989. The results of the toxicity analyses and the average daily discharge rate (barrels per day) shall be submitted to this office by February 20, 1990.

3. Drill Cuttings and Drilling Fluids

a. The discharge of drill cuttings or drilling fluids, including stormwater runoff contaminated by drill cuttings or drilling fluids, must be conducted in accordance with a valid LWDPSP permit.

b. There shall be no discharge of oil-based drilling fluids.

c. There shall be no batch or bulk discharge of drilling fluids into water bodies inland of the territorial seas.

d. Drilling fluids or drill cuttings shall not be discharged within the boundaries of state or federal wildlife management areas, refuges, parks, or scenic streams or into any water body determined by the WPCD to be of special ecological significance.

e. The discharge of drill cuttings or bulk drilling fluids (if allowed) must not occur within 1,300 feet (via water) of an active oyster lease, live natural oyster or other molluscan reef, designated oyster seed bed, or sea grass bed. No discharge shall be made in such a manner as to allow deposition of drill cuttings or drilling fluids in or upon any active oyster lease, live natural reef, or seed bed. If the discharge is to take place within one mile of an area containing oyster leases, a lease map must be forwarded to this office showing the location of the discharge and surrounding leases. If the applicant considers any oyster lease, live natural oyster or other molluscan reef, or designated seed bed within 1,300 feet of a discharge of drilling fluids or drill cuttings to be inactive, written documentation and evidence must be submitted to this office for a determination to be made as to the acceptability of such a discharge.

f. In fresh and intermediate marsh areas, only drill cuttings generated on-site and their adhering native mud drilling fluids may be discharged.

g. There shall be no discharge of drill cuttings generated in association with the use of oil-based drilling fluids, invert emulsion drilling fluids, or drilling fluids that contain diesel oil, waste engine oil, cooling oil, gear oil, or other oil-based lubricants.

h. Documentation shall be maintained detailing the nature and volume of all constituents added downhole in conjunction with drilling and workover operations. This documentation shall be available for inspection on site during drilling and workover operations and thereafter in accordance with the provisions of LAC 33:IX.311.J.7.

4. Stormwater Runoff

a. An LWDPDS permit may be required for stormwater runoff discharges generated in conjunction with exploration and production activities in upland regions.

b. The discharge of stormwater runoff generated in conjunction with exploration and production activities conducted in any region not designated as upland must be reflected in a valid LWDPDS permit unless appropriate prior dispensation has been received from the WPCD.

c. There shall be no discharge of free oil or other oily materials from any facility as evidenced by a visible sheen or residual oil deposits or stains in the drainage area downstream of the discharge point.

d. Stormwater runoff shall not exceed 100 mg/L chemical oxygen demand, 50 mg/L total organic carbon, or 15 mg/L oil and grease.

e. Maximum chloride concentration of the discharge shall not exceed two times the ambient concentration of the receiving water in brackish marsh areas and shall not exceed 500 mg/L in freshwater or intermediate marsh areas and upland areas.

f. The discharge of stormwater runoff from diked areas employed for the purpose of secondary containment shall be permitted provided:

i. the discharge is generated from areas that have not been contaminated by accidental spills or by intentional discharge of waste materials; or

ii. the discharge has been specifically identified in a valid LWDPDS permit.

5. Drilling Fluid Reserve Pit and Production Pit Closure. This discharge category includes the discharge of treated wastewater from drilling site reserve pits, ring levee borrow ditches, shale barges, drilling fluid dewatering systems, and abandoned or inactive oil field production pits that contain only nonhazardous oil field wastes. The treatment and discharge of water from offsite oil field waste disposal pits or pits containing waste other than nonhazardous oil field wastes are prohibited.

a. Discharge of treated wastewater must be specifically identified in a valid LWDPs permit.

b. Effluent Limitations

Pollutant or Pollutant Property	Discharge Limitation
Volume	Report (mgd)
Oil and Grease	15 mg/L daily maximum
Total Suspended Solids	50 mg/L daily maximum
Chemical Oxygen Demand	125 mg/L daily maximum
Chlorides	500 mg/L daily maximum*
Total Chromium	0.5 mg/L daily maximum
Zinc	5.0 mg/L daily maximum

* See Subsection C.5.d of this Section.

i. Discharge limitations are instantaneous maxima and apply throughout the duration of the discharge.

ii. Discharge pH shall not be less than 6.0 standard units nor greater than 9.0 standard units.

c. Each discharge will require specific prior approval from a representative of the WPCD. An analysis of the treated water shall be submitted to and approved by a representative of the WPCD prior to discharge.

i. The initial sample of treated water shall be obtained from the treated water returned to the pit or other containment structure after operation of the treatment equipment.

ii. A copy of the initial and subsequent water analysis shall be available at the site during pit closure or dewatering activities.

iii. The discharge shall be withdrawn at or near the surface of the fluid in the drilling site reserve pit, ring levee borrow ditch, shale barge, or drilling fluid dewatering treatment train compartment.

d. Dilution shall not be used to comply with any of the discharge limitations unless specific written authorization from the WPCD has been obtained. The only parameter for which dilution will be considered is chloride. Formal written requests for approval to allow dilution of chloride levels should be addressed to the WPCD Surveillance Section Program Manager. Consideration of written requests to allow dilution of chloride levels in drilling site reserve pits, ring levee borrow ditches, shale barges, drilling fluid dewatering systems, and abandoned or inactive oil field production pits will be made on a case-by-case basis and only if the following conditions can be met:

i. Prior treatment shall have brought all other applicable parameters to levels within permit limits before dilution.

ii. The discharge after dilution will be a short-term, one-time batch

iii. The discharge will not traverse, pool up within, or in any other way contact agricultural lands.

iv. The discharge is made only to a receiving water body exhibiting sufficient volume and assimilative capacity to preclude elevation of ambient chloride levels above that established by the Louisiana Water Quality Criteria for the basin segment or watershed within which the receiving water body is contained.

v. The WPCD representative concludes that no adverse environmental effects will result from the discharge of pretreated and diluted wastewater.

e. An onsite inspection by WPCD personnel may be required prior to discharge approval.

f. Additional monitoring, including daily and 24-hour composite sampling, may be required for any specific discharge event or site at the discretion of the WPCD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:261 (April 1989), amended LR 17:263 (March 1991).

+

LAC 43:I.719⁸

§719. Guidelines for Oil, Gas and Other Mineral Activities

A. Geophysical surveying shall utilize the best practical techniques to minimize disturbance or damage to wetlands, fish and wildlife and other coastal resources.

B. To the maximum extent practicable, the number of mineral exploration and production sites in wetland areas requiring floatation access shall be held to the minimum number, consistent with good recovery and conservation practices and the need for energy development, by directional drilling, multiple use of existing access canals and other practical techniques.

C. Exploration, production and refining activities shall, to the maximum extent practicable, be located away from critical wildlife areas and vegetation areas. Mineral operations in wildlife preserves and management areas shall be conducted in strict accordance with the requirements of the wildlife management body.

D. Mineral exploration and production facilities shall be to the maximum extent practicable designed, constructed and maintained in such a manner to maintain natural water flow regimes, avoid blocking surface drainage, and avoid erosion.

E. Access routes to mineral exploration, production and refining sites shall be designed and aligned so as to avoid adverse impacts on critical wildlife and vegetation areas to the maximum extent practicable.

F. Drilling and production sites shall be prepared, constructed, and operated using the best practical techniques to prevent the release of pollutants or toxic substances into the environment.

G. All drilling activities, supplies, and equipment shall be kept on barges, on drilling rigs, within ring levees, or on the well site.

H. Drilling ring levees shall to the maximum extent practicable be replaced with small production levees or removed entirely.

I. All drilling and production equipment, structures, and storage facilities shall be designed and constructed utilizing best practical techniques to withstand all expectable adverse conditions without releasing pollutants.

J. Mineral exploration, production and refining facilities shall be designed and constructed using best practical techniques to minimize adverse environmental impacts.

K. Effective environmental protection and emergency or contingency plans shall be developed and complied with for all mineral operations.

L. The use of dispersants, emulsifiers and other similar chemical agents on oil spills is prohibited without the prior approval of the Coast Guard or Environmental Protection Agency on-Scene Coordinator, in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan.

M. Mineral exploration and production sites shall be cleared, revegetated, detoxified and otherwise restored as near as practicable to their original condition upon termination of operations to the maximum extent practicable.

N. The creation of underwater obstructions which adversely affect fishing or navigation shall be avoided to the maximum extent practicable.

AUTHORITY NOTE: Promulgated in accordance with former R.S. 49:213.8, now R.S. 49:214.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:493 (August 1980).

LAC 43:XIX.129⁹

§129. Pollution Control

A. Permits Required

1. Permits are required for wells which inject fluids:

a. which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

b. for enhanced recovery of oil and natural gas; and

c. for storage of hydrocarbons which are liquid at standard temperature and pressure.

2. Sub-surface injection or disposal by use of a well as described in Paragraph I.a, above is prohibited unless authorized by permit or rule. This authorization shall be conditioned upon the applicant taking necessary or corrective action to protect underground sources of drinking water as specified by the commissioner. *Underground source of drinking water (USDW)* means an aquifer or its portion:

a.i. which supplies any public water system; or

ii. which contains a sufficient quantity of ground water to supply a public water system; and

(a). currently supplies drinking water for human consumption; or

(b). contains fewer than 10,000 mg/l total dissolved solids; and

b. which is not an *exempted aquifer* (see Part XVII.1.103.H).

3. Existing enhanced recovery, saltwater disposal, and liquid hydrocarbon storage wells are authorized by rule and are not required to reapply for a new permit. However, they are subject to the provisions of Subsection J.3.

4. the provisions and requirements of this Section shall apply to underground injection by federal agencies or any other person whether or not occurring on property owned or leased by the United States.

B. Onsite Storage, Treatment and Disposal of Nonhazardous Oilfield Waste (NOW) Generated from the Drilling and Production of Oil and Gas Wells

1. Definitions

Community Saltwater Disposal Well or System is defined in Section 129.M.

Contamination is the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

Elevated Wetland Area is a wetland area which is not normally inundated with water and where land mass and levee material are available for mixing with waste fluids during closure of a pit.

Groundwater Aquifer is water in the saturated zone beneath the land surface that contains less than 10,000 mg/l TDS.

Hydrocarbon Storage Brine is well water, potable water, rainwater, or brine (partially saturated to completely saturated) used as a displacing fluid in hydrocarbon storage well operations.

Manufactured Liner means any man-made synthetic material of sufficient size and qualities to sustain a hydraulic conductivity no greater than 1×10^{-7} cm/sec. after installation and which is sufficiently reinforced to withstand normal wear and tear associated with the installation and pit use without damage to the liner or adverse affect on the quality thereof. For purposes of this Section 129.B and Section 129.M, a manufactured liner used in pit construction must meet or exceed the following standards:

Parameter or Test Standard

Thickness (average)	10 mil (.01 in)
Breaking Strength (Grab Method)*	90 lbs
Bursting Strength*	140 psi
Tearing Strength*	25 lbs
Seam Strength*	50 lbs

* Testing is to be performed according to ASTM method D-751, latest revision.

Mining Water is well water, potable water, rainwater, or unsaturated brine which is injected into a brine solution mining well for recovery as saturated brine.

NOW is nonhazardous oilfield waste.

Nonhazardous Oilfield Waste is defined in Section 129.M.

Onsite for purposes of this Section means on the same lease or contiguous property owned by the lessor, or within the confines of a drilling unit established for a specific well or group of wells.

Operation of Oil and Gas Facilities as used in Section 129 means all oil and gas wells, disposal wells, enhanced recovery injection wells and facilities, flowlines, field storage and separation facilities, natural gas processing and/or gas sweetening plants, and compressor stations.

Pit for purposes of Section 129 means a natural topographic depression or manmade excavation used to hold produced water or other nonhazardous oilfield waste, hydrocarbon storage brine, or mining water. The term does not include lined sumps less than 660 gallons or containment dikes, ring levees or firewalls constructed around oil and gas facilities.

Produced Water includes liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

Production pits are either earthen or lined storage pits for collecting NOW sediment periodically cleaned from tanks and other producing facilities, for storage of produced water or other nonhazardous oilfield wastes produced from the operation of oil and gas facilities, or used in conjunction with hydrocarbon storage and solution mining operations as follows:

a. *burn pits* are earthen pits intended for use as a place to temporarily store and periodically burn nonhazardous oilfield waste (excluding produced water) collected from tanks and facilities;

b. *compressor station pits* are lined or earthen pits intended for temporary storage or disposal of fresh water condensed from natural gas at a gas pipeline drip or gas compressor station;

c. *emergency pits* are lined or earthen pits used to periodically collect produced water and other NOW fluids only during emergency incidents, rupture or failure of other facilities;

d. *produced water pits* are lined or earthen pits used for storing produced water and other nonhazardous oilfield wastes, hydrocarbon storage brine, or mining water;

e. *washout pits* are lined or earthen pits used to collect wash water generated by the cleaning of vacuum truck tanks and other vessels and equipment only used to transport nonhazardous oilfield waste. Any materials other than NOW are prohibited from being placed in such pits;

f. *well test pits* are small earthen pits intended for use to periodically test or cleanup a well; or

g. *natural gas processing plant pits* are lined or earthen pits used for the storage of process waters or stormwater runoff. No produced water may be stored in a natural gas processing plant pit.

Reserve Pits are temporary earthen pits used to store only those materials used or generated in drilling and workover operations.

Submerged Wetland Area is a wetland area which is normally inundated with water and where only levee material is available for mixing with waste fluids during closure of a pit.

Underground Source of Drinking Water (USDW) for the purpose of administering these rules and regulations is defined in Section 129.A.2.

Upland Area is an area which is not identified as a wetland and includes farmland, pasture land, recreational land and residential land.

2. General Requirements

a. Produced water generated from the drilling and production of oil and gas wells shall be disposed of into subsurface formations not productive of hydrocarbons, unless discharged or disposed of according to the provisions of Section 129.B.2.e or transported offsite in accordance with Section 129.M.

b. Produced water may be disposed of by subsurface injection into legally permitted or authorized operators saltwater disposal wells, commercial saltwater disposal wells, enhanced recovery injection wells, community saltwater disposal wells, or gas plant disposal wells. The use of hydrocarbon storage brine and mining water in storage and/or mining operations is not considered to be disposal.

c. Contamination of a groundwater aquifer or a USDW with NOW is strictly prohibited. In addition, the injection of NOW into a groundwater aquifer or a USDW is strictly prohibited.

d. Produced water and other NOW generated in the drilling and production of oil and gas wells shall not be disposed of into a zone producing or productive of hydrocarbons unless such disposal is approved by the Office of Conservation after a public hearing or unless prior approval to use the proposed zone for such disposal can be documented.

e. The discharge of produced water or other NOW (including drilled solids) into manmade or natural drainage or directly into state waters is allowed only in conformance with any applicable state or federal discharge regulatory program.

f. The use of closed NOW storage systems is encouraged by the Office of Conservation; therefore, the use of new or existing pits to store produced water, drilling fluids, and other NOW generated from the drilling and production of oil and gas wells is prohibited unless:

- i. notification for each pit is submitted to the Office of Conservation as outlined in Subsection B.3;
- and
- ii. pits are in conformance with standards set forth in Subsection B.4.

g. Unless exempted from liner requirements in Section 129.B.2.M or N below, all existing produced water pits, natural gas plant pits, compressor station pits, and washout pits which are to be utilized in the operation of oil and gas or other facilities must be shown to comply with the liner requirements of Subsection B.4.a.i or be permanently closed in accordance with the pit closure criteria of Subsection B.6 and B.7 within 36 months of the effective date (January 20, 1986) of this amendment. A certification attesting to compliance with these requirements shall be submitted to this office in a timely manner.

h. All existing pits which are not to be utilized in the operation of oil and gas or other facilities must be permanently closed according to the requirements of Subsection B.6 and B.7 within 36 months of the effective date (January 20, 1986) of this amendment. A certification attesting to compliance with these requirements shall be submitted to this office in a timely manner.

i. Within six months of the effective date (January 20, 1986) of this amendment, operators of existing pits are required to comply with all applicable operational requirements of Section 129.B.4.a.ii and iv, b.i,ii and iii, c.ii, iv, v, and vi, d.ii, iv, and v, and e.i, iii, iv, and vi.

j. Production pits, except for those identified in Subsection B.2.k and n below, may not be constructed in a V or A zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA), unless such pits have levees which have been built at least one foot above the 100 year flood level and able to withstand the predicted velocity of the 100-year flood. Location, construction and use of such pits is discouraged.

k. Production pits located within inland tidal waters, lakes bounded by Gulf of Mexico or saltwater marshes must be constructed to maintain a levee with an elevation of at least two feet above mean high tide, the liquid level in pit(s) shall not be permitted to rise within two feet of top of pit levee or walls, and any surface water discharge from an active pit must be done in accordance with appropriate state or federal regulatory programs. Such discharge must be piped to open water (within the marsh) that receives good flushing action and shall not otherwise significantly increase the salinity of the receiving body of water or marsh. Location, construction, and use of such pits is discouraged.

l. Within six months of the completion of the drilling or workover of any permitted well, the operator (generator) shall certify to the commissioner the types and number of barrels of NOW generated, the disposition of such waste, and further certify that such disposition was conducted in accordance with applicable rules and regulations of the Office of Conservation. Such certification shall become a part of the well's permanent history.

m. The following pits are exempt from the liner requirements of Subsection B.4:

i. production pits located within inland tidal waters, lakes bounded by the Gulf of Mexico, or saltwater marshes, provided that such pits are part of an approved treatment train to remove residual oil and grease from permitted produced water discharges; and

ii. natural gas processing plant pits and compressor station pits which collect and store process water and stormwater runoff.

n. Based upon the best practical technology, production pits located within an A zone (FEMA) which meet the following criteria are not subject to the levee height requirements of Subsection B.2.j above or the liner requirements of Subsection B.4.a.i:

- i. pit size is less than or equal to 10' x 10' x 4' deep;
- ii. such pit contains only produced brine; and
- iii. such pit is utilized for gas wells producing less than 25 mcf per day and less than or equal to one barrel of saltwater per day (bswpd).

Evidence of contamination of a groundwater aquifer or USDW may require compliance with the monitoring program of Subsection B.5, compliance with the liner requirements of Subsection B.4.a.i, or immediate closure of the pit.

3. Notification

a. Existing Pits

i. Each pit which was constructed prior to the effective date of this amendment is an existing pit. Use of an existing pit is prohibited unless the operator has reported that pit to the Office of Conservation within six months of the effective date of this rule according to the requirements of this Subsection. Notification shall contain the information requested below. Pits closed prior to the effective date of this amendment are not considered existing pits.

ii. Within six months of the effective date of this rule, operators of existing pits must submit the following information to the Office of Conservation:

(a). for each existing pit to be utilized in the operation of oil and gas facilities, the information requested in Subsection B.3.d.i - viii below;

(b). for each existing pit not to be utilized in the operation of oil and gas facilities, the information requested in Subsection B.3.d.i - vi below; and

(c). a plan and schedule of abandonment for closure of pits identified in Subclause (b) above. Such plan must comply with the provisions of Subsection B.2.h, and Subsections B.6, and B.7. Failure to comply with the plan in a timely manner will subject an operator to appropriate civil penalties.

b. New Pits

Except for reserve pits, operators must notify the Office of Conservation of the intent to construct new pits at least 10 days prior to start of construction. Notification shall contain all information requested in Subsection B.3.d below. The Office of Conservation may inspect any proposed pit site prior to or during construction; however, initial use of the completed pit need not be deferred if no inspection is made.

c. Reserve Pit Notification

For reserve pits used in drilling and workover operations, notification requirements of this rule shall be satisfied by application for a drilling or workover permit.

d. Notification Information Required:

- i. name of facility pit (indicate whether new or existing)
- ii. field designation, if applicable
- iii. section, township and range (include approximate footage location of pit center)
- iv. parish name
- v. type of pit (consistent with definitions in Section 129.B.1)
- vi. size of pit (length, width and depth)
- vii. type of liner, if applicable
- viii. certification that each pit will or does conform to standards stipulated under Subsection B.4 below, applicable to that type pit and that such compliance will be within the time frame described in Section 129.B.2.g and h, and i, if applicable.

4. Pit Classification, Standards and Operational Requirements

Pits shall meet the following criteria as applicable:

- a. produced water, natural gas plant, compressor station and washout pits
 - i. except where exempted by Section 129.B.2.m and n, groundwater aquifer and USDW protection for above listed pits shall be provided by one of the following:
 - (a). a liner along the bottom and sides of pits which has the equivalent of three continuous feet of recompacted or natural clay having a hydraulic conductivity no greater than 1×10^{-7} cm/sec. Such liners include, but are not limited to the following:
 - (i). *natural liner* - natural clay having a hydraulic conductivity meeting the requirements of Subclause (a) above;
 - (ii). *soil mixture liner* - soil mixed with cement, clay-type, and/or other additives to produce a barrier which meets the hydraulic conductivity requirements of Subclause (a) above;
 - (iii). *recompacted clay liner* - in situ or imported clay soils which are compacted or restructured to meet the hydraulic conductivity requirements of Subclause (a) above;
 - (iv). *manufactured liner* - synthetic material that meets the definition in Subsection B.1 and is equivalent or exceeds the hydraulic conductivity requirements of Subclause (a) above. Pits constructed with a manufactured liner must have side slopes of 3:1 and the liner at the top of the pit must be buried in a one foot wide and one foot deep trench. A sufficient excess of liner material shall be placed in the pit to prevent tearing when filled with NOW; and
 - (v). *combination liner* - a combination of two or more types of liners described in this Section which meets the hydraulic conductivity requirements of Subclause (a) above.

(b). any other alternate groundwater aquifer and USDW protection system acceptable to the Office of Conservation.

ii. pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphon or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal and/or state regulatory programs are not considered to be pollution or contamination as used herein.

iii. a representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under Subsection B.3.b.

iv. liquid levels in pits shall not be permitted to rise within two feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

v. when use of a pit will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of all fluids in a manner compatible with all applicable regulations and closed in accordance with Subsections B.6 and B.7 within six months of abandonment.

b. Reserve Pits

i. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal or state regulatory programs are not considered to be pollution or contamination as used herein.

ii. Liquid levels in pits shall not be permitted to rise within two feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

iii. Operators shall prevent the placing of produced water, waste oil, trash, or any other material into a reserve pit which would increase the difficulty in cleanup of the pit or otherwise harm the environment. Such material shall be properly stored and disposed of according to applicable state or federal regulations.

iv. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with Subsections B.6 and B.7 within six months of completion of drilling or workover operations.

c. Burn Pits

i. Pits shall be constructed in such a manner as to keep fire hazards to a minimum, and in no case shall be located less than 100 feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

ii. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination.

iii. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under Subsection B.3.b.

iv. Any burning process shall be carried out in conformance with applicable Air Quality Regulations. Notification as required by said regulation shall be made to the Air Quality Division, Department of Environmental Quality.

v. No produced water, radioactive material (except industry accepted and license-approved radioactive material utilized in oil field operations, and radioactive material naturally occurring in the produced fluids), or other noncombustible waste products shall be placed in pits, except water or emulsion which may be associated with crude oil swabbed or otherwise produced during test operations, or during tank or other vessel cleaning operations. NOW must be removed or burned periodically to assure that storage of materials in the pit is kept to a minimum.

vi. Liquid levels in pits shall not be permitted to rise within two feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

vii. When use of pits will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with Subsections B.6 and B.7 within six months of abandonment.

d. Well Test Pits

i. Pits shall be constructed in such a manner as to keep fire hazards to a minimum, and in no case shall be located less than 100 feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

ii. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination.

iii. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under Subsection B.3.b.

iv. Within 30 days after completion of a well test, pits shall be emptied of produced fluids and must remain empty of produced fluids during periods of nonuse.

v. Liquid levels in pits shall not be permitted to rise within two feet of top of pit walls or dikes. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

vi. When use of pits will be permanently discontinued, the Office of Conservation shall be notified in writing. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with Subsections B.6 and B.7 within six months of abandonment.

e. Emergency Pits

i. Groundwater aquifer and USDW protection for emergency pits shall be evaluated on a case-by-case basis. Operators who intend to utilize existing or new emergency pits without liners must demonstrate by written application to the Office of Conservation that groundwater aquifer and USDW contamination will not occur; otherwise, emergency pits shall be lined. Applications to demonstrate unlined pits will not contaminate groundwater aquifers and USDW's shall at a minimum address the following:

(a). emergency incident rate - operator shall estimate the number of times a pit will be utilized each year. A detailed discussion of the facility operation and reasons for the emergency incident rate must be addressed;

(b). soil properties - operator shall describe and evaluate soil properties onsite. Soil hydraulic conductivity and physical properties must be addressed to assess potential groundwater aquifer and USDW impacts;

(c). groundwater aquifer evaluation - water quality, ground-water aquifer, and USDW depth shall be evaluated; and

(d). produced water composition (total dissolved solids and oil and grease) - must be determined to assess potential impacts on the site.

ii. All emergency pits required to be lined must conform to hydraulic conductivity requirements in Subsection B.4.a.i above.

iii. No produced water or any other NOW shall be intentionally placed in any emergency pit not meeting the hydraulic conductivity requirements (1×10^{-7} cm/sec. for three continuous feet of clay) except in the case of an emergency incident. In emergency situations, notice must be given to the Office of Conservation within 24 hours after discovery of the incident. Produced water and any other NOW must be removed from the pit within seven days following termination of the emergency situation.

iv. Pits shall be protected from surface waters by levees and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Surface discharges of pit contents under federal or state permits are not considered to be pollution or contamination as used herein.

v. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pits as provided under Subsection B.3.b.

vi. Liquid level in pits shall not be permitted to rise within two feet of top of pit levees. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

vii. When use of pits will be permanently discontinued, the Office of Conservation shall be notified in writing. After notification to the Office of Conservation, pits shall be emptied of all fluids in a manner compatible with all applicable regulations, and closed in accordance with Subsections B.6 and B.7 within six months of abandonment.

f. Office of Conservation Corrective Action and Closure Requirement

Should the Office of Conservation determine that continued operation of pits specified in Subsection B.4 may result in contamination of a groundwater aquifer or a USDW, or the discharge of fluids into manmade or natural drainage or directly into state waters, or contamination of soils outside the confines thereof, further use of the pit shall be prohibited until conditions causing or likely to cause contamination have been corrected. If corrective measures are not satisfactorily completed in accordance with an Office of Conservation compliance order or schedule, the commissioner may require closure of the pit. When an order for closure is issued, a pit shall be closed in accordance with Subsections B.6 and B.7 and the operator must comply with any closure schedule issued by the Office of Conservation.

5. Monitoring Program

a. Upon a determination by the operator or the Office of Conservation that any pit subject to this rule is likely to contaminate a groundwater aquifer or a USDW, the Office of Conservation shall require the timely submission of a plan for the prevention of such contamination. Such plan may include using an under-built drainage and collection system, monitoring wells, and/or other means that the Office of Conservation may approve to prevent or detect contamination. Any required monitor wells shall be registered with the appropriate state agency.

b. When required by the Office of Conservation, monitoring shall be conducted on a quarterly schedule. A written report summarizing the results of such monitoring shall be submitted to the Office of Conservation within 30 days of the end of each quarter.

c. If monitoring of groundwater aquifer or USDW indicates contamination due to discharge from a pit, the owner or operator shall immediately notify the Office of Conservation. Within 30 days, the operator shall empty the pit of all NOW and submit a remedial plan for prevention of further contamination of any groundwater aquifer or any USDW. Upon approval, the remedial plan shall be implemented by the operator and monthly progress reports, reviewing actions taken under the plan and their results, will be filed with the Office of Conservation until all actions called for in the plan have been satisfactorily completed.

d. Notification received by the Office of Conservation, pursuant to Subsection B.5.a, b, or c above, of any contamination of a ground-water aquifer or a USDW as the possible result of a discharge, or information obtained by the exploitation of such notification shall not be used against the reporting owner or operator in any criminal action, including but not limited to those provided for by R.S. 30:18, except in a prosecution for perjury or for giving a false statement.

6. Pit Closure

a. Pits must be closed properly to assure protection of soil, surface water, groundwater aquifers and USDW's. Operators may close pits utilizing onsite land treatment, burial, solidification or other techniques approved by the Office of Conservation only if done so in compliance with Subsections B.7 and B.8. Otherwise, all NOW must be manifested according to Section 129.M.6 and transported offsite to a permitted commercial facility.

b. Liability for pit closure shall not be transferred from an operator to the owner of the surface land(s) on which a pit is located.

c. For evaluation purposes prior to closure of any pit and for all closure and onsite and offsite disposal techniques, excluding subsurface injection of reserve pit fluids, nonhazardous oilfield waste (pit contents) must be analyzed for the following parameters:

i. pH

ii. total metals content (ppm) for:

- | | | |
|-------------|--------------|--------------|
| (a) arsenic | (d) chromium | (g) selenium |
| (b) barium | (e) lead | (h) silver |
| (c) cadmium | (f) mercury | (i) zinc |

- iii. oil and grease (per cent dry weight)
- iv. soluble salts and cationic distributions:
 - (a). electrical conductivity - EC in mmhos/cm (millimhos);
 - (b). sodium adsorption ratio - SAR;
 - (c). exchangeable sodium percentage - ESP(per cent); and
 - (d). cation exchange capacity - CEC (milliequivalents/100 gm soil).

d. Laboratory Procedures for Nonhazardous Oilfield Waste Analyses

i. Soluble salts, cationic distributions and oil and grease (organics):

(a). samples are to be analyzed using standard soil testing procedures (latest revision) as described in the following:

- (i). *Methods of Soil Analysis* (Page, 1982);
- (ii). *Handbook No. 60* (USDA, 1954); and
- (iii). *Test Methods for Evaluating Solid Waste* (EPA/SW 846, 1982, 2nd Rev.);

(b). the pH, electrical conductivity (EC), soluble cations, and SAR are to be determined for saturated paste extracts. The pH and EC are read direct. Metal cations (Ca, Mg, and Na), required for calculating the SAR, are determined by flame atomic absorption spectroscopic technique (AAS);

(c). cation exchange capacity (CEC) is determined by the NaC₂H₃O₂ method buffered at pH 8.0. Exchangeable cations (Na, K, Mg and Ca) are determined by NH₄C₂H₃O₂ extraction buffered at pH 7.0;

(d). exchangeable sodium percentage (ESP) is calculated as adsorbed Na divided by the CEC and expressed as a whole number by multiplying by 100, and

(e). oil and grease is assayed gravimetrically following extraction with 15 percent diethylether in dichloromethane (Brown and Deuel, 1981).

ii. Total metals:

(a). samples are to be analyzed for total metals following vigorous digestion with nitric acid as described in *Methods for Chemical Analysis of Water and Wastes* (EPA 1979);

(b). silver, barium, cadmium, chromium, lead and zinc are determined by direct aspiration AAS, graphite furnace AAS or other approved EPA test protocol;

(c). arsenic and selenium are determined by hydride generation and flame AAS, graphite furnace AAS or other approved EPA test protocol; and

(d). mercury is analyzed by cold vapor technique.

e. Documentation of testing and closure activities, including onsite disposal of NOW, shall be maintained in operator's files for at least three years after completion of closure activities. Upon notification, the Office of Conservation may require the operator to furnish these data for verification of proper closure of any pit. If proper onsite closure has not been accomplished, the operator will be required to bring the site into compliance with applicable requirements.

f. Reserve pits utilized in the drilling of wells less than 5,000 feet in depth are exempt from the testing requirements of Subsections B.6.c and B.7 provided the following conditions are met:

i. the well is drilled using only fresh water native mud which contains no more than 25 lbs/bbl bentonite, 0.5 lbs/bbl caustic soda or lime, and 50 lbs/bbl barite; and

ii. documentation of the above condition is maintained in the operator's files for at least three years after completion of pit closure activities.

7. Pit Closure Techniques and Onsite Disposal of NOW

a. Reserve pit fluids, as well as drilling muds, cuttings, etc. from holding tanks, may be disposed of onsite provided the technical criteria of Subparagraphs c, d, e, or f below are met, as applicable. All NOW must be either disposed of onsite or transported to an approved commercial facility or transfer station in accordance with the requirements of Subsection M or under the direction of the commissioner.

b. Prior to conducting onsite pit closure activities, an operator must make a determination that the requirements of this Paragraph are attainable.

c. For all pit closure techniques in this Paragraph, except solidification, waste/soil mixtures must not exceed the following criteria:

i. range of pH: 6 - 9; and

ii. total metals content (ppm):

PARAMETER	LIMITATION
Arsenic	10
Barium	2000
Cadmium	10
Chromium	500
Lead	500
Mercury	10
Selenium	10
Silver	200
Zinc	500

d. Land Treatment

Pits containing NOW may be closed onsite by mixing wastes with soil from pit levees or walls and adjacent areas provided waste/soil mixtures at completion of closure operations do not exceed the following criteria, as applicable, unless the operator can show that higher limits for EC, SAR and ESP can be justified for future land use or that background analyses indicate that native soil conditions exceed the criteria:

i. in addition to the pH and metals criteria listed in Subparagraph c above, land treatment of NOW in submerged wetland, elevated wetland and upland areas is permitted if the oil and grease content of the waste/soil mixture after closure is 1 percent (dry weight);

ii. additional parameters for land treatment of NOW in elevated, freshwater wetland areas where the disposal site is not normally inundated:

(a). electrical conductivity (EC-solution phase): < 8 mmhos/cm

(b). sodium adsorption ratio (SAR-solution phase): < 14

(c). exchangeable sodium percentage (ESP-solid phase): < 25 percent

iii. additional parameters for land treatment of NOW in upland areas:

(a). electrical conductivity (EC-solution phase): < 4 mmhos/cm

(b). sodium adsorption ratio (SAR-solution phase): < 12

(c). exchangeable sodium percentage (ESP-solid phase): < 15 percent

e. Burial or Trenching

Pits containing NOW may be closed by mixing the waste with soil and burying the mixture onsite, provided the material to be buried meets the following criteria;

i. the pH and metals criteria in Subparagraph c above;

ii. moisture content: < 50 percent by weight.

iii. electrical conductivity (EC): 12 mmhos/cm.

iv. oil and grease content: < 3 percent by weight.

v. top of buried mixture must be at least five feet below ground level and then covered with five feet of native soil; and

vi. bottom of burial cell must be at least five feet above the seasonal high water table.

f. Solidification

Pits containing NOW may be closed by solidifying wastes and burying it onsite provided the material to be buried meets the following criteria:

- i. pH range: 6 - 12;
- ii. leachate testing* for oil and grease: ≤ 10 .mg/1

* Note: The leachate testing method for oil and grease must be submitted in writing to the commissioner for approval.

iii. leachate testing (EP Tox) for the following metals:

(a) arsenic	≤ 0.5	mg/1	(f) mercury	≤ 0.02	mg/1
(b) barium	≤ 10.0	mg/1	(g) selenium	≤ 0.1	mg/1
(c) cadmium	≤ 0.1	mg/1	(h) silver	≤ 0.5	mg/1
(d) chromium	≤ 0.5	mg/1	(i) zinc	≤ 5.0	mg/1
(e) lead	≤ 0.5	mg/1			

iv. top of buried mixture must be at least five feet below ground level and covered with five feet of native soil;

v. bottom of burial cell must be at least five feet above the seasonal high water table; and

vi. solidified material must meet the following criteria*:

- (a). unconfined compressive strength (Qu): 200 lbs/in² (psi).
- (b). permeability: 1×10^{-6} cm/sec; and
- (c). wet/dry durability: 10 cycles to failure.

* Note: Testing must be conducted according to ASTM or other approved methods prior to pit closure by solidification processes.

g. Offsite Disposal of NOW

i. Except for produced water, drilling, workover and completion fluids, and rainwater which may be transported by an oil and gas operator to a community well or an operators permitted Class II disposal well or discharged to surface waters where authorized, nonhazardous oilfield waste shall not be moved offsite for storage, treatment or disposal unless transported to an approved commercial facility or transfer station in accordance with the requirements of Section 129.M or under the direction of the commissioner.

ii. The criteria for land treatment, burial or solidification listed above will apply, as appropriate, to the onsite disposal of any nonhazardous oilfield waste remaining onsite.

iii. NOW that fails to meet the criteria of this Paragraph for onsite disposal shall be moved offsite by the operator to a permitted commercial facility or transfer station in accordance with the requirements of Section 129.M.

8. Disposal of Reserve Pit Fluids by Subsurface Injection

a. General Provisions

i. The disposal (subsurface injection) of drilling and workover waste fluids (including reserve pit fluids) into (1) a newly drilled well which is to be plugged and abandoned or (2) into the casing annulus of a well being drilled, a recently completed well, or a well which has been worked over is prohibited, except when such injection is conducted in accordance with the requirements of this Subparagraph.

ii. Injection of drilling and workover waste fluids shall not commence until approval has been granted by the Office of Conservation. Operators may apply for approval when applying for a drilling permit. Approval for injection into a well will remain valid for subsequent workovers provided the criteria in §129.B.8.c below continue to be met.

iii. Injection of drilling and workover waste fluids (including reserve pit fluids) shall be limited to injection of only those fluids generated in the drilling, stimulation or workover of the specific well for which authorization is requested. Reserve pit fluids may not be transported from one well location to another for injection purposes.

iv. Injection of drilling and workover waste pit fluids into zones that have been tested for hydrocarbons or are capable of hydrocarbon production is prohibited, except as otherwise provided by the commissioner.

v. Pump pressure shall be limited so that vertical fractures will not extend to the base of the USDW and/or grand-water aquifer.

vi. A drilling and workover waste fluids injection site may be inspected by a duly authorized representative of the commissioner prior to approval.

vii. Drilling and workover waste fluids to be injected pursuant to the provisions of this Subparagraph are exempt from the testing requirements of §129.B.6.c.

b. Application Requirements

i. Prior to the onsite injection of reserve pit fluids, an application shall be filed by the well operator on the appropriate form. The original and one copy of the application (with attachments) shall be submitted to the Office of Conservation for review and approval.

ii. An application for approval of reserve pit fluid injection shall include:

(a). Schematic diagram of well showing:

(i). total depth of well,

(ii). depths of top and bottom of all casing strings and the calculated top of cement on each,

(iii). size of casing, and

(iv). depth of the deepest USDW.

(b). Operating data:

- (i). Maximum pressure anticipated, and
- (ii). Estimated volume of fluids to be injected.

(c). A copy of the electric log of the well (if run) or a copy of the electric log of a nearby well;

(d). Additional information as the commissioner may require.

c. Criteria for Approval

i. Casing string injection may be authorized if the following conditions are met and injection will not endanger underground sources of drinking water:

(a). Surface casing annular injection may be authorized provided the surface casing is set and cemented at least 200 feet below the base of the lowermost USDW, except as otherwise provided by the commissioner; or

(b). Injection through perforations in the intermediate or production casing may be authorized provided that intermediate or production casing is set and cemented at least 200 feet below the base of the lowermost USDW, except as otherwise provided by the commissioner.

ii. Surface casing open hole injection may be approved provided the surface casing is set and cemented at least 200 feet below the lowermost USDW and a cement plug of at least 100 feet has been placed across the uppermost potential hydrocarbon bearing zone.

9. Requirements for Community Saltwater Disposal Wells and Systems.

a. The use of legally permitted saltwater disposal well and system for community saltwater disposal purposes is prohibited unless the disposal well system operator submits a statement of noncommercial operation and the information requested in §129.B.9.b. below to the Office of Conservation. Such statement must indicate that the operators using the community saltwater disposal system share only in the cost of operating and maintaining the well and related storage tanks and equipment (system).

b. The operator of an existing or proposed community saltwater disposal well and system must submit the following information to the Office of Conservation:

i. The name of the community saltwater disposal system including the disposal well name(s) and number(s), serial number(s), field, and section, township, and range.

ii. A list of the operators using the community saltwater disposal system.

iii. A list of the producing wells (well name, number, and serial number) from which saltwater going into the community saltwater system is generated.

iv. The approximate number of barrels per month of saltwater received from each producing well.

v. The method of transportation of the saltwater to the community system (i.e., truck, pipeline, etc.).

c. Within six months of the effective date of this amendment and annually thereafter, the operator of an existing community saltwater disposal system shall report the information required in §129.B.9.b above to the Office of Conservation

C. Application Requirements for New Enhanced Recovery Injection and New Saltwater Disposal Wells

1. Each application for the approval of a new enhanced recovery injection well or disposal well shall be filed on Form MD-10-R and shall be verified by a duly authorized representative of the operator. The original and one copy of the application and two complete sets of attachments shall be furnished to the commissioner. An application for the approval of an injection well which is a part of a proposed enhanced recovery operation may be consolidated with the application for the approval of the enhanced recovery project (see Subsection C.2.d below).

2. The application for the approval of an enhanced recovery injection or disposal well or wells shall be accompanied by:

a. a map showing the disposal well or enhanced recovery project area for which a permit is sought and the applicable area of review (for individual wells- $\frac{1}{4}$ mile radius; for enhanced recovery projects - the project area plus a circumscribing area the width of which is $\frac{1}{4}$ mile) and the following information:

i. within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells and dry holes;

ii. identification of the surface owner of the land on which the enhanced recovery injection or disposal is to be located within the area of review;

iii. identification of each operator of a producing leasehold within the area of review;

iv. the map may also show surface bodies of water, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or projected; and

v. only information on file with the Office of Conservation and pertinent information known to the applicant is required to be included on this map.

b. if the well has been drilled, a copy of the Well History and Work Resume Report (WH-1) and any available electric or radioactive log of the well. A descriptive statement of the proposed zone to be used for injection or disposal. The approximate depth of said zone in the case of undrilled wells along with an electric or radioactive log of a nearby well, if available.

c. a schematic diagram of the well showing:

i. the total depth, drilled out depth or plugged back depth of the well;

ii. the depth of the top of the injection or disposal interval;

iii. the geological name of the injection or disposal zone;

iv. the depths of the tops and bottoms of the casing and amount of cement used to cement each string of casing; (Every well used for injection shall be cased, cemented and tested in accordance with Subsections H and J of this Order.)

v. the size of the casing and tubing, and the depth of the packer; and

vi. the depth of the base of the deepest USDW.

d. information showing that injection into the proposed zone will not initiate fractures through the overlying strata which could enable the injection fluid or formation fluid to enter an underground source of drinking water. This requirement will be satisfied upon proper demonstration by the applicant that the pressure in the well at the depth of injection shall not exceed 75 percent of the pressure needed to fracture the formation.

e. proposed operating data:

i. daily injection rates and pressures;

ii. geologic names, depths and location of injection fluid sources;

iii. qualitative and quantitative analysis of water from two or more existing water wells within one-quarter mile of proposed enhanced recovery injection or disposal well or wells. Give location of said water wells and date(s) samples were taken, or statement why samples were not submitted;

iv. qualitative and quantitative analysis of representative sample of water to be injected;

v. geological name of injection zone and vertical distance separating top of injection zone from base of the deepest USDW, and a geological description of each major separating bed including individual bed thickness; and

vi. geological name, if known, and depth of the base of the deepest USDW.

D. Application Requirements for Enhanced Recovery Projects

1. An enhanced recovery project shall be permitted only by order of the commissioner after notice and public hearing.

2. The application for a permit authorizing an enhanced recovery project shall contain the following:

a. the names and addresses of the operator or operators of the project;

b. in addition to the information on the map required in Paragraph C.2.a of this amendment, show the lease, group of leases, unit or units included within the proposed project;

c. the common source or sources of supply in which all wells are currently completed;

d. the name, description and depth of each common source of supply to be affected;

e. a log of a representative well completed in the common source or sources of supply;

f. a description of the existing or proposed casing programs for injection wells, and the proposed method of testing all casing;

g. a description of the injection medium to be used, its source or sources and the estimated amounts to be injected daily;

h. for a project within an allocated pool, a tabulation showing recent gas-oil ratios and oil and water production tests for each of the producing oil and/or gas wells;

i. the proposed plan of development of the area included within the project; and

j. a schematic diagram of existing and/or proposed injection well(s) as set out in Subsection C.2.c of this amendment.

3. A copy of the application shall be mailed to each operator offsetting the project as shown on the application within five days after the application is filed. An affidavit of compliance with this rule shall be filed on or before the hearing.

4. Injectivity Tests and Pilot Projects

a. Injectivity test - The commissioner may administratively approve for a period of one week an injectivity test in order to determine the injection rate, injectivity index, and/or pressure analysis of a well for enhanced recovery.

i. Requests for injectivity tests must include the following:

(a). well name and number

(b). serial number

(c). Form WH-1 of the well

(d). schematic diagram of the well

(e). sand, reservoir, and field

(f). brief discussion of the proposed test

ii. The commissioner must be provided with the results of the injectivity test after completion.

b. Pilot Projects - The commissioner may administratively approve pilot projects for enhanced recovery for a period of six months from the date of initiation of injection.

i. Requests for pilot projects must include Form UIC-II(EOR) for each well to be used for injection within the project and such additional information the commissioner deems necessary to justify the approval of the pilot project.

ii. Wells used for injection within the pilot project are exempt from the provisions of Section 129.E of this Order.

iii. Within 10 days of initiation of injection the operator must notify the commissioner in writing the date injection actually commenced.

iv. To continue operation beyond the six month pilot project approval, the operator must obtain approval of an enhanced recovery project (prior to the expiration date of the administratively approved six month pilot project) pursuant to the rules of procedure for conducting hearings before the commissioner of Conservation, R.S. 30:5C, R.S. 30:6, and Section 129.C.1 and 2, Section 129.D.1, 2, and 3 of this Order.

v. In the event the pilot project is unsuccessful, the operator must submit a letter to the commissioner requesting termination of such project.

E. Permit Notice Requirements

1. Applications for saltwater disposal, enhanced recovery wells or projects, and other Class II facilities shall be advertised in the official state journal.

2. Notice requirements for commercial saltwater facilities can be found in Section 129.M of the Amendment to Statewide Order 29-B (Section 129) entitled *Offsite Disposal of Drilling Mud and Saltwater* dated July 20, 1980.

3. Public Hearings

a. If any person protests the application for a saltwater disposal or other Class II facility by filing written comments with the commissioner within 15 days following publication of notice, the application shall be set for public hearing at the election of the applicant or the commissioner.

b. All enhanced recovery well or project applications shall be approved only after a 30 day comment period and public hearing. The notice of hearing shall be mailed out to each interested owner and to each interested party.

4. The commissioner may administratively approve or deny the application for a Class II well other than an enhanced recovery well or project, after review, without a public hearing if there are no comments received during the application comment period. If the commissioner denies administrative approval, the operator shall have a right to a public hearing on the decision.

5. Response to Comments

a. At the time that any final permit is issued, following a public hearing, the commissioner shall issue a response to comments. This response shall briefly describe and respond to all significant comments on the permit application raised during the public comment period, or during any hearing.

b. The response to comments shall be available to the public.

F. Duration of Permits

1. Permits authorizing injection into enhanced recovery injection wells and disposal wells shall remain valid for the life of the well, unless revoked by the commissioner for just cause.

2. A permit granting underground injection may be modified, revoked and reissued, or terminated during its term for cause. This may be at the request of any interested person or at the commissioner's initiative. All requests shall be in writing and shall contain facts or reasons supporting the request.

3. A permit may be modified, revoked and reissued, or terminated after notice and hearing, if:

a. there is a substantial change of conditions in the enhanced recovery injection well or the disposal well operation, or there are substantial changes in the information originally furnished;

b. information as to the permitted operation indicates that the cumulative effects on the environment are unacceptable, such as pollution of USDW's;

- c. there are substantial violations of the terms and provisions of the permit; and
- d. the operator has misrepresented any material facts during the permit issuance process.

G. Transfer of Permits

A permit authorizing an enhanced recovery injection well or disposal well shall not be transferred from one operator to another without the approval of the commissioner (Form MD-10-R-A).

H. Construction Requirements For New Wells

1. Each new enhanced recovery injection well or disposal well shall be completed, equipped, operated and maintained in a manner that will prevent endangerment of USDW's or damage to sources of oil or gas and will confine injected fluids to the interval or intervals approved.

2. The casing and cementing program shall conform to the following requirements:

a. surface casing set through the base of the deepest USDW and cemented back to the surface in accordance with Section 109.B.1 of this order; and

b. long string casing shall be cemented above the injection zone in accordance with Section 109.D.3 of this Order.

3. Tubing and Packer. New wells drilled or existing wells converted for disposal after the effective date of this rule shall be equipped with tubing set on a mechanical packer. Packers shall be set no higher than 150 feet above the top of the disposal zone.

4. Pressure Valves. The wellhead shall be equipped with aboveground pressure observation valves on the tubing and for each annulus of the well; said valves will be equipped with 1/2 inch female fittings. Operators of existing wells shall comply with this requirement by no later than six months after adoption of this amendment.

5. Well History. Within 20 days after the completion or conversion of a disposal well, the owner or operator shall file in duplicate to the commissioner a completed form WH-1.

I. Monitoring and Reporting Requirements

1. The operator shall monitor injection pressure and injection rate of each enhanced recovery injection well or disposal well on a monthly basis with the results reported annually on Form SWD-1R-2.

2. The operator shall report on Form SWD-1R-2 any casing annulus pressure monitoring used in lieu of pressure testing and any other casing annulus pressure test performed.

3. All reports submitted to the Office of Conservation shall be signed by a duly authorized representative of the operator.

4. The operator of an enhanced recovery injection well or disposal well shall, within 30 days, notify the commissioner of the date upon which injection or disposal commenced.

5. The operator shall request permission from the commissioner for suspension of injection if an injection well or project is to be removed from service for a period of six months or more, and give reasons or justification for such suspension of injection. Said permission shall not exceed one year. After one year, the well or well(s) in a project shall be plugged and abandoned as outlined in Section 137 of this Order. The operator may request a hearing for an extension exceeding one year. Wells required for standby service, provided they meet all requirements for wells in active service, are exempt from the plugging requirements of this Subsection.

6. The operator shall, within 30 days notify the commissioner of the date injection into an enhanced recovery injection well, enhanced recovery injection project or disposal well is terminated permanently and the reason therefore; at which time the permit authorizing the well or project shall expire. Notification of project injection termination must be accompanied by an individual well status report for all project injection wells.

7. Mechanical failures or downhole problems which indicate an enhanced recovery injection well or disposal well is not, or may not be, directing the injected fluid into the permitted or authorized injection zone may be cause to shut-in the well. If said condition may endanger a USDW, the operator shall orally notify the commissioner within 24 hours at (504) 342-5515. Written notice of this failure shall be submitted to the Office of Conservation within five days of the occurrence together with a plan for testing and/or repairing the well. Results of such testing and well repair shall be included in the annual monitoring report to the commissioner. Any mechanical downhole well repair performed on the well not previously reported shall also be included in the annual report.

J. Logging and Testing Requirements

1. New Wells

a. Before operating a new well drilled for enhanced recovery injection or saltwater disposal, the casing outside the tubing shall be tested under the supervision of the Office of Conservation at a pressure not less than the maximum authorized injection pressure, or at a pressure of 300 psi, whichever is greater.

b. i. If open-hole logs of a nearby well were not run through the lowermost USDW, a new well shall be logged from the surface to the total depth before casing is set.

ii. If such logs exist for a nearby well, the new well need only be logged electrically below the surface casing before the longstring is let.

c. After cementing the casing, a cement bond log, temperature survey, x-ray log, density log or some other acceptable test shall be run to assure there are no channels adjacent to the casing which will permit migration of fluids up the wellbore from the disposal formation to the lowermost USDW. The casing program shall be designed for the lifetime of the well.

2. Converted Wells

Before operating an existing well newly converted to enhanced recovery injection or disposal, the casing outside the tubing shall be tested under supervision of the Office of Conservation at a pressure of 1000 psi or maximum authorized injection pressure, whichever is less, provided no testing pressure shall be less than 300 psi.

3. Existing Wells

a. An injection well has mechanical integrity if:

- i. there is no significant leak in the casing, tubing or packer; and
- ii. there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection wellbore.

b. One of the following methods must be used to evaluate the absence of significant leaks under Paragraph 3.a.i above:

- i. monitoring of annulus pressure; or
- ii. pressure test with liquid; or
- iii. records of monitoring showing the absence of significant changes in the relationship between injection pressure and injection flow rate for the following enhanced recovery wells:

(a). existing wells completed without a packer provided that a pressure test has been performed and the data is available and provided further that one pressure test shall be performed at a time when the well is shut down and if the running of such a test will not cause further loss of significant amounts of oil or gas; or

(b). existing wells constructed without a longstring casing, but with surface casing which terminates at the base of the lowest USDW provided that local geological and hydrological features allow such construction and provided further that the annular space shall be visually inspected. For these wells, the commissioner shall prescribe a monitoring program which will verify the absence of significant fluid movement from the injection zone into an USDW.

c. One of the following methods must be used to determine the absence of significant fluid movement under Paragraph 3.a.ii above:

- i. cementing records demonstrating the presence of adequate cement to prevent such migration; or
- ii. the results of a temperature or noise log.

d. The commissioner may approve a request for the use of a test to demonstrate mechanical integrity other than those listed in Paragraphs 3.b and 3.c above, if the proposed test will reliably demonstrate the mechanical integrity for wells for which its use is proposed.

e. Each disposal and enhanced recovery well shall demonstrate mechanical integrity at least once every five years. The commissioner will prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with this requirement.

4. The operator shall notify the commissioner at least 48 hours prior to the testing. Testing shall not commence before the end of the 48 hour period unless authorized by the commissioner. The commissioner may authorize or require alternative tests or surveys as IS deemed appropriate and necessary.

5. A complete record of all mechanical integrity pressure tests shall be made out, verified and filed in duplicate on the Form PLT#1 within 30 days after the testing.

K. Confinement of Fluids

If the operator or the commissioner determines that the disposal operation is causing fluid to enter an unauthorized stratum or to escape to the land surface, the operator shall shut-in the disposal well immediately and notify the commissioner by telephone within 24 hours at (504) 342-5515. Injection into the disposal well shall not be resumed until the commissioner has determined that the well is in compliance with all material permit conditions. If the certificate of compliance is not issued within 90 days, the permit shall be canceled and the disposal well shall be plugged and abandoned in accordance with Section 137.

L. Enhanced recovery injection wells and disposal wells shall be plugged in accordance with the provisions of the commissioner's rules governing the plugging of oil and gas wells, as found in Section 137.

M. Offsite Storage, Treatment and/or Disposal of Nonhazardous Oilfield Waste Generated from Drilling and Production of Oil and Gas Wells

1. Definitions

Cell is an earthen area constructed within a land treatment facility used for the placement, treatment, disposal and degradation of non-hazardous oilfield waste.

Closed System is a system in which nonhazardous oilfield waste is stored in enclosed tanks or barges prior to being treated and/or disposed of. Pits are not utilized in a closed system.

Commercial Facility is a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of nonhazardous oilfield waste for a fee or other consideration.

Commissioner is the Commissioner of Conservation of the State of Louisiana.

Community Saltwater Disposal Well or System is a saltwater disposal well within an oil or gas field which is used by operators in the field or adjacent fields for disposal of their produced water.

Generator is any person or entity who generates or causes to be generated any nonhazardous oilfield waste (NOW), sometimes referred to as operator.

Groundwater Aquifer is defined in Section 129.M.2.

Land Treatment is a dynamic process involving the controlled application of nonhazardous oilfield waste onto or into the aerobic surface soil horizon by a commercial facility, accompanied by continued monitoring and management, to alter the physical, chemical, and biological state of the waste. Site, soil, climate and biological activity interact as a system to degrade and immobilize waste constituents thereby rendering the area suitable for the support of vegetative growth and providing for beneficial future land use.

Offsite, for purposes of Section 129 and Paragraph M, shall mean outside the confines of a drilling unit for a specific well or group of wells, or in the absence of such a unit, outside the confines of a lease or contiguous property owned by the lessor upon which a well is drilled.

NOW is nonhazardous oilfield waste.

Nonhazardous Oil field Waste (NOW) is waste generated by the drilling and production of oil and gas wells and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations. Such wastes include the following:

- a. saltwater (produced brine or produced water), except for saltwater whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations;
- b. oil base drilling mud and cuttings;
- c. water base drilling mud and cuttings;
- d. drilling, workover and completion fluids;
- e. production pit sludges;
- f. production storage tank sludges;
- g. produced oily sands and solids;
- h. produced formation fresh water;
- i. rainwater from ring levees and pits at production and drilling facilities;
- j. washout water generated from the cleaning of vessels (barges, tanks, etc.) that transport nonhazardous oilfield waste and are not contaminated by hazardous waste or material;
- k. washout pit water from oilfield related carriers that are not permitted to haul hazardous waste or material;
- l. nonhazardous natural gas plant processing waste which is or may be commingled with produced formation water;
- m. waste from approved salvage oil operators who only receive waste oil (BS&W) from oil and gas leases;
- n. pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pig water, i.e., waste fluids generated from the cleaning of a pipeline;
- o. wastes from permitted commercial facilities; and
- p. material used in crude oil spill clean-up operations.

Oil-based Drilling Muds is any oil-based drilling fluid composed of a water in oil emulsion, organophilic clays, drilled solids and additives for down-hole rheology and stability such as fluid loss control materials, thinners, weighting agents, etc.

Pit is an earthen surface impoundment constructed to retain nonhazardous oilfield waste, often referred to as a pond or lagoon.

Reusable Material is a material that would otherwise be classified as nonhazardous oilfield waste, but which is capable of resource conservation and recovery and has been processed in whole or in part for reuse. To meet this definition, the material must have been treated physically, chemically, or biologically or otherwise processed so that the material is significantly changed (i.e., the new material is physically, chemically, or biologically distinct from the original material), and meets the criteria of Section 129.M.8.f.

Saltwater (Produced Brine) is produced water from an oil or gas well with a chloride content greater than 500 ppm.

Transfer Station is a nonhazardous oilfield waste receiving and storage facility, located offsite, but operated at an approved location in conjunction with a permitted commercial facility, which is used for temporary storage of manifested nonhazardous oilfield waste for a period of 30 days or less.

Transporter is a legally permitted carrier of nonhazardous oilfield waste contained in trucks, barges, boats, or other transportation vessels.

Water-based Drilling Muds is any water based fluid composed of fresh water, naturally occurring clays, drilled solids and additives for fluid loss control, viscosity, thinning, pH control, weight control, etc., for downhole rheology and stability.

2. Offsite Storage, Treatment, and/or Disposal of Nonhazardous Oilfield Waste at Commercial Facilities.

(NOTE: Onsite disposal requirements are listed in Section 129.B.)

a. Generators of Nonhazardous Oilfield Waste

i. For NOW taken offsite for storage, treatment, or disposal, the generator is responsible for the proper handling and transportation of such waste to assure its proper delivery to an approved commercial facility. Failure to properly transport such waste shall subject the generator to penalties provided for in R.S. 30:18. Each shipment must be documented as required by Subsection M.6.

ii. Any spills which occur during the offsite transportation of NOW shall be reported to the Office of Conservation, including the appropriate state and federal agencies, within 24 hours of the spill.

iii. Operators (generators) are required to report the discovery of any unauthorized disposal of NOW by transporters, pit treaters, or any other oilfield contracting company.

iv. Within six months of the completion of the drilling or work-over of any permitted well, the operator (generator) shall certify to the commissioner the type(s) and number of barrels of NOW generated, the disposition of such waste, and certify further that such disposition was in accordance with applicable rules and regulations of this office. Such certification shall become part of the well's permanent history.

b. Approval of Commercial Facility Required

The storage, treatment, and/or disposal of NOW by a commercial facility must be approved by the commissioner as provided in this Paragraph. Subsurface disposal of saltwater is required and regulated by other applicable paragraphs of Section 129. The requirements of this Paragraph do not apply to either lease saltwater disposal wells or to community saltwater disposal wells. The unpermitted or unauthorized storage, treatment, disposal or discharge of NOW is prohibited and is a violation of these rules.

c. Approval of Transfer Station Required

The construction and operation of a transfer station must be approved by the commissioner upon submission of a permit application according to the requirements of Subsection M.3.g.

d. Location Criteria

Commercial facilities and associated saltwater disposal wells may not be located in any area:

i. where the disposal well or related storage tanks, pits, treatment facilities or other equipment are within 500 feet of a residential, commercial, or public building, unless adherence to this requirement is waived by the owner of the building, or in the case of a public building, by the responsible administrative body. Any such waiver shall be in writing and must be made part of the permit application;

ii. where the subsurface geology of any proposed injection zone (reservoir) does not exhibit the following characteristics:

(a). adequate thickness and areal extent of the proposed injection zone; and

(b). adequate clay confining beds separating the top of the proposed injection zone and the base of the lowermost underground source of drinking water.

iii. where pits or land treatment facilities are located in a V or A zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA) unless adequate levees are constructed to at least one foot above the 100-year flood elevation as certified by a professional engineer or surveyor and able to withstand the velocity of the 100 year flood. Said maps and data are on file and may be viewed by interested parties at the Office of Conservation, Injection and Mining Division, Baton Rouge, La. Existing facilities located in a V or A zone will be required to build facility levees above the 100-year flood elevation as certified by a professional engineer or land surveyor. As conditions change and new data is made available by FEMA, owners of existing commercial facilities will be required to update their facilities accordingly;

iv. where such area, or any portion thereof, has been designated as wetlands by the U.S. Corps of Engineers during, or prior to, initial facility application review; and

v. where other surface or subsurface conditions exist which in the determination of the commissioner of Conservation would cause the location to pose a threat of substantial, adverse effects on the environment at or near the location.

e. Design Criteria

i. Commercial facilities, associated saltwater disposal wells, and transfer stations shall be designed in such a manner as to prevent the movement of waste materials into groundwater aquifers or underground sources of drinking water (USDW's) or to prevent the discharge of waste materials into manmade or natural drainage or directly into state waters unless a discharge permit has been received from the appropriate state or federal agency.

ii. Commercial facilities and transfer stations shall be designed and constructed in accordance with, but not limited to, the following requirements:

(a). Section 129 and other applicable sections of this Order;

(b). retaining walls (levees) shall be built around all above-ground storage tanks to a level that will provide sufficient capacity to retain the contents of each tank and prevent the escape of stored wastes due to tank leakage, or some other cause;

(c). spill containment systems shall be built around unloading areas to prevent the escape of any wastes spilled during off-loading; and

(d). limited access shall be provided by a lockable gate system. In addition, the need for a six-foot chain link fence around an entire facility or any portion of a facility will be determined after a site investigation by the commissioner or his designated representative. Gates shall be locked except during the hours a facility is permitted to receive nonhazardous oilfield waste.

3. Permit Application Requirements for Commercial Facilities and Transfer Stations

a. Application and Permit Required

Every person who intends to construct and operate a new offsite commercial facility, or make a major modification to an existing facility, shall file a permit application with the Office of Conservation.

b. Notice of Intent

i. At least 30 days prior to filing such application, the applicant shall publish a notice of intent to apply. Such notice shall contain sufficient information to identify the following:

(a). name and address of the applicant;

(b). the location of the proposed facility;

(c). the nature and content of the proposed waste stream(s); and

(d). the method(s) of storage, treatment and/or disposal to be used.

ii. The notice of intent shall be published in both the official state journal, The State Times, and the official journal of the parish in which the proposed facility will be located.

iii. Such notice shall be in bold-face type and not less than one-quarter page in size and shall be published on three separate days in each journal.

c. General Information

Except for the filing and hearing fees, the following general information must be provided in duplicate in each application for approval to operate a commercial facility:

- i. a \$500 non-refundable filing fee;
- ii. a \$300 non-refundable hearing fee;
- iii. a list of names and addresses of the principal officers of the company or corporation;
- iv. documentation of compliance with the location criteria of Subsection M.2.d.i. Provide a list of the names and addresses of all property owners, residents, off-set operators and industrial facilities within one-quarter mile of the proposed facility or disposal well. Include copies of waivers where applicable. Names and addresses of local governing authorities must also be included. Attached to this list must be a simplified drawing (map) showing the following information:
 - (a). property boundaries of the commercial facility;
 - (b). the boundaries and ownership of all land adjacent to the commercial facility; and
 - (c). the location and identification of all storage tanks and/ or pits, treatment facilities, the disposal well, and all residential, commercial or public buildings within one-quarter mile of the facility.
- v. for operators proposing the construction and operation of a disposal well, complete the appropriate application form, including all required attachments;
- vi. a copy of the title to the property upon which the facility will be located. If a lease or other agreement is in effect on the property, a copy of this instrument shall be included in the application;
- vii. a parish map of sufficient scale to identify the location of the proposed facility;
- viii. a detailed statement of the proposed method of operation of the facility, including procedures for the receipt, storage, treatment and/or disposal of wastes. This statement shall include a complete explanation of procedures for witnessing the receipt, sampling and testing of wastes to assure that only permitted nonhazardous oilfield wastes are accepted.
- ix. documentation that the facility and/or disposal well will have limited access through a lockable gate system with appropriate fencing.
- x. financial responsibility (insurance)
 - (a). Evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or waste from the commercial facility or transfer station must be provided by the applicant prior to issuance of a permit.

(b). Financial responsibility may be evidenced by filing a certificate of insurance (indicating the required coverage is in effect and all deductible amounts applicable to the coverage), letter of credit, bond, certificate of deposits issued by and drawn on Louisiana banks, or any other evidence of equivalent financial responsibility acceptable to the commissioner.

(c). In no event shall the amount and extent of such financial responsibility be less than the face amounts per occurrence and/or aggregate occurrences as set by the commissioner below:

(i). \$1,000,000 minimum coverage for commercial facilities which operate open pits; or

(ii). \$500,000 minimum coverage for any other commercial facility which stores, treats or disposes of nonhazardous oilfield waste solids (i.e. oil or water base drilling fluids, etc.); or

(iii). \$250,000 minimum coverage for a commercial saltwater disposal facility which utilizes underground injection and a closed storage system; and

(iv). \$100,000 minimum coverage for each transfer station operated in conjunction with a legally permitted commercial facility subject to the guidelines of Paragraph 3.

Note: The commissioner retains the right to increase the face amounts set forth above as needed in order to prevent waste and to protect the public health, safety and welfare.

(d). If insurance coverage is used to meet the financial responsibility requirement, it must be provided by a company licensed to operate in the State of Louisiana.

(e). For a commercial facility which operates open earthen pits, such insurance must provide sudden and accidental pollution liability coverage as well as environmental impairment liability coverage.

(f). For any commercial facility or transfer station which does not operate open earthen pits, such insurance must provide sudden and accidental pollution liability coverage.

(g). The application shall contain documentation of the method by which proof of financial responsibility will be provided by the applicant. Where applicable, include copies of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the commissioner.

(h). Prior to making a final permit decision, final (official) documentation of financial responsibility must be submitted to and approved by the commissioner.

(i). A copy of the insurance policy subsequently issued in conjunction with any certificate of insurance is to be immediately filed with the Office of Conservation upon receipt by the operator.

(j). Such documentation of financial responsibility must be renewable on April 1 of each year. Existing facilities must comply with this requirement upon the next renewal date.

xi. Provisions for Adequate Closure (Bonding)

(a). Documentation that a bond or irrevocable letter of credit will be provided for adequate closure of the facility. Such documentation shall be provided as follows:

(i). submission of a detailed cost estimate for adequate closure of the proposed facility. This cost estimate must include a detailed description of proposed future closure procedures including, but not limited to, plugging and abandonment of the disposal well(s) (if applicable), plugging of any monitor wells according to applicable state regulations, closing out any pits or land treatment cells, removing all surface equipment, and returning the environment as close as possible to its natural state. The closure plan and cost estimate must be prepared by an independent professional consultant, must include provisions for closure acceptable to the commissioner, and must be designed to reflect the costs to the commissioner to complete the approved closure of the facility; and

(ii). submission of a draft irrevocable letter of credit or bond in favor of the State of Louisiana and in a form which includes wording acceptable to the commissioner.

(b). Upon completion of the application review process, the commissioner will set the amount of the required bond or irrevocable letter of credit.

(c). The bond or letter of credit must then be submitted to and approved by the commissioner prior to issuance of a final permit decision.

(d). The bond or letter of credit must be renewable on October 1 of each year. Existing facilities must comply with this requirement upon the next renewal date.

xii. Verification that a discharge permit has been obtained from the appropriate state or federal agencies or copies of any applications submitted to such agencies. If a facility does not intend to discharge treated waste water or other water, a completed and notarized Affidavit of No Discharge must be provided.

xiii. In order to document compliance with the location criteria of Subsection M.2.d.ii, commercial facilities which propose to permit a disposal well must provide strike and dip geologic cross sections intersecting at the location of the disposal well for which a permit is sought. These cross sections must include, at a minimum, available log control, geologic units, and lithology from the surface to the lower confining bed below the injection zone. The sections shall be on a scale sufficient to show the local geology in at least a two-mile radius from the proposed disposal well. The following information must be included on these cross sections:

(a). the base of underground sources of drinking water (USDW's);

(b). the vertical and lateral limits of the proposed injection zone (reservoir);

(c). the vertical and lateral limits of the upper and lower confining beds; and

(d). the location of faults or other geologic structures.

xiv. A list of all other licenses and permits needed by the applicant to conduct the proposed commercial activities. Include identification number of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses.

d. Additional Permit Application Requirements for Closed Systems

i. In addition to the information requested in Subsection M.3.c above, the following information must be provided in duplicate in each application for approval of a closed system:

a detailed schematic diagram of the proposed facility of sufficient scale to show placement of access roads, buildings, unloading areas, storage tanks or barges (including design capacities), treatment system, levees, flow lines, filters, the injection well and all other equipment and operational features of the storage, treatment and/or disposal system.

ii. Documentation of compliance with the location criteria of Subsection M.2.d.iv.

e. Additional Permit Application Requirements for Commercial Facilities Utilizing Pits for Temporary Storage of NOW

Pits will not be approved for the permanent disposal of NOW. The construction and use of a receiving pit for temporary storage of NOW may be approved if the requirements of this Subsection are met. A receiving pit for temporary storage will only be approved for use as a gathering, collection, and/or temporary storage location if specifically designed for use in connection with a NOW treatment system (i.e. land treatment, chemical fixation, physical dewatering, incineration, etc.). Any proposed pit for temporary storage is not to be constructed until a permit for the NOW treatment system has been issued. Such temporary storage pit must be located on the site of the permitted NOW treatment system and such pit may not exceed a design capacity of more than 50,000 barrels.

In addition to the information requested in Subsection M.3.c above, the following information must be provided in duplicate in each application for approval of a commercial facility incorporating the use of a pit:

i. a detailed schematic diagram of the proposed facility of sufficient scale to show placement of access roads, buildings, unloading areas, monitor well(s), pits, storage tanks, treatment system, flow lines, filters, the injection well and all other equipment and operational features of the storage, treatment, and/or disposal system. The diagram must include the dimensions and design capacity (in barrels) of each proposed pit, tank or barge. The diagram shall also include the following information:

(a). the location and elevation of each soil boring required in Subsection M.3.e.iv below;

(b). the location and elevation of each monitor well required in Subsection M.3.e.vi below;

(c). the elevation for the top of each levee;

(d). the elevation of the bottom (base) of each pit;

(e). the elevation of the 100-year flood level; and

(f). the general location of groundwater aquifers and USDW's under the site and general direction(s) of area groundwater flow.

ii. documentation of compliance with the location criteria of Subsection M.3.d.iii and iv;

iii. documentation must be presented which indicates that groundwater and USDW protection shall be provided by one of the following:

(a). a liner along the bottom and sides of pits which has the equivalent of five continuous feet of recompacted or natural clay having a hydraulic conductivity no greater than 1.0×10^{-7} cm/sec. Such liners include, but are not limited to the following:

(i). *natural liner* - recompacted natural clay having a hydraulic conductivity meeting the requirements of Subclause (a) above;

(ii). *soil mixture liner* - soil mixed with cement, clay-type, and/or other additives to produce a barrier which meets the hydraulic conductivity requirements of Subclause (a) above;

(iii). *recompacted clay liner* - in situ or imported clay soils which are compacted or restructured to meet the hydraulic conductivity requirements of Subclause (a) above;

(iv). *manufactured liner* - synthetic material that meets the definition of Subsection M.2.a and is equivalent to or exceeds the hydraulic conductivity requirements of Subclause (a) above. Pits constructed with a manufactured liner must have side slopes of 3:1 and the liner at the top of the pit must be buried in a one foot wide and one foot deep trench. A sufficient excess of liner material shall be placed in the pit to prevent tearing when filled with NOW; and

(v). *combination liner* - a combination of two or more types of liners described in this Section which meets the hydraulic conductivity requirements of Subclause (a) above.

(b). any other alternate groundwater aquifer and USDW protection system acceptable to the Office of Conservation.

iv. the determination of near-surface geological conditions shall be made by soil borings. These borings shall be made prior to construction of any proposed pit. Specific requirements for soil borings and soil testing according to ASTM methods are as follows:

(a). soil borings and soil testing shall be performed by an independent engineering or geotechnical soil testing company or laboratory;

(b). the number and locations of borings shall be sufficient to develop an accurate representation of the subsurface conditions at all points beneath the pit(s) and shall be determined in consultation with the commissioner;

(c). the soil borings shall be sampled to at least 10 feet below the bottom of the maximum pit excavation, and they must be continuously sampled to at least five feet below maximum excavation;

(d). upon completion of the borings, groundwater levels should be obtained and the boreholes shall be adequately sealed by plugging with a cement/bentonite slurry from the bottom up to the ground surface; and

(e). the logs of all borings made onsite, together with associated laboratory testing to classify soils and to measure soil strength, permeability and other related parameters, shall be submitted.

v. a cross section showing the proposed placement and type of materials to be used in the construction of the pit levees. The levees must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. The levees must be properly tied into the barrier along the bottom and sides of the pits. Actual construction of the levees must be monitored and documented by a professional engineering or geotechnical soil testing company. Documentation that a barrier exists within the levee which consists of at least three feet of soil with a hydraulic conductivity of 1.0×10^{-7} cm/sec. or less must be provided. All levees must be provided with a means to prevent erosion and other degradation.

vi. a schematic diagram depicting the proposed or actual construction of each monitor well. A minimum of three monitor wells will be required to insure that any seepage into a groundwater aquifer or USDW beneath the pit(s) will be detected prior to leaving the disposal site's perimeter. Monitor wells shall be certified by a professional engineer, hydrologist or geologist as adequate to detect any contamination. Additional monitor wells may be required; the number and location of additional wells will be determined upon review of the pit size(s) and configuration(s) and base line water quality data.

f. Additional Permit Application Requirements for Land Treatment Systems

In addition to the information requested in Subsection M.3.c, the following information must be provided in duplicate in each application for approval of a commercial facility incorporating the use of land treatment cells:

- i. include a detailed description of the site considered for land treatment with relation to the following:
 - (a). past and present land use;
 - (b). geology/soil properties/hydrogeology;
 - (c). drainage and flood control;
 - (d). hydrologic balance; and
 - (e). highest seasonal groundwater level.
- ii. provide a detailed description of the facility design, including maps and drawings, and a discussion of the following:
 - (a). site layout;
 - (b). proposed waste application technique;
 - (c). drainage control;
 - (d). proposed waste loading rate; and
 - (e). expected facility life.

iii. Submit an explanation of the proposed management plan with reference to the following topics:

- (a). sampling and testing of incoming waste;
- (b). method of receiving waste;
- (c). waste segregation;
- (d). application scheduling;
- (e). waste-soil mixing; and
- (f). proposed land treatment cell and groundwater monitoring plan.

iv. provide detailed information concerning closure and post-closure activities and monitoring as follows:

- (a). proposed closure procedures;
- (b). post-closure maintenance; and
- (c). closure and post-closure monitoring.

v. documentation of compliance with the location criteria of Section 129.M.2.d.iii and iv; and

vi. documentation shall be provided that indicates the requirements of Section 129.M.7 will be met.

g. Permit Application Requirements for a Transfer Station

i. The application for construction and operation of a transfer station by an existing Louisiana commercial facility permitted by the Office of Conservation shall include, but may not be limited to the following information:

(a). A statement of the proposed method of operation of the transfer station, including, but not limited to, the following:

- (i). A description of the storage system;
- (ii). A statement as to the method of transportation of wastes to and from the transfer station; and
- (iii). A statement as to the final disposition of the waste.

(b). Documentation that sudden and accidental pollution coverage (liability insurance) in the amount of \$100,000 is in effect for the transfer station;

(c). Documentation of compliance with the bonding requirements of Section 129.M.3.c.xi;

(d). A parish map of sufficient scale upon which the location of the proposed transfer station is identified;

- (e). A schematic drawing showing the following:
 - (i). The boundaries of the land, owned or leased, upon which the transfer station is operated; and
 - (ii). The location and identification of all storage tanks or barges (including design capacities), access roads, buildings, unloading areas, levees, flow lines, filters and other operational equipment.
 - (f). A copy of the title of the property upon which the transfer station will be located, or if a lease or other agreement is in effect on the property, a copy must be included in the application; and
 - (g). Documentation of compliance with the location criteria of Section 129.M.2.d.i.
- ii. The application for construction and operation of a transfer station by the operator of an out-of-state, legally permitted commercial facility shall consist of the following:
- (a). Compliance with the notice of intent requirements of Subsection M.3.b;
 - (b). Submission of the information required in Subsection M.3.c;
 - (c). A detailed schematic diagram of the proposed transfer station of sufficient scale to show the location of access roads, buildings, unloading areas, storage tanks or barges (including design capacities), any treatment system, levees, flow lines, filters and all other equipment and operational features of the transfer facility; and
 - (d). Submission of a copy of any permits issued by the appropriate regulatory agencies of the state in which the out-of-state commercial facility is located.

4. Permitting Procedures

- a. The Office of Conservation will review a new commercial facility application or transfer station application within ninety days of receipt and inform the applicant of its completeness.
- b. If the application is not complete, the applicant shall be advised of additional information to be submitted for approval or the application shall be returned and the applicant will be required to resubmit the application.
- c. Upon acceptance of the application as complete, the Office of Conservation shall set a time and date and secure a location for the required public hearing to be held in the affected parish.
- d. At least 30 days prior to the hearing, the applicant is required to file six copies of the complete application with the local governing authority of the parish in which the proposed facility is to be located to be made available for public review.
- e. Public Hearing Notice Requirements
 - i. Upon acceptance of the application as complete, the Office of Conservation shall publish in the next available issue of the Louisiana Register, a notice of the filing and the location, date and time of the public hearing to be held in the affected parish. Such public hearing shall not be less than 30 days from the date of notice in the Louisiana Register.

ii. At least 30 days prior to the scheduled public hearing, the Office of Conservation shall publish in *The State Times* a notice of the filing of the application and the location, date and time of the hearing.

iii. The applicant shall publish a substantially similar notice in the official journal of the affected parish on three separate days at least 15 days prior to the date of the hearing. Such notice shall not be less than one-quarter page in size and printed in bold-face type.

f. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All interested persons shall be allowed the opportunity to present testimony, facts or evidence related to the application or to ask questions.

g. Permit Issuance

i. The commissioner shall issue a final permit decision within 90 days of the closing of the public comment period.

ii. A final permit decision shall become effective on the date of issuance.

iii. Approval or the granting of a permit to construct a commercial facility (and any associated disposal well) shall be valid for a period of one year and if construction is not completed in that time, the permit shall be null and void. Requests for an extension of this one-year requirement may be approved by the commissioner for extenuating circumstances only.

h. The application for construction and operation of a new or additional transfer station by an existing commercial facility permitted by the Office of Conservation shall either be administratively approved or denied.

5. Criteria for the Operation of Commercial Facilities and Transfer Stations

a. Commercial facilities and transfer stations shall be operated in compliance with, but not limited to, the following:

i. The area within the confines of tank retaining walls (levees) shall be kept free of debris, trash and accumulations of oil or other materials which may constitute a fire hazard;

ii. The area within the confines of tank retaining walls (levees) must be kept free of accumulations of water. This water shall be properly disposed of or discharged in accordance with the conditions of a discharge permit granted by the appropriate state agency;

iii. Pit levees shall be kept free of debris, trash or overgrowth which would constitute a fire hazard or hamper or prevent adequate inspection;

iv. Pit surfaces shall at no time have an accumulation of oil of more than two inches; and

v. Pit levels shall be maintained with at least two feet of freeboard at all times.

b. All facilities and systems of treatment, control and monitoring (and related appurtenances) which are installed or used to achieve compliance with the conditions of a permit shall be properly operated and maintained at all times.

c. Inspection and entry by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

d. Notification Requirements

i. Any change in the principal officers, management or ownership of an approved commercial facility must be reported to the commissioner in writing within 10 days of the change.

ii. Transfer of Ownership

(a). A commercial facility permit may be transferred to a new owner or operator only upon approval by the commissioner.

(b). The current permittee shall submit an application for transfer at least 30 days before the proposed transfer date. The application shall contain the following:

(i). Name and address of the proposed new owner (permittee);

(ii). Date of proposed transfer; and

(iii). A written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, insurance coverage and liability between them.

(c). If no agreement described in Subclause (b).(iii) above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing permittee to the new permittee on the date the transfer is approved.

iii. Commercial facility and transfer station operators shall give written notice to the commissioner of any planned physical or operational alterations or additions to a permitted facility. Requests to make such changes must be submitted to and approved by the commissioner prior to beginning construction or accomplishing the change by other means.

iv. The operator of a newly approved commercial facility, transfer station, and/or disposal well must notify the commissioner when construction is complete. The operator shall not commence receiving nonhazardous oilfield waste or injecting saltwater until the facility has been inspected for compliance with the conditions of the permit and the disposal well has been tested for mechanical integrity.

v. An operator of a commercial facility or transfer station shall report to the commissioner any noncompliance, including but not limited to those which may endanger public health or safety or the environment. Such notice shall be made orally within 24 hours of the noncompliance and followed by written notification within five days explaining details and proposed methods of corrective action.

vi. When a commercial facility or transfer station operator refuses to accept a load of waste (other than nonhazardous oilfield waste), he shall notify the Office of Conservation immediately, providing the names of the generator and transporter of the waste.

e. Hours of Receiving

i. Commercial facilities and transfer stations shall be adequately manned during hours of receiving and shall receive nonhazardous oilfield waste by truck during daylight hours only. Daylight hours shall be defined as the daily hours for sunrise and sunset as listed in Table No. 1119 entitled Sunrise and Sunset at Baton Rouge, Louisiana, prepared by the Nautical Almanac Office, United States Naval Observatory, Washington, DC 20390.

ii. The commissioner may grant approval for after hours (nighttime) receipt of nonhazardous oilfield waste by a commercial facility or transfer station (by truck) when an emergency condition exists which may endanger public health or safety or the environment. Generators shall be responsible for obtaining prior approval for nighttime hauling by calling the Office of Conservation at (504) 342-5515. When such approval has been granted, the Office of Conservation shall notify both the commercial facility which will receive the waste and the state police.

iii. Commercial facilities or transfer stations with barge terminals may receive NOW transported by barge on a 24-hour a day basis.

f. Monitoring of Injection Wells

i. Except during approved workover operations, a positive pressure of no less than 100 psi shall be maintained on the well annulus at all times.

ii. Except during approved workover operations, wells shall be equipped with pressure gauges located on the wellhead, and situated so as to monitor the pressure of the injection stream and the pressure of the annular space between the casing and the injection string.

iii. The pressure gauges shall have half-inch fittings, be scaled in increments of not more than 10 psi, and be maintained in good working order at all times.

iv. A daily pressure monitoring log shall be maintained by the operator of the facility and shall contain the following information:

- (a). the date;
- (b). the operator's name and address;
- (c). the well name, number and serial number;
- (d). the monitored injection pressure;
- (e). the monitored annulus pressure;
- (f). whether or not the well was injecting at the time the pressures were recorded; and
- (g). the name or initials of the person logging the information.

v. The pressure gauges shall be read and pressures recorded in the daily log.

vi. The daily log information shall be recorded on the appropriate form and submitted to the Office of Conservation within 15 days of the end of each month.

vii. Any discrepancies in the monitored pressures, which would indicate a lack of mechanical integrity and constitute noncompliance with applicable sections, shall be reported to the Office of Conservation within 24 hours.

g. Discharges from pits, tanks and/or barges into manmade or natural drainage or directly into state waters will be allowed only after the necessary discharge permit has been obtained from the appropriate state and/or federal agencies and in accordance with the conditions of such permit.

h. Monitor Well Sampling and Testing Requirements for Facilities with Temporary Storage Pits

i. Water samples from monitor wells shall be sampled by an independent professional consultant and analyzed by an independent testing laboratory. Samples shall be analyzed for pH, electrical conductivity (EC), chloride (Cl), sodium (Na), total dissolved solids (TDS), total suspended solids (TSS), oil and grease (%), As, Ba, Cd, Cr, Pb, Hg, Se, Ag and Zn.

ii. Water from newly constructed monitor wells on new facilities shall be sampled and analyzed prior to receipt of waste materials by the facility to provide baseline data for the monitoring system. This data shall be submitted to the Office of Conservation to be made part of the facility's permanent file.

iii. Water from monitor wells on existing facilities shall be sampled and analyzed on a quarterly basis, with a copy of the analysis submitted to the Office of Conservation within 15 days of the end of each quarter.

i. Receipt, Sampling and Testing of Nonhazardous Oilfield Waste

i. Only NOW (as defined in Section 129.M.1 from approved generators of record may be received at commercial facilities or transfer stations.

ii. Before off-loading at a commercial facility or transfer station, each shipment of nonhazardous oilfield waste shall be sampled and analyzed (by facility personnel) for pH, conductivity, and chloride (Cl) content. Records of these tests shall be kept on file at each facility for a period of three years and be available for review by the commissioner or his designated representative.

iii. An eight ounce sample (minimum) of each load must be collected and labeled with the date, operator and manifest number. Each sample shall be retained for a period of 30 days.

j. Renewal of Insurance Coverage. Documentation that the required liability insurance coverage for a commercial facility or transfer station has been renewed must be received by March 15 of each year or procedures to initiate permit suspension will be initiated. Any such permit suspension will remain in effect until insurance coverage has been confirmed.

k. A sign shall be prepared and displayed at the entry of each permitted commercial facility or transfer station. Such sign shall state the facility name, address and phone number and shall be made applicable to the activities of each facility according to the following example:

"This waste (storage, treatment and/or disposal) facility has been approved for (temporary storage, treatment and/or disposal) of non-hazardous oilfield waste only and is regulated by the Office of Conservation. Violations shall be reported to the Office of Conservation at (504) 342-5515."

6. Manifest System

a. In order to adequately monitor the movement and disposal of nonhazardous waste, every shipment of waste transported to a commercial facility shall be accompanied by a manifest entitled "Oil Field Waste Shipping Control Ticket". It is expressly forbidden to transport or accept such waste without a properly completed manifest form.

b. At the time of transport, the generator shall initiate the manifest by completing and signing Part I. After the transporter completes and signs Part II, the generator shall immediately mail Conservation Copy No. 1 (white) to the Office of Conservation and retain the Generator's Copy (green) for his files. All other copies shall accompany the waste shipment.

c. Upon delivery of the waste, the transporter shall complete and sign Part III of the manifest. The transporter shall then retain the Transporter's Copy (pink) for his files.

d. Upon completion of the manifests, the commercial facility operator shall retain the Commercial Facility Copy (yellow) for his files, mail a copy of the completed manifest to the generator, and mail Conservation Copy No. 2 (gold) to the Office of Conservation no later than the next working day.

e. The generator, transporter and commercial facility operator shall maintain file copies of completed manifests for a period of not less than three years.

f. Oil and gas, commercial facility and transfer station operators who transport NOW out-of-state to a permitted disposal facility or receive NOW from out-of-state must comply with the manifest system requirements of Paragraph 6.

7. Land Treatment Facility Requirements

a. Land treatment facilities shall be isolated from contact with public, private or livestock water supplies, both surface and underground.

b. The siting, design, construction, operation, testing and closure of land treatment facilities shall be approved only after an application is submitted to and approved by the commissioner pursuant to the requirements of Subparagraph M.3.

c. General Requirements

i. The soil shall contain a slowly permeable horizon no less than 12 inches thick containing enough fine grained material within three feet of the surface to classify it as CL, OL, MH, CH or OH under the Unified Soil Classification System.

ii. The pH of the treatment zone (0-24") shall be or shall be adjusted to be between 6.5 and 9.0 throughout the facility's operational life and closure/post closure period.

iii. The seasonal high water table shall be maintained throughout the facility's operational life at least 36 inches below the soil surface, either as a result of natural or artificial drainage.

iv. The concentration of salts in the treatment zone shall at no time exceed levels that would raise the electrical conductivity (EC) of a saturated paste above 10 mmhos/cm, the sodium adsorption ratio (SAR) of a saturated paste extract above 12, and the exchangeable sodium percentage (ESP) above 15 percent.

v. The concentration of organics (oil and grease) in the treatment zone (after incorporation of NOW) shall at no time exceed 5 percent by weight.

vi. The concentration of metals in the treatment zone shall at no time exceed the following levels:

PARAMETER	LIMITATION(ppm)
Arsenic	40
Barium	3000
Cadmium	10
Chromium	1000
Lead	1000
Mercury	10
Selenium	10
Silver	200
Zinc	500

vii. The concentration of measured constituents in any groundwater aquifer shall at no time significantly exceed background water quality data.

viii. An unsaturated zone monitoring system shall be installed to provide early warning of possible migration of mobile waste constituents. The unsaturated zone shall be defined in the permit application.

ix. An independent professional consultant and laboratory shall perform the necessary monitoring to assure adherence to the requirements of Paragraph 7.

d. Monitoring Requirements

Note: References for the parameters required in Paragraph 7 are listed as follows:

- EC - electrical conductivity (millimhos/cm for soil, micromhos/cm for water)
- SAR - sodium adsorption ratio
- ESP - exchangeable sodium percentage (percent)
- CEC - cation exchange capacity (milliequivalents/100 gm soil)
- TOC - total organic carbon (percent)

Total metals as follows:

As	- arsenic	Cr	- chromium	Se	- selenium
Ba	- barium	Pb	- lead	Ag	- silver
Cd	- cadmium	Hg	- mercury	Zn	- zinc
TDS	- total dissolved solids				
TSS	- total suspended solids				
O&G	- oil & grease (percent)				

Soluble cations:

Na	- sodium
Ca	- calcium
Mg	- magnesium

Soluble anions:

Co ₃	- carbonate
HCO ₃	- bicarbonate
Cl	- chloride
S0 ₄	- sulfate

i. Prior to the receipt of NOW in a newly permitted and constructed land treatment system or cell, baseline data must be provided by the following sampling and testing program:

(a). soil in the treatment zone (0-24 inches) of each cell must be sampled and tested for the following parameters: pH, EC, SAR, ESP, CEC, TOC, O&G, As, Ba, Cd, Cr, Pb, Hg, Se, Ag and Zn; and

(b). groundwater must be sampled and tested for the following parameters: Ph, EC, TDS, TSS, O&G, CI, Na, As, Ba, Cd, Cr, Pb, Hg, Se, Ag and Zn.

ii. The following monitoring program must be conducted during the active life of a permitted NOW land treatment system:

(a). soil in the treatment zone (0-24 inches) must be sampled and tested semiannually to determine waste degradation and accumulation of metals. A composite of a minimum of four samples per cell must be analyzed for the following: As, Ba, Cd, Cr, Pb, Hg, Se, Ag, Zn, TOC and O&G;

(b). soil in the treatment zone (0-24 inches) must be sampled and tested quarterly to determine the accumulation of salts and to provide data for determining necessary soil amendments. A composite of a minimum of four samples per cell must be analyzed for the following: pH, EC, SAR, ESP, CEC, soluble cations (Na, Ca, Mg), and soluble anions (Co₃, HCO₃, Cl, S0₄);

(c). discharge water: A copy of each discharge monitoring report made in conformance with any applicable state and/or federal regulatory program shall be furnished to the Office of Conservation on a timely basis;

(d). the unsaturated zone must be sampled as soon as practicable following significant precipitation events (within 90 days) to determine the presence of mobile constituents. If free drainage soil solution samplers are utilized, sampling and testing shall be performed on a quarterly basis. A composite of at least three samples per management unit (or cell if applicable) are to be analyzed for the following: TDS, pH, Na, Cl, EC, O&G, Ba, Cr, Pb and Zn;

(e). groundwater levels in monitor wells shall be measured monthly for a period of two years to determine seasonal fluctuation in water table. Water level shall be measured quarterly each year thereafter.

(f). groundwater from monitor wells shall be sampled quarterly to determine the impact of facility operation on groundwater. A composite of at least two samples per well shall be tested for the following: TDS, TSS, pH, Cl, Na, EC, O&G, As, Ba, Cr, Pb and Zn; and

(g). the Office of Conservation may approve an alternative monitoring program upon receipt of evidence that such procedures shall provide adequate monitoring during the active life of a facility.

iii. Sampling and Testing Requirements

(a). A stratified random sampling system shall be used to determine soil sampling locations in land treatment cells.

(b). Soil samples in land treatment cells shall be taken at 0-12 inches and 12-24 inch depth increments. (Over time, the depth of the treatment zone sampled may need to be increased due to solids buildup on land treatment cells.) The degree of waste incorporation shall be noted at the time of sampling.

(c). Testing for required parameters shall be performed according to acceptable EPA guidelines and/or the laboratory procedures for nonhazardous oilfield waste analyses found in Section 129.B.6.d.

e. Closure and Post-Closure Monitoring

i. Operators of land treatment systems shall submit closure and post-closure maintenance and monitoring programs to the Office of Conservation for approval. The monitoring program shall address sampling and testing schedules for soil in the treatment zone, water collected from the unsaturated zone monitoring system, surface runoff water and groundwater.

ii. Sampling and testing must be performed during the entire closure and post-closure periods. To certify closure of a land treatment system, water collected from the unsaturated zone monitoring system and groundwater must meet background water quality values; in addition, soils in the treatment zone and surface runoff water must meet the following criteria:

CONSECUTIVE PARAMETER	CRITERIA	NO. OF SAMPLES
Soils in the Treatment Zone		
pH	6.5-9.0	2
O&G	≤3.0 percent	2
EC	≤10 mmho/cms	2
SAR	≤12	2
ESP	≤15 percent	2
Metals (ppm)		
As	≤10	2
7Ba		2
Cd	≤10	2
Cr	≤1000	2
Pb	≤1000	2
Hg	≤10	2
Se	≤10	2
	2	
Ag	≤200	2
Zn	≤500	2
Runoff Water		
Ph	6.5-9.0	4
O&G	≤15 ppm	4
EC	≤0.75 mmhos/cm	4
SAR	≤10	4
TSS	≤60 ppm	4
COD	≤125 ppm	4
Chloride	≤500 ppm	4
Metals (ppm)		
As	≤0.2	4
Ba	≤undetermined (reserve)	4
Cd	≤0.05	4
Cr	≤0.15	4
Hg	≤0.01	4
Pb	≤0.10	4
Se	≤0.05	4
Zn	≤1.0	4

iii. Post-closure monitoring shall be performed on intervals of 6 months, one, two and five years following certification that closure is complete.

8. Resource Conservation and Recovery of Nonhazardous Oilfield Waste

a. In order to encourage the conservation and recovery of resources in the oilfield industry, the processing of nonhazardous oilfield waste into reusable materials, in addition to or beyond extraction and separation methods which reclaim raw materials such as crude oil, diesel oil, etc., is recognized as a viable alternative to other methods of disposal.

b. Commercial facilities may function for the purpose of generating reusable material only, or they may generate reusable material in conjunction with other storage, treatment or disposal operations.

c. Commercial facilities that produce reusable material are subject to all of the permitting requirements imposed on other commercial facilities. They are also subject to the same operational requirements without regard to the distinction between waste and reusable material. Existing permits may be amended to allow re-use activities at commercial facilities which acquire the capability to engage in processing for re-use. Commercial facilities which utilize extraction or separation methods to reclaim raw materials such as crude oil, diesel oil, etc. may do so without amendment of existing permits.

d. The onsite generation of reusable material by pit treating companies or other companies which do not hold a legal commercial facility permit is prohibited unless the company desiring to perform such activities complies with the requirements of Subparagraph d and submits the following information to the commissioner for approval:

- i. the names, addresses and telephone numbers of the principal officers of the company;
- ii. a detailed description of the process by which the company will treat pit fluids and/or solids (NOW), including the types of chemicals and equipment used in the process, diagrams, test data or other information; and
- iii. a description of the geographical area in which the company expects to do business (i.e., statewide, North Louisiana, southwest Louisiana, etc.).

e. In addition to other applicable requirements, companies seeking to be permitted for the production of reusable materials from non-hazardous oilfield waste shall have the following obligations:

- i. prior to permit approval or permit amendment approval, applicants must submit the following information:
 - (a). a detailed description of the process to be employed for generation of reusable material;
 - (b). types of facilities and/or equipment to be constructed (or added);
 - (c). identification of the proposed uses for the reusable material; and
 - (d). a description of the proposed monitoring plan to be utilized.
- ii. all proposed uses of reusable material must be approved by the commissioner in writing.
- iii. the production of reusable material must be conducted in accordance with a monitoring plan approved by the commissioner with issue of the permit for each facility or process.

iv. for purposes of regulatory authority only by the Office of Conservation and the establishment of reusable material, compliance with the testing criteria of Subsection M.8.f below allows permitted companies to offer the material for the following uses:

(a). daily cover in sanitary landfills which are properly permitted by state and/or local authorities. The use of reusable material in a sanitary landfill will require written approval of the Department of Environmental Quality; and

(b). various types of construction material (fill) on a case-by-case basis. The commissioner may approve such use only after submission and review of an application for the intended use. Approval will be dependent upon the composition of the material and the proposed location of use. Reusable material may not be used as fill for construction purposes unless the specific use has been approved in writing by the commissioner of Conservation.

f. Testing Criteria for Reusable Material

Parameter	Limitation
1. moisture content	50 percent (by weight) or zero free moisture
2. pH*	6.5 - 9.0
3. Electrical conductivity (EC)*	8 mmhos/cm
4. Sodium adsorption ratio (SAR)	12
5. Exchangeable Sodium Percentage (ESP)	15 percent
6. Leachate testing ** for:	
a. oil and grease	10.0 mg/l
b. chlorides	500.0 mg/l
7. Leachate (EP Tox):	
a. arsenic	0.5 mg/l
b. barium	10.0 mg/l
c. cadmium	0.1 mg/l
d. chromium	0.5 mg/l
e. lead	0.5 mg/l
f. mercury	0.02 mg/l
g. selenium	0.1 mg/l
h. silver	0.5 mg/l
i. zinc	5.0 mg/l

* Non-hazardous oilfield waste when chemically treated (fixated) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in Subparagraph f.vi. above and extraction procedure for toxicity (EP) tests for metals in Subparagraph f.vii. above.

** The leachate testing method for oil and grease and chlorides must be submitted in writing to the commissioner for approval.

g. The commissioner of Conservation, the secretary of the Department of Natural Resources, and the State of Louisiana upon issuance of a permit to a company facility under this Section shall be held harmless from and indemnified for any and all liabilities arising from the operation of such facilities and use of their products, and the company shall execute such agreements as the commissioner requires for this purpose.

h. Reporting

Each company which generates reusable material must furnish the commissioner a monthly report showing the disposition of all such material.

9. Closure

a. All offsite commercial facilities and transfer stations under the jurisdiction of the Office of Conservation shall be closed in a manner approved by the commissioner to insure protection of the public, the environment, groundwater aquifers and underground sources of drinking water. A plan for closure must be developed in accordance with the requirements of the commissioner.

b. Closure bond or letter of credit amounts will be reviewed each year prior to the renewal date according to the following process:

i. a detailed cost estimate for adequate closure of each permitted commercial facility and transfer station shall be prepared by a independent professional consultant and submitted to the commissioner on or before February 1 of each year;

ii. the closure plan and cost estimate must include provisions for closure acceptable to the commissioner and must be designed to reflect the costs to the Office of Conservation to complete the approved closure of the facility;

iii. upon review of the cost estimate, the commissioner may increase, decrease or allow the amount of the bond or letter of credit to remain the same; and

iv. documentation that the required closure bond or letter of credit has been renewed must be received by September 15 of each year or the commissioner shall initiate procedures to take possession of the funds guaranteed by the bond or letter of credit and suspend or revoke the permit under which the facility is operated. In addition, procedures to initiate permit suspension will be initiated. Any such permit suspension will remain in effect until renewal is documented.

N. Liquid Hydrocarbon Storage Wells

1. Authorization for the use of salt dome cavities for storage of liquid hydrocarbons is provided in Statewide Order No. 29-M.

2. Authorization for all other liquid hydrocarbon storage wells will be granted by the commissioner after notice and hearing, provided there is a finding that the proposed operation will not endanger USDW's.

O. A filing fee of \$100 shall be attached to each application for a saltwater disposal well or enhanced recovery project.

P. Annular Disposal. The commissioner may approve annular disposal of saltwater for a period of one year. The applicant shall provide the commissioner a radioactive tracer survey (accompanied by an interpretation of the survey by the company who performed the test) to prove that the injected fluid is entering the correct zone and there are not leaks in the casing. The applicant shall furnish the commissioner an economic study of the well and the economics of alternative methods for disposal of the produced saltwater.

Q. Exceptions. The commissioner may grant an exception to any provision of this amendment upon proof of good cause. The operator must show proof that such an exception will not endanger USDW's.

R. This Order shall supersede Section 129 of Office of Conservation Statewide Order No. 29-B (effective November 1, 1967). Any existing special orders authorizing disposal of saltwater under conditions which do not meet the requirements hereof shall be superseded by this amendment and the operator shall obtain authority for such disposal after complying with the provisions hereof.

S. Effective Date

This amendment shall be effective on and after February 20, 1982.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July, 1980), amended LR 8:79 (February 1982), amended LR 9:337 (May 1983), amended LR 10:210 (March, 1984), amended LR 12:26 (January 1986), LR 17:382 (April, 1991).

LAC 43:V.101¹⁰

PART V. OFFICE OF MINERAL RESOURCES

CHAPTER 1. ADMINISTRATION DIVISION

§101. Rules and Regulations Applicable to Geophysical and Geological Surveys Conducted Upon or Relating to State-Owned Lands and Waterbottoms

A. Permits for geophysical and geological surveys under Title 30, Chapter 3, Sections 211 through 216 of the Revised Statutes of 1950 shall be obtained from the State Mineral Board through the Office of Mineral Resources.

B. Application for a permit for such exploration must be filed in quadruplicate with one copy addressed to the secretary of the Department of Natural Resources and three copies addressed to the deputy assistant secretary of the Office of Mineral Resources at least 10 days before the requested effective date of the permit and each copy must be accompanied by supporting documents as follows:

1. If permittee is a shooting company, as hereinafter defined, the name of the client for whom the permit is being secured; if permittee is not a shooting company, the name of the shooting company that will do the geophysical and/or geological survey under the secured permit; or if permittee is a shooting company planning to permit itself for speculative purposes, a statement to that effect.

2. a. A statement of the type work planned such as gravity meter, magnetometer, reflection, refraction and/or any other recognized methods of acquiring geophysical or geological data, and the name of the client for whom the survey is being shot, if one. It is required that official permit application forms be used which are available upon request from the Office of Mineral Resources.

b. All permits shall not be deemed to cover and include any state oil and gas lease either in effect or thereafter to be in effect, so long as such lease or leases remain in effect, covering any portion of the area covered by the permit or permits, but if permittee or permittees shall secure appropriate consent from the lessee or lessees under any such lease or leases to conduct operations thereon of the type permitted by the permit or permits, such permit or permits shall evidence the acquiescence of the State Mineral Board in such consent. Upon expiration, lapse, or termination of any such state lease or leases, permits shall automatically extend to cover the acreage formerly under lease, if the acreage no longer under lease falls within the geographic area designated on the map submitted by the permittee as being the area proposed for geophysical and/or geological survey.

C. Whenever there arises an emergency or other cause which prevents the applicant from filing application as above provided, application for a permit for such exploration may be requested in any manner, and the deputy assistant secretary of the Office of Mineral Resources is authorized to grant, in any manner, temporary permission to conduct such geophysical operations after notifying the secretary of the Department of Natural Resources and the Department of Wildlife and Fisheries of the informal application for this temporary permit. Operations under this Paragraph shall be confined to the areas affected by the emergency conditions such as are deemed to exist in the discretion of said deputy assistant secretary of the Office of Mineral Resources. Within 10 days of the date of granting written application shall be filed in accordance with the provisions of Section 101.B.

D. Permits are limited to a period of one year from date of issuance, unless revoked for cause.

E. In order to accommodate proper administration of permits and orderly operations thereunder, the applicant must submit to the Office of Mineral Resources notice of the date of commencement of any geophysical and geological work authorized by a permit, a plat acceptable to the Office of Mineral Resources reasonably identifying and locating each particular grid area in which operations are to be conducted and, after completion of field operations, a like plat on each

proposed grid area, which is to be supplemented with any additional detailed work thereafter conducted, reflecting the locations of the lines shot, all shot point locations and the date of completion of said work. Additionally, the permittee, in purchasing the permit to conduct geophysical and geological surveys on state lands and waterbottoms; may, but shall not be required to, voluntarily agree to make available to the Office of Mineral Resources and the State Mineral Board, at permittee's office or at the Office of Mineral Resources on request at the permittee's option, the fully migrated and processed data derived from each and every survey project conducted under the permit, within 90 days of shooting and/or acquisition of raw data or as soon thereafter as is reasonable under the circumstances. Any migration or processing which occurs after 90 days shall be submitted within 30 days of migration or processing of data or, again, as soon thereafter as is reasonable under the circumstances. All such plats and data secured by the Office of Mineral Resources or the State Mineral Board hereunder shall be deemed confidential and not subject to the public records doctrine; but shall be for the use of the staff and the personnel of the Office of Mineral Resources and the State Mineral Board only. All plats and data obtained by permittees in conducting operations under a permit shall be governed by R.S. 30:213. For the purpose of these rules and regulations, date of commencement of operations is defined as the date upon which surveying crews and equipment are moved into the area to be worked for purposes of preliminary line placement surveying prior to actual geophysical surveying.

F. A permit to conduct geophysical and geological surveying in the state of Louisiana shall be subject to the following terms:

1. The permit shall be valid for a period of one year from issuance.
2. The permit shall be valid for the entire state of Louisiana.

3. a. If the business entity - whether individual, sole proprietorship, partnership, corporation or other enterprise of any kind whatsoever - applying for and obtaining the permit hereunder is engaged in the business of shooting geophysical and/or geological surveys (hereinafter referred to as "shooting company"), the permit shall be valid only to the extent work done thereunder by the shooting company services one single client or one single project if shot for more than one client. Geophysical and/or geological survey work done for more than one client by the shooting company shall require separate permits for each client unless shooting a single project.

b. If the business entity applying for and obtaining the permit hereunder is not a shooting company, the permit secured shall be valid only to the extent that the permittee utilizes a single shooting company or its own employees to conduct a geophysical/geological survey and/or shall apply to a single geophysical/geological survey project. If more than one shooting company is utilized to conduct geophysical/geological surveying on the same project, no additional permits are needed. Each additional shooting company utilized to conduct a geophysical/geological survey project for the business entity described in Subparagraph b herein shall require the securing of an additional permit for each shooting company for each project.

c. If a shooting company secures a permit for its own use for speculative purposes, that permit shall not be utilized to do any geophysical and/or geological survey work for a particular client.

d. No permit for geophysical and/or geological survey granted hereunder shall be transferable and shall be specific as to the party securing the permit, the party for whom the permitted work is being done, the project - including location and description - covered by the permit, and the date on which the work permitted will begin.

4. A certified check, cashier's check or bond money order in the amount of \$11,000 payable to the Office of Mineral Resources shall accompany each application as the fee for issuance of a permit.

5. Violation by the permittee of any of the terms specified in these rules for fees as promulgated or which may be written on the permit form shall be deemed a permit violation by the Office of Mineral Resources subjecting permittee to the cancellation of his permit and forfeiture of his permit fee.

G. Pursuant to R.S. 30:124 all permits will be issued subject to strict compliance by the permittee with all applicable rules governing the conduct of seismic exploration in water areas as such rules may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife. Further, all wildlife and waterfowl refuges, game and fish preserves, or oyster seed ground reservations or any part thereof, shall not be deemed to be included in the area covered by any permit unless written permission from the agency in charge of such refuge, preserve, or reservation is also secured.

H. The State Mineral Board hereby declares that all information, maps, and other data of every kind whatsoever that are supplied to the board pursuant to the requirements of R.S. 30:213 shall be kept confidential and shall be available only to the State Mineral Board and commissioner of conservation in the proper administration and development of state-owned lands and waterbottoms. In order to make effective such secrecy, all such maps and other data shall at all times be kept under lock and key, except during the course of actual examination by or on behalf of the board or the commissioner. Any violation of these requirements is hereby declared cause for peremptory removal from office or discharge of the offending officer or employee or employees in addition to the penalty provided by R.S. 30:216.

I. The permitting requirements of R.S. 30:212 do not under the lease for mineral exploration and development. However, the provisions of Section 101.G, H and I of these rules shall be applicable to any geophysical exploration conducted by or for the account of such a lessee.

J. The approval of the State Mineral Board, through its duly authorized officer of any permit, is granted subject to any future rules and regulations which may be adopted by the State Mineral Board from time to time. The board hereby declares that in the event any changes in the rules and regulations are effected, 30 days written notice shall be given to all permittees whose permits are still in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:212.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 4:9 (January 1978), amended LR 18:70 (January 1992).

LAC 43:XIX.103 ¹¹

§103. Application to Drill

A. All applications for permits to drill wells for oil or gas or core test wells below the fresh water sands shall be made on Form MD-10-R or revisions thereof, and mailed or delivered to the district office. These applications, in duplicate, shall be accompanied by three copies of the location plat, preferably drawn to a scale of 500 feet to the inch. The plats shall be constructed from data compiled by a registered civil engineer or surveyor and shall definitely show the amount and location of the acreage with reference to quarter-section corners, or other established survey points. There shall also be shown all pertinent lease and property lines, leases and offset wells. When the tract to be drilled is composed of separately-owned interests which have been pooled or unitized, the boundaries to and the acreage in each separately-owned interest must be indicated. Plats must have well locations certifications either written on or attached to the well location plats and this certification must be signed by a registered civil engineer, qualified surveyor or a qualified engineer regularly employed by the applicant. If possible the application card shall give the name and address of the drilling contractor, otherwise the information, as soon as determined, shall be supplied by letter to the district manager.

B. When dual completion applications are granted, each well shall be considered as two wells. The production from each sand shall be run through separate lead lines and the production from each sand shall be measurable separately. The department's agent shall designate suitable suffices to the well number which will serve as reference to each producing sand.

C. No well shall be drilled, nor shall the drilling of a well be commenced, before a permit for such well has been issued by the Department of Conservation; furthermore, any work, such as digging pits, erecting buildings, derricks, etc., which the operator may do or have done, will be done at his own risk and with the full understanding that the Department of Conservation may find it necessary to change the location or deny the permit because of the rules and regulations applying in that instance.

D. No well shall commence drilling below the surface casing until a sign has been posted on the derrick, and subsequently on the well if it is a producer, showing the ownership and designation of the well, name of lease, section, township, range, and the serial number under which the permit was issued. The obligation to maintain a legible sign remains until abandonment.

In order to make the designation of the well, as referred to above, more uniform throughout the state, and thus to facilitate the handling of all matters relative to any particular well, the following system of rules has been developed for use in the naming of wells in the future in Louisiana:

1. in no case shall any operator name or well name exceed 30 characters. A space is equivalent to one character.

a. abbreviations shall be used whenever possible to comply with the above. It is recommended that *S* be used for sand and *U* for unit.

b. the official well name appearing on Form MD-10-R (Application to Drill) shall be used when reporting on all Department of Conservation forms and also in any correspondence.

2. lease wells

all wells drilled on a lease basis shall bear the lessor's surname and initials or given name.

Example: LEASENAME WELLNO.
 J. R. Smith #2

3. the commissioner shall prescribe or cause to have prescribed the procedure for assigning well and/or nomenclature and shall issue a memorandum concerning same from time to time as the need arises.

a. developmental units proposed at a hearing shall be named in accordance with the latest memorandum, and the well number shall depend on whether or not there are any other wells in existence on the lease.

b. any unit maps filed with an application for hearing must reflect proposed unit names in accordance with the latest memorandum.

4. units with alternate unit wells

for those cases where more than one well serves the same proration unit, the wells shall be named in accordance with the latest memorandum, and the well number shall be followed by the letters ALT in the case of each alternate well.

Example: LEASENAME WELLNO.
 Hayes SUE; J. R. Smith #1
 Hayes SUE; Dave Luke #1 ALT
 Hayes SUE; St. Mary #22 ALT

LAC 43:XIX.105¹²

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943, amended (August 1958), amended (August 1961), amended (May 1973).

§105. All Other Applications

A. All applications for permits to repair (except ordinary maintenance operations), abandon (plug and abandon), acidize, deepen, perforate, perforate and squeeze, plug (plug back), plug and perforate, plug back and side-track, plug and squeeze, pull casing, side-track, squeeze, squeeze and perforate, workover, cement casing or liner as workover feature, or when a well is to be killed or directionally drilled, shall be made to the district office on Form MD-11-R and a proper permit shall be received from the district manager before work is started. A description of the work done under the above recited work permits shall be furnished on the reverse side of the Well History and Work Resume Report (Form WH), which form shall be filed with the district office of the Department of Conservation in which the well is located within twenty days after the completion or recompletion of the well. At least 12 hours prior notice of the proposed operations shall be given the district manager and/or an offset operator in order that one of them may witness the work. If the district manager fails to appear within 12 hours, the work may be witnessed by the offset operator, but failing in this, the work need not be held up longer than 12 hours. This rule shall not deter an operator from taking immediate action in an emergency to prevent damage.

B. When a service company, other than the drilling contractor, cements, perforates or acidizes, either before or after completion of a well, the service company shall furnish the district manager with legible exact copies of reports furnished the owner of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (August 1958).

LAC 43:XIX.907¹³

§907. Form R-4

A. The Producer's Certificate of Compliance and Authorization to Transport Oil from Lease, Form R-4 Revised or most current revision thereof, is hereby adopted and made a part of this Order by reference.

B. Each producer of oil in the state of Louisiana, and each producer of condensate from a gas well, where produced in liquid form at the wellhead by ordinary production methods in the state of Louisiana, shall execute under oath, in quadruplicate, and file with the Office of Conservation, Baton Rouge, Louisiana, on or before the 15th day of September, 1941, a Producer's Certificate of Compliance and Authorization to Transport Oil From Lease, Form R-4 Revised or most current revision thereof, setting forth fully therein the data and information indicated by such form covering each lease in the state of Louisiana from which oil or condensate are produced.

C. After the effective date hereof, whenever there shall occur a change in:

1. operating ownership of any lease,
2. well name or lease name,
3. transporter from any lease,

a new Producer's Certificate of Compliance and Authorization to Transport Oil From Lease, Form R-4 Revised or most current revision thereof, shall be executed and filed in accordance with the instructions appearing on such form; except that in the case of temporary change in transporter involving less than the allowable for one month, the producer may, in lieu of filing a new certificate, notify by letter the Office of Conservation, Baton Rouge, Louisiana, and the transporter then authorized by certificate on file with the Office of Conservation of the estimated amount of oil to be moved by the temporary transporter and the name of such temporary transporter. A copy of such notice shall also be furnished such temporary transporter. In no instance shall the temporary transporter involve any greater quantity of oil or condensate than the estimated amount shown in said notice.

D. The Producer's Certificate of Compliance and Authorization to Transport Oil From Lease, Form R-4 Revised or most current revision thereof, when properly executed by the operator and approved by the Office of Conservation, shall constitute authorization to the approved transporter to transport oil or condensate from the lease named therein and shall remain in force and effect until a change occurs, as previously outlined, or is suspended or canceled by the Office of Conservation.

E. For each drilling permit that shall be altered, amended or changed after its initial issuance, Form MD-10-R-A shall be executed and filed with the Office of Conservation, said Form MD-10-R-A being hereby declared the permanent record of the Office of Conservation for the purpose of identifying the operator of all oil or gas wells in the state of Louisiana; and it is hereby expressly provided that said Form MD-10-R-A shall be subject to the fee for alteration, change or amendment as established by Part XIX, Subpart 2 or successor regulation.

F. Where a transporter disconnects from a particular lease or ceases to remove oil therefrom and another transporter connects to such lease or begins to take oil therefrom, during a month, the transporter who ceases to take oil shall furnish to the connecting transporter a certified statement under oath, showing: the legal quantity of oil on hand 7:00 a. m. the first day of such month; the scheduled allowable to the date disconnected; and the quantity of oil moved from that particular lease during the current month. In such case the producer shall furnish to the connecting transporter a certified statement under oath showing the lease stock on hand 7 a. m. the date of new connection. No connecting transporter shall move oil from any such lease until after it shall have received such statements, except with the written permission of the commissioner of conservation or his authorized agent.

G. Each producer is prohibited from delivering illegal oil to any transporter, and each transporter is prohibited from removing any illegal oil from producer's lease tanks. Each transporter shall maintain necessary records of lease allowables and quantities of oil removed from the leases to which he is connected, whereby he can determine the calculated quantity of legal oil on hand at the close of each calendar month with respect to such leases. The calculated quantity of legal oil on hand with respect to any lease shall be determined for each succeeding month by adding to the quantity of legally produced oil on hand at the first of the month, the scheduled allowable quantity of oil for the respective lease for the current month, as established by the commissioner of conservation, less the quantity of oil removed from the respective lease tanks during the current month. If the calculated balance so determined is less than the actual gauged quantity on hand as reported by the producer on Monthly Producer's Crude Oil and/or Condensate Report, Form R-1 Revised or most current revision thereof, the transporter shall not remove during the following month any part of the oil on hand on the first day of the month in excess of the calculated legal balance so established. If the actual quantity of oil on hand with respect to a particular lease equals or is less than the quantity of legal oil established by the above method, the transporter may remove any part or all of such quantity of oil during the current month. Where the actual quantity of oil on hand with respect to a particular lease is less than the calculated quantity of legal oil established by the above method, the transporter, in determining the quantity of legal oil for the next succeeding month, shall substitute the actual quantity on hand for the calculated quantity on hand. Where there is more than one transporter moving oil from the same lease, the producer and transporters are required to furnish to each other information as to the quantity of oil on hand, the quantity transported from lease tanks and any additional information necessary to establish to the satisfaction of each person involved the legal status of the oil produced.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislative Session of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation January 1, 1941, amended September 1, 1941, March 1, 1961, April 17, 1968, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 19: (June 1993).

LAC 43:I.723.A.3¹⁴

§723. Rules and Procedures for Coastal Use Permits

A. General

1. Coastal Use Permits. This Section provides the requirements and procedures for the issuance, denial, renewal, modification, suspension, and revocation of coastal use permits and general coastal use permits.

2. Permit Requirement

a. No use of state or local concern shall be commenced or carried out in the coastal zone without a valid coastal use permit or in-lieu permit unless the activity is exempted from permitting by the provisions of the SLCRMA or by Subsection B of this Section. The following shall be considered as uses of state or local concern subject to the requirement of this Subparagraph.

i. Dredging or filling and discharged of dredged or fill material.

ii. Levee siting, construction, operation and maintenance.

iii. Hurricane and flood protection facilities, including the siting, construction, operation and maintenance of such facilities.

iv. Urban developments, including the siting, construction or operation of residential, commercial, industrial, and governmental structures and transportation facilities.

v. Energy development activities, including any siting, construction, or operation of generating, processing and transmission facilities, pipeline facilities, and exploration for and production of oil, natural gas and geothermal energy.

vi. Mining activities, including surface, subsurface, and underground mining, sand or gravel mining and shell dredging.

vii. Wastewater discharge, including point and non-point sources.

viii. Surface water control or consumption, including marsh management projects.

ix. Shoreline modification projects and harbor structures.

x. Waste disposal activities.

xi. Recreational developments, including siting, construction and operation of public and private recreational facilities and marinas.

xii. Industrial development, including siting, construction, or operation of such facilities.

xiii. Any other activities or projects that would require a permit or other form of consent or authorization from the U.S. Army Corps of Engineers, the Environmental Protection Agency or the Louisiana Department of Natural Resources (see page 83 item 13 of the Louisiana Coastal Resources Program Final Environmental Impact Statement).

xiv. Activities which impact barrier islands, salt domes, cheniers and beaches.

xv. Drainage projects.

3. In-Lieu Permits

a. Coastal use permits shall not be required for the location, drilling, exploration and production of oil, gas, sulphur and other minerals subject to regulation by the Office of Conservation of the Department of Natural Resources as of January 1, 1979. The parameters and procedures of the in-lieu permit process are as provided for under existing Memorandum of Understanding between the Coastal Management Section and the Office of Conservation and the rules and procedures of the Office of Conservation.

LAC 33:IX.301-317¹⁵

Chapter 3. Permits

§301. Scope

A. This Chapter prescribes procedures and guidelines for implementation and operation of the Louisiana Water Discharge Permit System (LWDPS).

B. Without first obtaining a LWDPS permit from the Office of Water Resources, (with the exceptions noted in LAC 33:IX.301.D and F below), no person shall:

1. discharge or allow to be discharged any pollutants into the waters of the state from any facility or activity;
2. construct any new facility or undertake a new activity, the operation or conduct of which would result in a discharge into the waters of the state;
3. construct, install, operate, or alter any facility or activity or any extension or modification thereof or addition thereto, the operation or conduct of which would cause increases in the quantity or degradation in the quality of the discharge of pollutants into the waters of the state or which would otherwise alter the physical, chemical, or biological properties of any waters of the state in any manner not already lawfully authorized;
4. construct or use any new outlet for the discharge of any pollutants into the waters of the state.

C. Specific types of facilities or activities which require a permit include, but are not limited to, the following:

1. discharge of leachate or runoff to surface waters from facilities under the jurisdiction of the Louisiana Solid Waste Management and Resource Recovery Law and the Hazardous Waste Management Law;
2. discharge of rainwater runoff from areas where liquid or solid materials are stored or handled, such as to pose a potential threat of pollution to the waters of the state;
3. concentrated animal feeding operations as defined in LAC 33:IX.301.J below;
4. concentrated aquatic animal production facilities as defined in LAC 33:IX.301.K below;
5. discharges into aquaculture projects as defined in LAC 33:IX.301.L below;
6. silvicultural point sources as defined in LAC 33:IX.301.M below.
7. discharge of waters/sediments resulting from the commercial dredging of shell or other natural resources.

D. A person discharging or proposing to discharge the following types of wastes or wastewaters shall not be required to apply for a permit from this office pursuant to this regulation:

1. human sewage discharged from vessels from onboard toilet facilities (refer to LAC 33:IX.709.F);
2. storm sewer systems including canals and pumping stations operated and maintained by local, state, or federal agencies solely for the purposes of conveyance of storm water runoff, unless a particular storm water discharge has been identified by the office as a significant contributor to pollution; and the operator of such discharge has been notified of such determination. Such storm sewer systems are considered to be waters of the state and any facility or activity discharging into storm sewer systems shall be required to have permits according to the requirements of these regulations;

3. a discharge directed solely into a publicly or privately owned treatment works provided the owner of such treatment works has a valid discharge permit and the office has determined that the waste may be adequately treated by the treatment works;

(4) water, gas, and other materials injected into a well to facilitate production of oil, gas, or other minerals;

(5) disposal of water derived in association with the production of oil, gas, or other minerals into a well authorized by the state Office of Conservation;

6. any introduction of pollutants from nonpoint sources resulting from normal agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, rangelands, and forest lands. Discharges from concentrated animal feeding operations, concentrated aquatic animal production facilities, silvicultural point sources or to aquaculture projects as specified in LAC 33:IX.301.C above shall be required to have a permit;

7. a discharge of dredged or fill material resulting from activities which are permitted by the U. S. Army Corps of Engineers, such as channel dredging and construction. This does not include commercial dredging of shell or other natural resources,

8. any discharge in compliance with the instructions of an on-scene representative designated by the administrative authority to grant on-scene authorization to discharge.

E. A permit shall not be Issued for nor will any of the following discharges be allowed:

1. a discharge of any radiological, chemical, or biological warfare agent or a high-level radioactive waste (that nuclear industry waste resulting from the reprocessing of spent fuel rods or unprocessed spent fuel rods);

2. a discharge which, as determined by the Secretary of the Army acting through the Chief of Engineers of the U. S. Army Corps of Engineers, would substantially impair anchorage or navigation, or both;

3. a point source discharge in conflict with an areawide waste treatment management plan, or amendments thereto, prepared by a management agency pursuant to Section 208(b) of the Clean Water Act (CWA), unless the administrative authority determines a variance to be appropriate;

4. after the state receives delegation of the federal NPDES program, a discharge to which the regional administrator of EPA objects in writing to the office;

5. a discharge to the ground waters of the state except as authorized under the Underground Injection Control Program. The administrative authority may at its discretion exempt additional classes of activities which are authorized by other state regulation;

6. a discharge of oil or oil based products for dust control or other purposes without prior approval of the administrative authority. Waste oil shall not be used for these purposes unless the origin, physical properties, and chemical properties are documented to the satisfaction of the administrative authority;

7. a discharge which the administrative authority determines to be in conflict with applicable requirements of the Act, these regulations, and/or constitutional and statutory mandates.

F. Any unpermitted facility or activity that exists or is under construction on the effective date of these regulations and falls under the jurisdiction of LAC 33:IX.301.B shall submit a completed application to this office within 180 days of the effective date. Upon receipt of the application by this office within the prescribed 180 days, the facility shall be deemed in compliance with LAC 33:IX.301.B except where the administrative authority has initiated action against the facility following an investigation or complaint. All facilities or activities which meet the requirements outlined in LAC 33:IX.301.J.4 or K.4 shall be exempt from the requirements of this Paragraph

G. When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

H. On the effective date of these regulations the status of state permits shall be as follows:

1. all LWDPs permits shall be issued for a period not to exceed five years;
2. all existing state permits issued prior to January 1, 1980 shall expire within one year of the effective date of these regulations;
3. all existing state permits issued subsequent to January 1, 1980 shall expire six years after their effective date.

I. Upon delegation of the NPDES program to the state, the status of NPDES permits shall be as follows:

1. for facilities with NPDES permits only, existing NPDES permits shall be adopted as LWDPs permits effective upon receipt by the permittee of written notification by the state, with an expiration date consistent with that originally designated;
2. for facilities with both NPDES and existing state permits, the NPDES and existing state permit shall be consolidated into one permit. In case of conflicting permit requirements the more stringent requirement will control. This consolidated permit will be adopted as a LWDPs permit effective upon receipt by the permittee of written notification by the state and shall remain effective for a period in accordance with LAC 33:IX.301.H above (the NPDES permit expiration date shall be void).

J. Concentrated Animal Feeding Operations

1. Permit Requirement. Discharges from concentrated animal feeding operations are subject to the LWDPs permit program.

2. Definitions

a. *Animal Feeding Operation*—a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

i. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period. and; the state;

ii. crop: vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

b. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

c. *Concentrated Animal Feeding Operation*—an animal feeding operation which meets the criteria in Appendix B or which the office designates under Paragraph 3 of this Section.

3. Case-by-case Designation of Concentrated Animal Feeding Operations

a. The office may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to the waters of the state. In making this designation the office shall consider the following factors:

- i. the size of the animal feeding operation and the amount of wastes reaching waters of the state;
- ii. the location of the animal feeding operation relative to waters of
- iii. the means of conveyance of animal wastes and process waste waters into waters of the state;
- iv. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process waste waters into waters of the state; and
- v. other relevant factors.

b. No animal feeding operation with less than the numbers of animals set forth in Appendix B shall be designated as a concentrated animal feeding operation unless:

- i. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar man-made device; or
- ii. pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

4. A permit application shall not be required from a concentrated animal feeding operation until the office has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. However, all concentrated animal feeding operations which meet the criteria in Appendix B shall so notify the office within 180 days of the effective date of these regulations

K. Concentrated Aquatic Animal Production Facilities

1. Permit Requirement. Concentrated aquatic animal production facilities, as defined in this Section, are subject to the LWDPs permit program.

2. Definition

Concentrated Aquatic Animal Production Facility—a hatchery, fish farm, or other facility which meets the criteria in Appendix C of these regulations, or which the office designates under LAC 33:IX.301.K.3 of this Section.

3. Case-by-case Designation of Concentrated Aquatic Animal Production Facilities.

a. The office may designate as a concentrated aquatic animal production facility any warm or cold water aquatic animal production facility upon determining that it is a significant contributor of pollution to waters of the state. In making this designation the office shall consider the following factors:

- i. the location and quality of the receiving waters of the state;
- ii. the holding, feeding, and production capacities of the facility;
- iii. the quantity and nature of the pollutants reaching waters of the
- iv. other relevant factors.

4. A permit application shall not be required from a concentrated aquatic animal production facility until the office has conducted an on-site inspection of the facility and has determined that the facility should and could be regulated under the permit program. However, all concentrated aquatic animal production facilities which meet the criteria in Appendix C shall so notify the office within 180 days of the effective date of these regulations.

L. Discharges Into Aquaculture Projects

1. Permit Requirement. Discharges into aquaculture projects, as defined in this Section, are subject to the LWDPSP permit program.

2. Definitions

Aquaculture Project—a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater estuarine or marine plants or animals Designated Project Area—the portions of the waters of the state within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan of operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

M. Silvicultural Point Sources

1. Permit Requirement. Silvicultural point sources, as defined in this Section, are point sources subject to the LWDPSP permit program.

2. Definitions

Log Sorting and Log Storage Facilities—facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark, or after removal of bark, held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking).

Silvicultural Point Source—any discernible, confined and discrete conveyance related to log sorting or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the state. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA Section 404 permit.

N. Confidentiality of Information

1. Any information submitted to this office pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in writing in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential" on each page containing such information. no claim is made at the time of submission this office may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in this Section.

2. Claims of confidentiality for the following information will be denied:

- a. the name and address of any permit applicant or permittee; and
- b. permit applications, permits, and effluent data.

3. Information required by application forms provided by EPA or DEQ may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

4. Request for Non-Disclosure of Confidential Information

a. All information obtained under the Louisiana Environmental Quality Act R.S. 30:2001 et. seq., or by these regulations; or by any order, license or permit term or condition adopted or issued under the Act or these regulations; or by any investigation authorized thereby, shall be available to the public, unless nondisclosure is requested and granted in accordance with R.S. 30:2030.

b. Submission of Written Request

i. A facility may submit a written request for nondisclosure which shall specify the basis for requesting nondisclosure as provided in R.S. 30:2030. All materials clearly labeled "CONFIDENTIAL" which are submitted to this office with a written request for nondisclosure, shall, subject to Subparagraph b.ii, be afforded confidentiality.

ii. If the administrative authority determines that any material received pursuant to Subparagraph b.i should not be afforded confidentiality, the administrative authority shall issue a written denial of the request for nondisclosure to the requestor.

c. In the event a request for nondisclosure is granted, such nondisclosure shall not apply to the necessary use of the information by duly authorized officers or employees of state or federal government in carrying out their responsibilities under the Act or applicable federal law. Any officer or employee of the state or federal government who seeks access to such information must be duly authorized by the administrative authority. The administrative authority shall make the determination to grant such authorization based on a request by such person. The administrative authority may request in writing the requestor's name, affiliation, and the need for access to the information based on the Act or applicable federal or state law.

d. Maintenance of Confidential Information

i. Information determined to be confidential by this office shall be segregated from any information determined to be nonconfidential; provided in cases where confidential information cannot be reasonably extracted or separated from nonconfidential information, and when the information does not include water discharge data or information described in Paragraphs 2. a and b, the whole document shall be confidential. Confidential information shall be maintained in a locked file separate from nonconfidential information. The file shall be labeled "CONFIDENTIAL", with access appropriately controlled.

ii. Whenever a person authorized under Subparagraph c gains access to a confidential file, he shall sign an access log which indicates his understanding of the confidential status and his responsibility to protect the information from being disclosed to the public. The person will also indicate in the access log which file was removed, the date and time the file was removed, the affiliation of the person if not with the Department of Environmental Quality and the time and date the file was returned.

iii. Except for members of the DEQ staff, authorized persons shall review a confidential file in the presence of an Office of Water Resources staff member. Confidential information shall be removed from the file no longer than is strictly necessary.

e. This office may remove confidential information from its files and return it to the provider when such information is no longer necessary or required for the purposes of the Act, these regulations, any order, or under the terms and conditions of any license or permit, and the provider has requested such action in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§303. Permit Application Information

A. Any person desiring to obtain a LWDPDS permit from this office shall make application on forms prescribed by the office and shall submit such information as required in LAC 33:IX.303.E below. Such person shall submit any reasonable additional information deemed necessary by the office to complete or correct deficiencies in the application before processing of the application will be completed. No application shall be deemed complete and ready for disposition until all reasonable additional information has been supplied. A site visit by office personnel shall be required if determined to be necessary the office. The office shall not; make a final determination on any application until such time as the applicant has supplied the requested information and otherwise corrected any deficiencies.

B. All applications and supporting documents shall be filed in triplicate with the office.

C. Applicants shall keep records of all data used to complete permit applications for a period of at least five years from the date the application is signed.

D. A person discharging waste from more than one facility or activity shall file a separate application for each one. A single application may be filed for multiple outfalls discharging from a single facility or activity, however the discharge from each outfall shall be described separately in the application.

E. All applicants for a LWDPDS permit shall provide the following information to the office using the application form provided by the office, unless the office determines that such information is not required for facility or activity:

1. Name, mailing address, and street location of the facility for which the application is submitted.
2. The operator's name, address, telephone number, ownership status, including the name and address of the owner, if different, and status as federal, state, private, public, or other entity.
3. Name of applicant's parent corporation(s).
4. A brief description of the nature of the business, including the activities conducted by the applicant which require it to obtain a permit.
5. Up to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility.
6. A listing of all DEQ and EPA permits for the facility received or applied for by the applicant or its parent corporation.
7. The location of all sites, excluding temporary storage bins, involved in the storage of solid or liquid waste at the facility for which the application is being made; and, the method of ultimate disposal for solid or liquid waste generated by the facility.
8. A topographic map (or other map if a topographic map is unavailable) drawn to a reasonable scale and extending not less than one mile beyond the property boundaries of the site, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and when deemed necessary by the office, those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known by the applicant to be in the map area.

9. For each discharge outlet. a) the latitude and longitude to the nearest second [or if this information is unavailable to at least the nearest 15 seconds], b) the Section, Township, and Range information or other means acceptable to the office, to locate each discharge outlet; and. c) the name of the immediate receiving water body and river mile point where applicable When the discharge is to an unnamed receiving water, the first named water, and the approximate distance thereto, shall be indicated

10. A line drawing of the water flow through the facility with a water 2 balance showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under LAC 33:IX.303.E.13 of this Section. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example, for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.

11. A narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outlet, including process wastewater, cooling water, sewage, and storm water runoff (including material storage area runoff); the average flow which each wastewater contributes; and a description of the treatment, if any, each wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Information may also be required concerning raw waste loads and efficiencies of treatment systems. Processes, operations or production areas may be described in general terms (for example, "dye-making reactor", "distillation tower"). For a privately owned treatment works receiving waste from off-site users, this information shall include the identity and type of operation of each user of the treatment works. If wastes received by such a privately owned treatment works are limited to sanitary wastes, the number and types of units to be tied into the system shall be indicated. All publicly owned treatment works shall include the identity and type of operation of each user of the treatment works whose discharge may not be adequately treated by the treatment works.

12. A description of the frequency duration and flow rate of each discharge occurrence (except for storm water runoff, spillage, or leaks), if any of the discharges described in LAC 33:IX.303.E.13 of this Section are intermittent or seasonal.

13. A reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline, if an effluent guideline applies to the applicant and is expressed in terms of production (or other measure of operation). A reasonable measure of actual production may be production during the high month of the previous year, or the monthly average for the highest of the previous five years. For new sources or new discharges, actual production may be estimated using projected production. The time period of the measure of production should correspond to the time period of the calculated permit limitations; for example, monthly production should be used to calculate average monthly discharge limitations.

14. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates.

15. An applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. Analyses should be made using methods approved by the office.

a. Each applicant must report quantitative data for every outfall for the following pollutants:

- i. oil and grease;
- ii. biochemical oxygen demand (BOD₅);
- iii. chemical oxygen demand;

- iv. total organic carbon;
- v. total suspended solids;
- vi. ammonia (as N);
- vii. temperature (both winter and summer);
- viii. pH;
- ix. sulfates;
- x. total dissolved solids;
- xi. chlorides.

b. Each applicant with processes in one or more primary industry category (see Appendix A) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

i. The organic toxic pollutants in the fractions designated in Table I of Appendix D for the applicant's industrial category or categories. Table II of Appendix D lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes.

ii. The pollutants listed in Table III of Appendix D (the toxic metals, cyanide, and total phenols).

c. Each applicant must report for each outfall quantitative data for the following pollutants, if the applicant knows or has reason to believe that the pollutant is discharged from the outfall:

i. all pollutants listed in Table II or Table III of Appendix D (the toxic pollutants) for which quantitative data is not otherwise required;

ii. all pollutants in Table IV of Appendix D (certain conventional and nonconventional pollutants).

d. Each applicant must indicate whether he knows or has reason to believe that any of the pollutants in Table V of Appendix D (certain hazardous substances and asbestos) is discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

e. Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

- i. uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or
- ii. knows or has reason to believe that TCDD is or may be present in an effluent.

f. The requirements in LAC 33:IX.303.E.15.c and d of this Section that an applicant must provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present.

g. At the applicant's request, the administrative authority may waive the reporting requirements for one or more of the pollutants listed in LAC 33:IX.303.E.15.a through e of this Section. Additionally, at the applicant's request, the administrative authority may authorize the substitution of alternative pollutants in the analysis and reporting requirements of LAC 33:IX.303.E.15.a through e.

h. Each applicant should report any pollutant listed in LAC 33:IX.303.E.15 (Reportable Quantity List of Pollutants) of the Notification Regulations and Procedures for Unauthorized Discharges.

16. If a contract laboratory or consulting firm performed any of the analyses required by LAC 33:IX.303.E.15, the identity of each laboratory or firm and the analyses performed.

17. A listing of any toxic pollutant which the applicant currently uses or manufactures as an intermediate, feedstock, final product, or by-product. The administrative authority may waive or modify this requirement for any applicant if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the administrative authority has adequate information to issue the permit.

18. An identification of any biological toxicity tests which the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or on a receiving water in relation to a discharge.

19. A report of the history of water violations and enforcement actions for that facility (including, but not limited to, a summary of permit excursions for the last two years, administrative orders, compliance orders, notices of violation, cease and desist orders and any other enforcement actions either already resolved or still pending). The office may choose, at its discretion, to require a more in-depth report of violations and compliance for the applicant himself/herself covering any law, permit, or order concerning pollution.

20. A discussion of feasible alternative treatment methods, including no discharge, and reasons why those methods were not chosen.

21. In addition to the information reported on the application form, applicants shall provide such other information as may reasonably be required to assess the discharges of the facility and to determine whether to issue a permit. The additional information may include quantitative data and bioassays to assess the relative toxicity to aquatic life of the discharges and requirements to determine the cause of toxicity.

F. The following additional information shall be required in all applications for new permits and if not addressed by the applicant, the application is incomplete and not acceptable for review.

1. Have the potential and real adverse environmental effects of the proposed facility been avoided to the maximum extent possible?

2. Does a cost benefit analysis of the environmental impact costs balanced against the social and economic benefits of the proposed facility demonstrate that the latter outweighs the former?

3. Are there alternative projects which would offer more protection to the environment than the proposed facility without unduly curtailing nonenvironmental benefits?

4. Are there alternative sites which would offer more protection to the environment than the proposed facility site without unduly curtailing nonenvironmental benefits?

5. Are there mitigating measures which would offer more protection to the environment than the facility as proposed without unduly curtailing nonenvironmental benefits?

G. Enforcement Actions

1. The office may take enforcement action as prescribed by state law or regulation against any person who:

a. fails to submit an application as required by law;

b. knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with this office pursuant to the state law or the rules and regulations pursuant to state law. Violations of this provision can subject the violator to the penalties provided for in the Act for perjury or false statements.

2. The office may take enforcement action as prescribed by state law or regulation against any person who:

a. fails to correct deficiencies in the application; or upon becoming aware that any relevant facts or information were omitted in a permit application or in any report to the office, fails to promptly submit such facts or information;

b. fails to submit when requested in writing any additional information deemed necessary by this office.

c. fails to take necessary action(s) to complete permit issuance such as payment of fees or publication of required notices.

3. Exception. In cases where the application is withdrawn by the applicant, a written notification must be provided to this office stating that no discharge or other activity that would require a permit from this office is currently taking place. Provided that the application was not made in response to previous enforcement action, the applicant is then exempt from enforcement action for causes listed under LAC 33:IX.303.G.2.

H. Signatories and Authorization

1. All permit applications shall be signed as follows:

a. for a corporation—by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means:

i. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

ii. the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. for a partnership or sole proprietorship by a general partner or the proprietor, respectively; or

c. for a municipality, parish, state, federal or other public agency by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a federal agency includes:

i. the chief executive officer of the agency, or

ii. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. A state permit application and all other forms and reports required by these regulations may be signed by a duly authorized representative of the applicant, if:

a. the authorization is made in writing by a person described in LAC 33:IX.303.H.1 of this Section;

b. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as a position of plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c. the written authorization is submitted to the office.

3. If an authorization under LAC 33 :IX.303.H of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of LAC 33:IX.303.H.2 of this Section shall be submitted to the office prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Any person signing any document under LAC 33:IX.303.H shall make the following certification:
"I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations. "

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§305. Permit Limitations and Other Requirements

In general, the limitations imposed on discharges shall be those indicated by the appropriate effluent limitations or standards. All permits must contain effluent limitations requiring control and treatment equivalent to secondary treatment, best practicable control technology currently available (BPT), best conventional technology (BCT) for conventional pollutants, and/or best available control technology economically achievable (BAT) for nonconventional or toxic pollutants. However, the permitting authority may impose different or more stringent limitations in accordance with the following:

A. More stringent or seasonally variable effluent limitations or New Source Performance (NSP) standards may be imposed when they are necessary to assure compliance with water quality standards for the receiving waterbodies.

B. More stringent or seasonally variable effluent limitations or New Source Performance (NSP) standards may be imposed when so indicated by levels of treatment or wasteload allocations contained in approved basin plans.

C. In the absence of applicable effluent limitations or standards the discharge limitations shall be based on the best professional judgement (BPJ) of the permitting authority. In the exercise of best professional judgement the permitting authority shall consider:

1. the raw materials and processes involved;
2. the potential for waste generation of such materials and processes;
3. applicable in-plant and end-of-pipe treatment and control;

4. the levels of reduction of pollutants attainable by various treatment and control measures;
 5. other pertinent factors such as non-water quality environmental impacts and costs of treatment and control;
- and
6. potential impacts upon the receiving water body as indicated by predictive mathematical water quality models, biological toxicity tests, and/or other environmental assessment techniques currently in use, established or recognized by relevant environmental scientific disciplines.

D. An individual discharger or other interested person may submit evidence to the permitting authority that factors relating to the equipment or facilities involved, the processes applied, or other factors related to such discharger are fundamentally different from the factors considered in the establishment of the effluent limitations. On the basis of such evidence or other available information, the permitting authority will make a written determination that such factors are, or are not, fundamentally different for that facility compared to those utilized in the establishment of the effluent limitations. If such fundamentally different factors are found to exist, the permitting authority shall establish, to the extent dictated by such fundamentally different factors, water discharge permit limitations either more or less stringent than the limitations indicated by the promulgated effluent limitations and standards.

E. Permits issued to a publicly or privately owned treatment works may impose conditions on one or more users of those treatment works.

F. Pollutants in Intake Water

1. Upon request of the discharger, technology-based effluent limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake water if:

- a. the applicable effluent limitations and standards contained in Chapter 7 specifically provide that they shall be applied on a net basis; or
- b. the discharger demonstrates that the control system it proposes or uses to meet applicable technology-based limitations and standards would, if properly installed and operated, meet the limitations and standards in the absence of pollutants in the intake waters.

2. Credit for generic pollutants such as biochemical oxygen demand (BOD) or total suspended solids (TSS) should not be granted unless the permittee demonstrates that the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

3. Credit shall be granted only to the extent necessary to meet the applicable limitation or standard, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with permit limits.

4. Credit shall be granted only if the discharger demonstrates that the intake water is drawn from the same body of water into which the discharge is made. The administrative authority may waive this requirement if he finds that no environmental degradation will result.

5. The discharge of raw water clarifier sludge generated from the treatment of intake water will be exempt from the requirements of this Section (LAC 33:IX.303.F).

G. Internal Waste Streams

1. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by these regulations shall also be applied to the internal waste streams.

2. Circumstances which make the imposition of internal waste streams necessary include, but are not limited to:

- a. the final discharge point is inaccessible;
- b. the wastes at the point of discharge are so diluted as to make monitoring impracticable;
- c. the interferences among pollutants at the point of discharge would make detection or analysis impracticable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§307. Modifications Revocation and Reissuance

A. Any permittee shall report to the office any facility changes which result in increases in the quantity of pollutants discharged or decreases in the quality of the discharges. The permittee shall also report any facility changes which result in decreases in the quantity of pollutants discharged or increases in the quality of discharges of pollutants where such change is expected to last in excess of 180 days. Such report shall be by submission of a modified permit application or, if the discharge does not violate the effluent limitations specified in the permit, by submission of notice to the office of the nature of such facility changes. The permittee shall not commence any facility expansion, production increases, or process modifications which result in new or increased discharges of pollutants without receiving a modified LWDPSP permit or written authorization from this office. The provisions of this Paragraph shall not apply to facility changes that were considered during the permitting process.

B. When the office receives any new information or receives a request for modification or revocation, such permit may, after an opportunity for hearing, be modified, or alternatively revoked and reissued, in whole or in part, for cause, including but not limited to:

1. violations of any terms or conditions of the permit;
2. obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;
3. a change in any condition that results in either a temporary (greater than 180 days) or permanent reduction or elimination of any discharge controlled by the permit;
4. the office has received new information; permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance;
5. material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;
6. the standards, or prohibitions on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued;
7. failure to report any facility changes as described in LAC 33:IX.307.A;

8. change of ownership or operational control (see LAC 33:IX.311.D);

9. when the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under a BPJ determination;

10. when the permittee demonstrates operation and maintenance costs that are totally disproportionate from the operation and maintenance costs considered in the development of a subsequently promulgated effluent limitations guideline, but in no case may the limitations be made less stringent than the subsequent guideline;

11. the nonconformance of the discharge with any applicable facility, basin or areawide plans; or

12. permit inconsistency with any duly promulgated effluent limitation, permit, regulation, statute, or other applicable state law.

C. Only those permit conditions that are subject to modification are reopened for comment in a public hearing. When a permit is revoked and reissued, the administrative authority may either allow only those portions modified to be reopened, or may decide that the entire permit is reopened just as if the permit has expired and is being reissued.

D. If a permit modification satisfies the following minor modification criteria, the permit may be modified without issuance of a draft permit or public review. Any permit modification not processed as a minor modification shall be made in accordance with a fact sheet and public notice requirements as described in LAC 33:IX.313 and 315. Minor modifications may only:

1. correct typographical errors;

2. require a change in the frequency of monitoring or reporting by the permittee;

3. change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

4. allow for a change in ownership or operational control of a facility where the office determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the office (see LAC 33:IX.307.B.8 and 311.D);

5. change the construction schedule for a discharger which is a new source or modification of an existing source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge;

6. delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits; or

7. make changes in other minor provisions within the permit on a case-by-case basis.

E. Modification cannot extend a permit beyond its original five-year duration.

F. Requests for modification or revocation, and reissuance do not suspend any permit condition during the processing of the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§309. **Renewal and Termination**

A. At least 180 days prior to the expiration date of a LWDPDS permit issued pursuant to state law and this regulation, a permittee who wishes to continue to operate under such permit shall submit an application for renewal to the office.

B. After receipt of an application for renewal of a LWDPDS permit by a permittee, the office shall review the application and before issuing a draft permit shall be assured that:

1. The permittee is in compliance with or has substantially complied with the terms, conditions, requirements, and schedules for compliance of the existing permit.

2. The office has up-to-date information on the permittee's production levels, waste treatment practices and the nature, contents and frequency of the permittee's discharge.

3. The discharge is consistent with applicable effluent standards and limitations, water quality standards, and other applicable requirements, including any additions to, or revisions or modifications of the effluent standards and limitations, water quality standards or other applicable requirements.

C. If the applicant submits a timely and complete application pursuant to LAC 33:IX.309.A, and the office, through no fault of the applicant, fails to act on the application on or before the expiration date of the existing permit, the permittee shall continue to operate the facility under the terms and conditions of the expired permit which shall remain in effect until final action on the application is taken by the office. If the application is denied or the terms of the new permit contested, the expired permit shall remain in effect until the appeal process has been completed and a final decision rendered unless the secretary finds that an emergency exists which requires that immediate action be taken and in such case any appeal or request for review shall not suspend the implementation of the action ordered. Permits continued under this Section remain fully effective and enforceable.

D. During all renewal or termination proceedings the entire application and/or permit is open for comment in a public hearing, subject to confidentiality.

E. Causes for which the administrative authority may initiate enforcement action, terminate a permit during its term, or deny a permit renewal include but are not limited to:

1. noncompliance by the permittee with any condition of the permit;

2. failure to pay applicable fees;

3. failure in the application or during the permit issuance process to fully disclose all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

4. a determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

5. a change in any condition that requires either a temporary (more than 180 days) or a permanent reduction or elimination of any discharge controlled by the permit. This provision does not apply to any facility change which was considered during the permitting process;

6. due consideration of facility's history of violations and compliance; and/or

7. change of ownership or operational control (see LAC 33:IX.311.D).

F. A notice of intent to terminate will be sent to the permittee by certified mail and the permittee will be given an opportunity to show compliance with all lawful requirements for the retention of the permit.

G. Requests for renewal or termination do not suspend any permit condition during the processing of the request.

H. An applicant may request termination of a permit and the administrative authority may grant this request without the requirement for hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§311. Standard Permit Conditions

In addition to the following standard conditions required in all permits, the office shall establish additional requirements as deemed necessary on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the Act, these regulations, and constitutional and statutory mandates.

A. Violations. The permittee shall comply with all conditions of the permit. No pollutant shall be discharged more frequently or in greater amounts than authorized by the permit. The permit does not in any way authorize the permittee to discharge a pollutant not listed or quantified in the application or limited or monitored for in the permit. The discharge of any pollutant not specifically authorized by a permit, or these regulations, or that was not specifically listed as a component of the discharge in the permit application may be considered a violation of the Act. The discharge of any pollutant in quantities exceeding permitted limits or a discharge from a source or at a location not authorized by a permit shall be a violation of the Act. Any permit noncompliance constitutes a violation of the Act and is grounds for:

1. enforcement action under the Act;
2. permit termination, revocation and reissuance, or modification; or
3. denial of a permit renewal.

B. Property Rights. The issuance of a LWDPs permit does not convey any property rights in either movable or immovable property of any sort, or any exclusive privileges, or servitudes, nor does it authorize any injury to private or public property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

C. Dilution. A permittee shall not achieve any effluent concentration by dilution unless specifically authorized in the permit. A permittee shall not increase the use of process water or cooling water or otherwise attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve permit limitations or water quality standards.

D. Permit Transfers

1. Transfers by Modification. Except as provided in LAC 33:IX.311.D.2 of this Section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under these regulations.

2. Automatic Transfers. As an alternative to transfers under LAC 33:IX.311.D.1 of this Section, any LWDPs permit may be automatically transferred to a new permittee if:

a. the current permittee notifies the administrative authority at least 30 days in advance of the proposed transfer date in LAC 33:IX.311.D.2.b;

b. the notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. the administrative authority does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this Subparagraph may also be a minor modification. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in LAC 33:IX.311.D.2.b.

E. Toxic Pollutants. The permittee shall comply with applicable effluent standards or prohibitions established under the provisions of the Act or the rules and regulations established thereunder for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions.

F. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

G. Duty to Mitigate. The permittee shall take all reasonable steps to:

1. minimize or prevent any discharge in violation of the LWDPs permit which has a reasonable likelihood of adversely affecting human health or the environment; and

2. minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

H. Duty to Halt or Reduce Activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

I. Inspection and Entry

1. The permittee shall allow an authorized representative of the office, upon proper presentation of credentials to:

a. Enter upon the permittee's premises where a discharge source is or might be located or in which monitoring equipment or records required by a permit are kept for inspection or sampling purposes. Most inspections will be unannounced and should be allowed to begin immediately, but in no case shall begin more than 30 minutes after the time the inspector presents his/her credentials and announces the purpose(s) of the inspection. Delay in excess of 30 minutes shall constitute a violation of these regulations. However, additional time can be granted if the inspector or the administrative authority determines that the circumstances warrant such action.

b. Have access to and copy any records that the office or its authorized representative determines are necessary for the enforcement of these regulations. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of inspection, the records shall be made available as soon as the office is open, but in no case later than the close of business the next working day.

c. Photographs. Reserved

d. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit.

e. Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. Sample Collection

a. When the inspector announces that samples will be collected, the permittee will be given an additional 30 minutes to prepare containers in order to collect duplicates. If the permittee cannot obtain and prepare sample containers within this time, he is considered to have waived his right to collect duplicate samples and the sampling will proceed immediately. Further delay on the part of the permittee in allowing initiation of the sampling will constitute a violation of these regulations.

b. At the discretion of the administrative authority, sample collection shall proceed immediately (without the additional 30 minutes described in LAC 33:IX.3111.2.a) and the inspector will supply the permittee with a duplicate sample.

3. It shall be the responsibility of the permittee to ensure that a facility representative familiar with provisions of its wastewater discharge permit, including any other conditions or limitations, be available either by phone, or in person at the facility during all hours of operation. The absence of such personnel on site who are familiar with the permit shall not be grounds for delaying the initiation of an inspection except in situations as described in LAC 33:IX.3111.1.b. The permittee shall be responsible for providing witnesses/escorts during inspections. Inspectors will abide by all company safety rules and shall be equipped with standard safety equipment (hard hat, safety shoes, safety glasses) normally required by industrial facilities.

4. Upon written request copies of field notes, drawings, etc. taken by office personnel during an inspection shall be provided to the permittee after the final inspection report has been completed.

J. Monitoring, Recordkeeping, and Reporting

1. All sampling and analyses shall be performed in accordance with the analytical test procedures approved by the office. Where no approved sampling or test procedure is available, the permittee must:

a. provide the office with a detailed description of the procedure and literature references in the application; and

b. indicate a suitable analytical test procedure approved by the office.

2. Quality Control Procedures, as specified in the following description, shall be employed in all effluent characteristic testing required by a permit. In addition to the routine analysis of standards and blanks, unless otherwise authorized in writing by the administrative authority, duplicate analyses shall be performed for all applicable conventional and non-conventional pollutants test procedures at a minimum frequency of one duplicate for every 10 samples analyzed for each effluent characteristic at each outfall.

a. Duplicate analysis is defined as multiple analyses for the same effluent characteristic, performed simultaneously, for the purpose of evaluating the precision of the analytical method as performed by the analyst. Duplicate analyses are performed on aliquots of the same sample, from the same bottle, except in analyses such as oil and grease where the entire sample is necessarily utilized in the test procedure. Maximum homogeneity shall be maintained in removing aliquots from a sample for duplicate analyses. Duplicate analyses are not considered valid unless the entire sample preparation technique is performed independently on each aliquot, from the point of removal from the sample bottle. Aliquots run independently in which only volumetric differences occur are valid duplicates, providing the results of each fall within the test procedure range.

b. Results of duplicate analyses shall be reported on laboratory report forms as separate numbers. Testing should be repeated if the appropriate sample is available and if a discrepancy between (among) duplicates of greater than 10 percent occurs or greater than the variability established by method validation, whichever is the larger. For the purpose of NPDES/LWDPS permit reporting procedures, the arithmetic mean of the duplicate results shall be used as the value for that sample

c. Spiked samples shall also be analyzed for applicable effluent characteristics at a minimum 10 percent frequency or at a frequency which is acceptable to the department. "Spikes" are duplicate (or multiple) analyses, as defined previously, in which one of the aliquots is tested with a known amount of standard added. The purpose of spike analyses is to estimate the percent recovery (accuracy) of the test procedure. Recoveries of less than 90 percent or greater than 110 percent (or + 10 percent of the recoveries established through method validation) should initiate an investigation as to the specific interferences present. Deionized water spikes are considered standards and not valid spikes. Spikes shall be reported on laboratory reports as such and percent recovery noted. The results from a spiked aliquot shall not be averaged in the sample value and shall not be included in Discharge Monitoring Report (DMR) calculations.

3. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit, for a period of at least three years from the date of the sample measurement or report. This period may be extended by request of the office at any time.

4. Records of monitoring information shall include:

- a. the date, exact place, and time of sampling or measuring;
- b. the individual(s) who performed the sampling or measurements;
- c. the date(s) and time(s) analyses were begun;
- d. the individual(s) who performed the analyses;
- e. the analytical techniques or methods used;
- f. the results of such analyses; and
- g. the results of all quality control procedures.

5. The results of quality control procedures shall be tabulated and/or statistically analyzed in order to establish quality assurance documentation for each test procedure, instrument and analyst.

6. Monitoring shall be reported on a DMR form or other approved format and signed in accordance with LAC 33:IX.303.H.

7. Copies of all records for the past 12 months that are required to be maintained by either the permit or these regulations shall be kept on-site at the permitted facility for inspection purposes. Records for earlier periods shall be available upon request. In the case of unmanned facilities, these copies shall be kept at the nearest manned facility or office.

8. Those permittees that choose to employ off-site (contractual or in-house) laboratories to perform required analyses shall not be required to maintain quality assurance or laboratory instrument calibration and maintenance records at their facility but shall provide the names and addresses of all contractual laboratories in their monitoring reports to the state. These records must, however, be maintained by the off-site laboratory and must be available for inspection without advance notice during normal working hours. Upon request, a permittee may be required to supply this information to the office.

9. General laboratory procedures including glassware cleaning, etc. shall follow guidelines established in the "Handbook for Analytical Quality Control in Water and Wastewater Laboratories" U. S. Environmental Protection Agency Publication Number EPA-600/4-79-019

10. General sampling protocol shall follow guidelines established in the "Handbook for Sampling and Sample Preservation of Water and Wastewater" U. S. Environmental Protection Agency Publication Number EPA-600/4-82-029.

11. If the permittee monitors any pollutant at a designated outfall more frequently than required by the permit, using test procedures approved by the office or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

12. Data obtained from the monitoring of any waste stream, whether such monitoring was required or not, shall be made available to the administrative authority upon request.

13. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the office in the permit.

14. The permittee shall report any non-compliance as required by R.S. 30:2025(J), R.S. 30:2076(D) or departmental regulations promulgated under these statutes. In addition, all maximum limitation excursions shall be reported in writing to the office within five days of the time the permittee becomes aware of the excursions.

15. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

K. Bypass. Bypass is defined as any intentional diversion of waste streams from any portion of a treatment facility.

1. Bypass is permitted only under the following conditions, and the office may take enforcement action against a permittee for bypass, unless:

a. bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. one of the following notices was made:

i. if the permittee knows in advance of the need for a bypass, it shall submit prior written notice, at least 10 days before the date of the bypass if possible;

ii. if the permittee does not know in advance of the need for a bypass, notice shall be submitted to the office within 24 hours after the initiation of the bypass unless an earlier notice is required in R.S. 30:2025(J).

2. The office may approve an anticipated bypass, after considering its adverse effects, if it is determined by the office that it will meet the applicable conditions listed in LAC 33:IX.311.K.1.

3. Any bypass of any part of a treatment system shall require monitoring of all effluent characteristics, as required at the applicable outfall on a daily basis, for the duration of the bypass unless a different monitoring frequency is approved by the administrative authority. Any bypass which occurs and is discharged at a point other than a permitted outfall shall be monitored for all effluent characteristics which are required at the applicable permitted outfall. Such monitoring shall be conducted on a daily basis for the duration of the discharge unless a different monitoring frequency is approved by the administrative authority.

4. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if the bypass is required for essential maintenance to assure efficient operation. Any bypass that meets the requirements of this Paragraph and is expected to or does continue for longer than seven days shall be reported in writing to this office within 10 working days of initiation of the bypass. These bypasses are not subject to the provisions of LAC 33:IX.311.K.1 and 2.

L. Upset. An upset is defined as an exceptional incident in which there is unintentional and temporary noncompliance with permit conditions because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with permit conditions only if the following requirements are demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence:

- a. an upset occurred and the permittee can identify the cause(s) of the
- b. the permitted facility was at the time being properly operated;
- c. upon becoming aware of the upset the permittee submitted notice of the upset within 24 hours unless an earlier notice was required pursuant to R.S. 30:2025(J) and/or 30:2076(D).
- d. the permittee complied with any remedial measures required under LAC 33:IX.311.G of these regulations which states;

The permittee shall take all reasonable steps to:

- i. minimize or prevent any discharge in violation of a permit which has a reasonable likelihood of adversely affecting human health or the environment; and
- ii. minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

2. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset as a defense has the burden of proof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§313. Fact Sheets

A. The fact sheet shall briefly set forth the principal facts considered in preparing the draft permit. The office shall send this fact sheet to the applicant and, on request, to any other interested party. A fact sheet shall be prepared for every:

1. draft permit for a major facility or activity;
2. general permit;
3. draft permit which the office determines is the subject of widespread public interest or raises major issues.

B. The fact sheet shall include, when applicable:

1. the name of the applicant and location of the facility or activity;
2. the name of the waterway to which the discharge is made or is proposed to be made;
3. a brief description of the type of facility or activity which is the subject of the draft permit;
4. the type and quantity of pollutants which are proposed to be or are being discharged;
5. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;
6. reasons why any requested alternatives to required standards do, or do not, appear justified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§315. Public Information

A. A public notice shall be issued for every draft permit generated by the office, and it shall contain:

1. the name of the applicant and the location of the facility or activity;
2. a concise description of the applicants activities and operations which result in the discharge identified in the permit application;
3. the name of the waterway to which the discharge is made, or is proposed to be made;
4. a statement of the tentative determination to issue or deny the permit for the discharge identified in the application;

5. a concise description of the procedures for the formulation of final determinations including information on the comment period prescribed in LAC 33:IX.315.D or other means by which interested persons may comment on the tentative determinations;

6. the address and telephone number of the office where more information on the application may be obtained or where copies of the draft permit and fact sheet (where applicable) may be inspected or copied subject to the rules in LAC 33:IX.315.F; and

7. the address and telephone number of the Office of Water Resources.

B. The office shall send a copy of the public notice to all persons on a mailing list developed by the office and to any person who requests a copy of the public notice for that particular action. Distribution to the mailing list may be accomplished through mailing of a departmental bulletin.

C. The office shall send the public notice to the applicant who shall be responsible for publication of the notice once in the official state journal and once in any other local newspapers specified by the office. Upon publication, the applicant shall send the office a copy of the certificate of publication. The costs of publication shall be borne by the applicant.

D. The office shall provide a period of not less than 30 days nor more than 60 days following the date of the public notice during which time interested persons may submit their written views on the tentative determination with respect to the permit application and may request a public hearing. All written comments submitted during the period for comment shall be retained by the office and considered in the formulation of the final determinations for the permit application.

E. All public hearings, adjudicatory or adjudicative hearings, and their appropriate written notices shall be instituted as prescribed by the Rules of Procedure of the Department of Environmental Quality.

1. At the time that any final permit is issued, the office shall also issue a response to comments which shall be delivered to any person who commented and shall be available to the public. This response shall:

a. specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

b. briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

F. All recorded information (completed permit application forms, fact sheets, draft permits or any public document) not classified as confidential information under R.S. 30:2030(A) and designated as such pursuant to these regulations (LAC 33:IX.301.N) will be made available to the public for inspection and copying pursuant to the following conditions:

1. during normal office hours;

2. under the observation and supervision of a member of the staff of the Office of Water Resources;

3. copies of compiled records and information will be made available within a reasonable amount of time upon written request at a cost in accordance with established department policy; and

4. no recorded information shall be removed from the office, except as provided herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 d seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

§317. Special Permits/Programs

A. General Permits

1. The office may issue general permits for certain categories of minor facilities or activities where individual permits are not necessary in order to adequately protect the environment or the public health. Before a general permit is issued the following conditions must be met:

a. there must be several minor sources or activities which involve the same or substantially similar types of operations;

b. these facilities or activities discharge or dispose of the same or similar types of wastes;

c. the same or similar monitoring requirements, effluent limitations and operating conditions apply to these facilities or activities; and

d. these facilities or activities would be more appropriately controlled under a general permit than under individual permits.

2. Although general permits may include activities throughout the state, they may also be restricted to more limited geographical areas.

3. All persons operating a source or conducting an activity described in a general permit become permittees, unless the source or activity is specifically covered by an individual permit.

4. In order for the office to maintain an updated list, a facility or activity that is covered by a general permit may be required to register with the office in accordance with the requirements of the general permit.

5. Any permittee covered by an individual permit may request that the individual permit be cancelled or allowed to expire if the permitted source or activity is also covered by a general permit. As long as the source or activity is covered by an individual permit, as well as a general permit, the conditions and limitations of the individual permit govern, until such time as it is cancelled or expires.

6. Any permittee not wishing to be covered by a general permit may make application for an individual permit in accordance with permit procedures.

7. The office may revoke the authorization to discharge in accordance with a general permit as it applies to any person and require such person to apply for and obtain an individual permit if:

a. the covered source or activity is a significant contributor to pollution or creates other environmental problems;

b. the permittee is not in compliance with the terms and conditions of a general permit; or

c. conditions or standards have changed so that the source or activity no longer qualifies for a general permit.

B. Experimental Permits

1. To promote the development of water pollution control technology for innovative processes or techniques, the office may issue experimental permits that do not contain provisions generally found in permits provided that the applicant submits clear, cogent, and convincing proof that the process or technique has a reasonable and substantial chance for success.

2. All experimental permits shall not exceed one year in duration.

C. Temporary Permits

1. The office may issue a temporary or interim permit to a person to allow discharge of pollutants where:

a. such discharge is unpermitted;

b. the discharge consists of pollutants not covered by an effective permit; or

c. the discharge consists of pollutants that are covered by an effective permit but the permit limits will be exceeded.

2. This temporary permit may be issued provided that:

a. the applicant submits a complete application;

b. the applicant can reasonably ensure that there is no public opposition to this permit.

3. Under circumstances where the administrative authority determines that time is a critical factor, oral requests are acceptable but must be followed within five days with a written request.

4. A temporary permit may be oral or written. Oral permission may only be given by the administrative authority. If oral permission is granted, it shall be followed within five days by a written temporary permit.

5. All temporary permits shall not exceed 90 days in duration.

D. All requests for general permits, experimental permits, or temporary permits shall be in writing with the exceptions already noted. Such permits shall be subject to the provisions found in LAC 33:IX.307, 309, and 311 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:1066 (November 1985).

LAC 43:XI.101-129¹⁶

PART XI. OFFICE OF CONSERVATION - PIPELINE DIVISION

SUBPART 1. NATURAL GAS AND COAL

CHAPTER 1. NATURAL GAS AND COAL

Pursuant to authority delegated under the laws of the State of Louisiana, and particularly Chapter 7 of Title 30 of the Revised Statutes of 1950 entitled the Natural Resources and Energy Act of 1973, after due notice having been given and all legal delays observed, and after public hearing held under Docket Number PL 79-137 in Baton Rouge, Louisiana, on the eighth day of January, 1980, the following Rules of Procedure are amended, reenacted, and adopted by the commissioner of conservation as being reasonably necessary to govern and control matters involving the provisions of the Natural Resources and Energy Act of 1973.

§101. Definitions

The words used herein shall have their usual meanings unless specially defined herein or in Chapter 7, Title 30 of the Louisiana Revised Statutes of 1950, or in regulations promulgated by the commissioner of conservation pursuant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§103. Applications

A. All applications to the commissioner, pursuant to Chapter 7 of Title 30 of Louisiana Revised Statutes of 1950, or Article IX, Section 2 of the Louisiana Constitution 1974, shall comply with these rules of procedure.

B. Except as otherwise provided in these rules of procedure or in the commissioner's regulations implementing the Natural Resources and Energy Act of 1973, all applications shall be made in duplicate in the form required by the commissioner and to the extent required, shall contain an outline and explanation of the nature of the proposal and shall be accompanied by such attachments, if any, as are required for such applications under the provisions of Chapter 7 of Title 30 of Louisiana Revised Statutes of 1950 and applicable regulations adopted by the commissioner pursuant thereto, and Article IX, Section 2 of the Louisiana Constitution 1974. In those situations where a public hearing is required, applications shall be submitted to the commissioner in triplicate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§105. Applications Not Requiring Public Notice

A. Applications to the commissioner for which no public notice is required shall be made in writing and shall be in the form required by the commissioner and shall contain such information as is required for such applications under the applicable regulations.

B. If, in applicant's opinion, the public interest requires immediate action, the applicant may request a decision by telephone, and if approval is granted, the application must be submitted in writing within 72 hours thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§107. Applications Requiring Public Notice

A. Public notice with respect to all applications for which a public hearing is required shall be given by publication of a notice of said hearing in the official journal of the State of Louisiana not less than 10 days prior to the hearing. Public notice shall be in writing and shall include:

1. a statement of the time, place and nature of the hearing and the time within which a response is required;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a reference to the particular sections of the statutes, rules and regulations involved; and
4. a concise statement of the matters asserted.

B. The commissioner shall mail a copy of the public notice to the applicant by certified mail. A copy of the public notice, with a copy of the application, shall be mailed by the applicant to all interested parties within two working days of the receipt of said public notice from the commissioner.

C. Notice to owners of land to be traversed by a pipeline, for all purposes under the Act and these regulations, shall be sufficient and shall be reasonable notice if mailed to the persons and to the addresses identified in the ad valorem tax records of the parishes as owners of the traversed lands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§109. Applications Requiring Public Hearing

A. No order, ruling or finding may be made or other action taken with respect to Louisiana R.S. 30:553, 554, 555(A) through (C), 555(F), 555(H), 556, 557, 558, 571 through 576, 593, 596, 598(E), 599, 722, 723, and 607 without a public hearing after due notice to all interested parties unless the right to a public hearing is waived pursuant to the provisions of the Administrative Procedure Act, as amended, (Louisiana R.S. 49:951-968) or the Natural Resources and Energy Act of 1973 expressly provides that no hearing is required in that instance.

B. Applications to the commissioner of conservation for which a public hearing is required shall be submitted in writing, be verified under oath, and shall be in a form and contain such information as is required by the commissioner. The hearing on the application shall be noticed in accordance with Section 113. The hearing date of the application shall not be less than 10 days following the date of publication of notice.

C. Interested parties who wish to object to said application or participate in the hearing must file a petition or notice with the commissioner and the applicant within five days following the receipt by such interested parties of notice of the hearing. Petitions or notices filed in connection with the application shall set forth clearly and concisely the facts from which the nature of the petitioner's alleged right or interest can be determined, the grounds of the proposed participation, and the position of the petitioner in the proceeding so as to fully and completely advise the parties and the commissioner as to the specific issues of fact or law to be raised concerning public interest, provided however, that the right to participate in a proceeding commenced under this Chapter shall not extend to objections directed solely to the matters involving rights-of-way including, but not limited to, the public purpose and necessity to be served in an expropriation thereof or the compensation therefor which is a judicial question pursuant to the Constitution of the State of Louisiana 1974, Article 1, Section 4.

D. The commissioner, either upon his own motion, or at the request of an interested party or the applicant, may call a conference of the parties to a proceeding at any time, if in his opinion, such a conference would resolve or narrow the issues in controversy or assist in the conduct of the hearing.

E. If no objection to the application is timely filed by an interested party, in accordance with the provisions of this rule, it will be unnecessary for the applicant to be present or to be represented at the hearing, and evidence shall be filed by affidavit or in such other form as is acceptable to or permitted by the commissioner who shall render an order based upon the record in the proceeding. The order of the commissioner shall be final, subject to reconsideration by him upon application for rehearing by the applicant or interested party filed within 10 days from the date of its entry.

F. If the commissioner, in his judgment, determines that an emergency exists, which in the public interest, requires action on the application prior to the hearing date or the minimum 10-day notice period herein required, the commissioner may act on the application and issue a temporary order; however, such emergency authorization shall remain in force no longer than 15 days from its effective date in any event, a temporary order shall expire when the commissioner's decision on the application after notice and hearing becomes effective.

G. An interested party who fails to comply with the requirements of this rule, may, at the commissioner's discretion, be precluded from introducing witnesses or from presenting evidence at the hearing; however, any person shall be permitted to cross-examine witnesses and make statements confined to his position in the matter.

H. Hearings on applications for approval to connect an intrastate natural gas pipeline, gas gathering line or coal slurry pipeline to an interstate natural gas pipeline or coal slurry pipeline filed pursuant to Louisiana R.S. 30:555(H) and 607 and Louisiana Constitution 1974, Article IX, Section 2, shall be held not less than 10 days after notice given in the manner provided in Section 113. Provided, however, that if the commissioner, in his judgment, determines that an emergency exists, which, in the interest of public health, safety or welfare, requires that said hearing be held on shorter notice, said emergency hearing may be held on any abbreviated notice, but not less than three days following the date of publication of notice of said hearing in the official journal of the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§111. Applications and Notices

All applications and notices filed pursuant to these rules of procedure shall contain a list of the names and addresses of the interested parties and show that a diligent effort has been made to obtain this list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§113. Approvals by the Commissioner for Certain Matters Under the Act

All matters under the Act requiring the approval for permission of the commissioner, and for which no objection thereto has been received within 15 days after due notice, if required, and no public hearing is specifically required may be approved by the commissioner without a public hearing by the issuance of an order, or administratively, on forms and in a manner determined by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§115. Approvals by the Commissioner for Matters Involving Public Hearing

As to matters under the Act requiring the approval of the commissioner after a public hearing, the commissioner shall issue his order and findings relative thereto on forms and in a manner determined by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§117. Reports

All reports required to be submitted to the commissioner under the Act shall be on forms approved by him and filed in accordance with schedules set by him. The commissioner may at his discretion grant extensions of time to file said reports upon good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§119. Applicability of Rules of Procedure

The rules of procedure set out herein apply only to the provisions of the Act (Chapter 7, Title 30), as implemented by applicable regulations. All other rules of procedure applicable to chapters of Title 30 other than Chapter 7 shall not apply in any manner whatsoever to the Act, or regulations implementing same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:77 (March 1978), amended LR 7:80 (April 1981).

§121. Certificate of Transportation or License to be Issued Pursuant to the Provisions of Section 554 or 722 of the Act

A. This regulation shall apply to a certificate of transportation issued to a qualified person(s) in accordance with the provisions of Section 554 of the Act or to a license to operate a coal slurry pipeline in accordance with the provisions of Section 722 of the Act.

B. All certificates of transportation heretofore issued by the commissioner of conservation pursuant to Section 554 of the Act, as implemented by Section 121, shall remain in force and effect pursuant to the terms and conditions thereof.

C. Any qualified person desiring a certificate of transportation, except those covered by Subsection B above or license shall apply to the commissioner for an order therefor upon such forms and in such manner as the commissioner prescribes, and shall furnish such data and information as the commissioner may direct; provided, however, that if a person has filed documents and evidence with the commissioner in accordance with Section 555(C) of the Act, as required by Section 125, such filing shall be considered by the commissioner in his determination with respect to the issuance of an order hereunder.

D. The commissioner shall issue an order granting a certificate of transportation or license to any qualified applicant if after hearing with due notice by publication in the official state journal and if he finds that the applicant is able and willing to perform properly the service proposed and to conform to the provisions of Chapter 7 of Title 30 of the Revised Statutes of the State of Louisiana and the requirements, rules and regulations of the commissioner thereunder, and that the proposed issuance of the certificate or license is or will be required by the present or future public interest.

E. All persons receiving a certificate of transportation or license shall be vested with all of the rights and privileges granted and extended under Section 554 or 722 of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 7:80 (April 1981).

§123. Requirements for Abandonment of All or Any Portion of a Facility, or Any Service Rendered by Means of Such Facility Under Sections 555(B) and 722 of the Act

A. This regulation shall apply to requirements of an intrastate natural gas or coal slurry transporter to abandon all or any portion of a facility, or any service rendered by means of such facility, pursuant to the provisions of Section 555(B) or 722 of the Act; provided, however, that this regulation shall not apply to any coal slurry transporter then being regulated by a federal agency having jurisdiction. Application for abandonment shall be filed in accordance with the regulation and Sections 107 and 109. However, an application for the abandonment of a sale or transportation contract or related facility shall be submitted to the commissioner at least 30 days, but no more than six months, prior to the contract termination date, or prior to the proposed date of termination of a service or abandonment of a facility in the absence of a contract. The commissioner may for good cause shown grant an exception to said time limitations.

B. Where an abandonment of service or facility is proposed, the interested parties shall be the signatory parties to the contracts affecting said services or facilities and the owners or operators of such facility to be abandoned.

C. The commissioner shall issue his permission and approval for the abandonment of all or any portion of the facilities of an intrastate natural gas or coal slurry transporter subject to the jurisdiction of the commissioner, or any service rendered by means of such facilities, only after the intrastate natural gas or coal slurry transporter shall have demonstrated, to the satisfaction of the commissioner, that the available supply of natural gas, coal, or lignite is depleted to the extent that the continuance of service is unwarranted or that the public interest and energy needs permit such abandonment. However, the commissioner may deny abandonment based upon satisfactory evidence that a user of gas or coal or lignite located in the state, a majority of which users' employees are Louisiana residents, or which user produces goods or services for Louisiana residents, including gas or electric service, is or will be unable to secure adequate supplies of natural gas or coal or lignite to maintain employment, production, or service levels if abandonment is granted. Application for abandonment shall be made to the commissioner in writing, executed under oath by an individual having authority to execute same with a copy to all interested parties and shall include the following information:

1. description and location, if applicable, of the facility, or portion thereof, or the service rendered by such facility, or portion thereof, to be abandoned;
2. if a gas, coal or lignite sale or transportation contract:
 - a. the exact legal name and status of the seller and purchaser and the name, title and mailing address of the person(s) to whom communications concerning the notice are to be addressed;
 - b. date of contract;
 - c. term of contract;
 - d. quantities of gas, coal or lignite:
 - i. maximum daily quantity seller is obligated to deliver: thousands of cubic feet per day (MCF/Day), millions of British thermal units per day (MMBTU/Day) or tons per day (TON/Day);
 - ii. minimum daily quantity purchaser is obligated to receive: MCF/Day, MMBTU/Day or tons per day (TON/Day);
 - iii. measurement - pressure base;
 - iv. service - firm or interruptible. Give conditions under which deliveries or receipts can be interrupted or curtailed and minimum level of daily volume during interruption or curtailment;
 - e. type of service: (industrial sale, sale for resale, transportation or other);

- f. point(s) of delivery;
 - g. delivery pressures - minimum, maximum;
 - h. price;
- 3. reasons for abandonment;
 - 4. prospective date of abandonment;
 - 5. where an agreement as to the terms and conditions of abandonment has been reached between the transporter and the person or persons who are parties to a contract relating to the use of facilities or services to be abandoned, the application for abandonment shall be accompanied by a letter of agreement, signed by the parties or an authorized agent of the parties, verified under oath;
 - 6. Forms LA-1(A) for abandonment of service and PL-1(B) for abandonment of facility may be obtained from the Office of Conservation.

D. Applications for pregranted abandonment of emergency or temporary sales and connections necessitated thereby, including those sales to supply an immediate and necessary demand for gas, coal, or lignite, shall contain the information required under Subsection C above, and may be administratively approved by the commissioner.

E. The commissioner may request such additional information as in his opinion is reasonably necessary in order to properly evaluate the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 7:80 (April 1981).

§125. Transportation of Intrastate Natural Gas, Coal or Lignite and the Construction, Extension, Acquisition, and Operation of Facilities or Extension Thereof Pursuant to Provisions of Sections 555(C) and 722 of the Act

A. This regulation shall apply to the requirements placed by Sections 555(C) and 722 of the Act upon a person relative to the transportation of intrastate natural gas, coal or lignite, and the construction, extension, acquisition and operation of facilities or extensions thereof.

B. All applications by a person required to be filed with the commissioner of conservation pursuant to the provisions of Sections 555(C) or and 722 of the Act shall be in writing, verified under oath by an individual having authority to execute same, shall be in the form approved by the commissioner, and shall contain the following information:

- 1. the exact legal name of the applicant; its principal place of business; whether an individual, partnership, corporation or otherwise; the State under the laws of which applicant was organized or authorized; if a corporation, a certificate of good standing and authorization to do business from the Secretary of State of Louisiana, the location and the mailing address of applicant's registered office, the name and post office address of each registered agent in Louisiana, and the names and be addresses of all its directors and principal officers; if a partnership or other similar organization, the names and addresses of its partners of record, officer or other responsible parties of record; applicant's current financial statement or such other information which may be submitted by the applicant and accepted by the commissioner concerning the the ability of the applicant to construct, acquire, or operate the proposed facility or extension thereof; and the name, title and mailing address of the person or persons to whom communications concerning the application are to be addressed;

2. the nature of the service rendered by applicant (industrial sale, sale for resale, transportation or other of gas, coal or lignite);

3. a concise description of applicant's existing operations;

4. a table of contents which shall list all exhibits and documents filed with the application;

5. a map(s), of its pipeline system(s), which shall reflect the location and capacity of all compressor sites, all points of connection between such system(s) and pipelines, or pipeline system(s) of other persons, the date of such connections, and all major points of supply;

6. a listing of applicant's gas, coal or lignite sales contracts and gas, coal or lignite transportation contracts within the State of Louisiana on prescribed forms containing the following data:

a. parties: seller, purchaser, owner, transporter;

b. date of contract;

c. term of contract;

d. quantities of gas, coal or lignite:

i. maximum daily quantity seller is obligated to deliver: MCF/Day, MMBTU/Day or TON/Day;

ii. minimum daily quantity purchaser is obligated to receive:
MCF/Day, MMBTU/Day or TON/Day;

iii. measurement - pressure base;

iv. service - firm or interruptible;

v. give conditions under which deliveries or receipts can be interrupted or curtailed and minimum level of daily volume during interruption or curtailment;

e. type of service: (industrial, sale for resale, transportation or other);

f. points of delivery;

g. delivery pressures: minimum, maximum;

h. price;

7. a listing of the location of interconnects between applicant's pipeline system(s) and pipeline or pipeline system(s) of other persons.

C. Subsequent filings may be required by the commissioner to complete an evaluation of each pipeline system for the purposes of Sections 555(C) and 722 or other sections of the Act.

A person authorized to operate as an intrastate natural gas or coal slurry transporter may incorporate the information required to be filed under Subsection B paragraphs 1, 3, 5, 6 and 7 of this regulation by reference to prior hearing evidence, presented to the commissioner, specifically identifying such prior evidence and the items to be incorporated therefrom.

D. All applications filed shall be noticed on interested parties, and all hearings required under Section 555(C) or 722 of the Act shall be in accordance with the rules of procedure of the commissioner. Interested parties shall be as follows:

1. where a new supply of gas, coal or lignite from a producing field(s) or mine in Louisiana is to be connected by a new pipeline, the interested parties shall be:

- a. the owner(s) of the proposed new pipeline;
- b. the owner(s) of an existing pipeline (if different from owner(s) of proposed new pipeline), if any, to which the proposed new pipeline is to be connected;
- c. each seller and each purchaser to the contract or contracts covering the new supply of gas, coal or lignite to be connected, or in the case of gas, coal or lignite to be transported or exchanged, the parties from whom the gas, coal or lignite is to be received, and the parties to whom the gas, coal or lignite is to be delivered;
- d. owner(s) of the land to be traversed by the proposed pipeline in Louisiana;

2. where a new pipeline customer(s) is to be connected, the interested parties shall be:

- a. the owner(s) of the proposed new pipeline;
- b. the owner(s) of an existing pipeline, if any, (if different from the owner or owners of the proposed new pipeline) to which the proposed new pipeline is to be connected and from which pipeline gas, coal or lignite will flow to the proposed new pipeline;
- c. each seller and each purchaser to the contract(s) under which gas, coal or lignite delivered by the new pipeline is to be sold in Louisiana, or in the case of gas, coal or lignite to be transported or exchanged in Louisiana, each party to each transportation or exchange agreement;
- d. owner(s) of the land to be traversed by the proposed pipeline

E. The commissioner, upon proper showing, shall issue his order in accordance with the application submitted. Provided, however, the order shall expire on its first anniversary date if construction of facilities authorized by said order has not commenced. The commissioner may, upon written request and for good cause shown, extend the expiration date of said order. The commissioner shall be given timely written notice when the construction authorized under this regulation is completed.

F. The commissioner may issue, upon application by a person(s) a temporary order in cases of emergency without notice or hearing pending the application for a permanent order, all in accordance with the rules of procedure of the commissioner.

G. Each transporter shall annually file by April 1 an updated map of its intrastate natural or coal slurry gas pipeline facilities depicting the location and size of all compressors, all points of connection between such facilities and pipelines of other persons, all major points of supply, and the nominal size of all lines. If none of the above data has changed during the previous year, the applicant shall so notify the commissioner in writing by April 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 7:80 (March 1981).

§127. Intrastate Natural Gas

A. This regulation shall apply to the price of intrastate natural gas sold by a natural gas company under contracts executed after December 8, 1973, under the provisions of Part V of the Natural Resources and Energy Act of 1973, being Sections 591 through 606 thereof. No contract shall be exempt under the provisions of Section 595.

B. Any and all hearings, investigations, and proceedings conducted or held under Part V of the Act shall be in accordance with the rules of procedure of the commissioner of conservation.

C. Each natural gas company who enters into a contract for the sale of intrastate natural gas shall file with the commissioner, within 30 days after the execution of such contract, one complete copy of said contract and one complete copy of all classifications, practices, and regulations affecting such prices.

D. All notices of contracts, agreements, or understandings, or proposed contracts, agreements, or understandings, which may be submitted to the commissioner pursuant to the provisions of Section 597 of the Act shall be filed on forms approved by the commissioner, shall contain the following information:

1. the exact legal name and status of the purchaser and seller and the name, title, and mailing address of the Person(s) to whom communications concerning the notice are to be addressed;
2. parties: seller, purchaser, owner, transporter;
3. date of contract;
4. term of contract;
5. quantities of gas;
 - a. maximum daily quantity seller is obligated to deliver. (MCF/Day or MMBTU/Day);
 - b. minimum daily quantity purchaser is obligated to receive (MCF/Day or MMBTU/Day);
 - c. measurement: pressure base;
 - d. service firm or interruptible. (Give conditions under which deliveries or receipts can be interrupted or curtailed and minimum level of daily volume during interruption or curtailment);
6. type of sale: industrial, sale for resale, transportation or other;
7. point(s) of delivery;
8. delivery pressures: minimum, maximum;
9. price.

E. Unless the commissioner gives notice to the contrary to the parties within fifteen days from the date of filing hereunder, any contract, agreement or understanding, or proposed contract, agreement or understanding, filed pursuant to the provisions of Section 597 of the Act shall be deemed to have been accepted or approved by the commissioner without objection and to be in compliance with the provisions of Part V of the Act. If however, the commissioner deems it advisable to consider the proposal further, he shall notify the parties accordingly and the matter shall thereafter be processed by the commissioner in accordance with his rules and regulations.

F. All reports to be filed under the provisions of Part V of the Act, exclusive of those permitted or required under Section 597 thereof, shall be filed upon such forms and in such manner as prescribed by the commissioner and as directed by him.

G. The commissioner, upon receipt of a petition from any party to a contract or sale complaining of anything done or omitted to be done by any natural gas company in contravention of the provisions of Part V of this Act, shall pursuant to the provisions of Section 602 of this Act, forward a statement of the complaint to the natural gas company which shall have 20 days from receipt to satisfy the complaint or to answer the same in writing. In the event additional time to answer the complaint is requested by the natural gas company, in writing, the commissioner may, for good cause shown, grant same, but in no case shall the additional time granted exceed 30 days.

H. In connection with filings made with the commissioner by a natural gas company under provisions of Part V of the Act, interested parties shall be the parties to each such contract so filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:355 (November 1979).

§129. Requirements for Connections Pursuant to Sections 555(H) and 722 of the Act and Louisiana Constitution 1974

A. All applications to the commissioner requesting approval for an intrastate natural gas or coal slurry transporter to connect its system with, move gas, coal or lignite into or receive gas, coal or lignite from another pipeline system in the State of Louisiana, including pipelines or pipeline systems owned by it within the terms of Sections 555(H) and 722 of the Act, and Louisiana Constitution 1974, shall contain the following information:

1. point of connection or connections;
2. status or character of each pipeline, specifying whether said line or lines carry intrastate gas, coal or lignite or interstate gas, coal or lignite and whether they have been deemed jurisdictional by the Federal Energy Regulatory Commission or other federal agency;
3. anticipated volumes of natural gas, coal or lignite to be transferred or exchanged from one pipeline to another;
4. term of exchange or transfer;
5. reasons for interconnections;
6. the commissioner may request such additional information as in his opinion is reasonably necessary to properly evaluate the application.

B. No order, ruling or finding may be made or other action taken with respect to this regulation without a public hearing after due notice to all interested parties unless the right to a public hearing is waived pursuant to the provisions of Administrative Procedure Act, as amended (R.S. 49:951-968).

C. Public interest does not require the issuance of an order authorizing any action taken by an intrastate natural gas or coal slurry transporter which would be covered by the provisions of Sections 555(H) and 722 of the Act where imminent danger of life and property can be deliveries eliminated by such action. Provided, however, that every person undertaking such action shall so advise the commissioner immediately by telegram stating briefly the circumstances and shall within 10 days file a statement in writing and under oath, together with four conformed copies thereof, setting forth the purpose and character of the action, the facts warranting invocation of this section, and the anticipated period of the stated emergency. Emergency operations undertaken without an order pursuant to this section shall be discontinued upon the expiration of the emergency or as otherwise ordered by the commissioner.

All facilities installed for such temporary action shall be promptly removed after expiration of the exempt period of operation. Every person shall advise the commissioner in writing and under oath within 10 days following the removal of facilities constructed for emergency operations that such removal of facilities has been completed shall be pursuant to this section. Every person undertaking any such action pursuant to this section desiring to continue such action shall file an application with the commissioner prior to the expiration of the exempt period provided herein.

D. The commissioner may issue, upon application by a person(s) a temporary order for the connection of intrastate facilities in cases of emergency without notice or hearing pending the application for a permanent order, all in accordance with the rules of procedure of the commissioner.

E. Interested parties for the purpose of this regulation shall be owners and operators of the pipeline concerned and the owners and operators of all other pipelines to which either of the pipelines concerned are already connected. If the commissioner determines in connection with any application under Section 555(H) or 722 that a pipeline or pipelines other than defined immediately above may be an interested party, he may direct the applicant to serve notice of its application to such other pipeline or pipelines.

F. This regulation shall not apply to any coal slurry transporter, the operations of which are then being regulated by a federal agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 7:80 (March 1981)

Statewide Order No. 29-B ¹⁷

PART XIX. OFFICE OF CONSERVATION GENERAL OPERATIONS.

**SUBPART 1. STATEWIDE ORDER NO. 29-B.
(COMPOSITE ORDER INCORPORATING AMENDMENTS THROUGH JANUARY 20, 1986)**

CHAPTER 1. GENERAL PROVISIONS

§101. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this order:

The *Department* shall mean the *Department of Conservation* of the State of Louisiana.

The *District Manager* shall mean the head of any one of the *Districts of the State* under the *Division of Minerals*, and as used, refers specifically to the manager within whose district the well or wells are located.

The *Agent* shall mean the *director of the Division of Minerals*, the *chief engineer* thereof, or any of the district managers or their aides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§103. Application to Drill

A. All applications for permits to drill wells for oil or gas or core test wells below the fresh water sands shall be made on Form MD-10-R or revisions thereof, and mailed or delivered to the district office. These applications, in duplicate, shall be accompanied by three copies of the location plat, preferably drawn to a scale of 500 feet to the inch. The plats shall be constructed from data compiled by a registered civil engineer or surveyor and shall definitely show the amount and location of the acreage with reference to quarter-section corners, or other established survey points. There shall also be shown all pertinent lease and property lines, leases and offset wells. When the tract to be drilled is composed of separately-owned interests which have been pooled or unitized, the boundaries to and the acreage in each separately-owned interest must be indicated. Plats must have well locations certifications either written on or attached to the well location plats and this certification must be signed by a registered civil engineer, qualified surveyor or a qualified engineer regularly employed by the applicant. If possible the application card shall give the name and address of the drilling contractor, otherwise the information, as soon as determined, shall be supplied by letter to the district manager.

B. When dual completion applications are granted, each well shall be considered as two wells. The production from each sand shall be run through separate lead lines and the production from each sand shall be measurable separately. The department's agent shall designate suitable suffixes to the well number which will serve as reference to each producing sand.

C. No well shall be drilled, nor shall the drilling of a well be commenced, before a permit for such well has been issued by the Department of Conservation; furthermore, any work, such as digging pits, erecting buildings, derricks, etc., which the operator may do or have done, will be done at his own risk and with the full understanding that the Department of Conservation may find it necessary to change the location or deny the permit because of the rules and regulations applying in that instance.

D. No well shall commence drilling below the surface casing until a sign has been posted on the derrick, and subsequently on the well if it is a producer, showing the ownership and designation of the well, name of lease, section, township, range, and the serial number under which the permit was issued. The obligation to maintain a legible sign remains until abandonment.

In order to make the designation of the well, as referred to above, more uniform throughout the state, and thus to facilitate the handling of all matters relative to any particular well, the following system of rules has been developed for use in the naming of wells in the future in Louisiana:

1. in no case shall any operator name or well name exceed 30 characters. A space is equivalent to one character.

a. abbreviations shall be used whenever possible to comply with the above. It is recommended that *S* be used for sand and *U* for unit.

b. the official well name appearing on Form MD-10-R (Application to Drill) shall be used when reporting on all Department of Conservation forms and also in any correspondence.

2. lease wells

all wells drilled on a lease basis shall bear the lessor's surname and initials or given name.

Example: LEASE NAME WELL NO.
 J. R. Smith #2

3. the commissioner shall prescribe or cause to have prescribed the procedure for assigning well and/or nomenclature and shall issue a memorandum concerning same from time to time as the need arises.

a. developmental units proposed at a hearing shall be named in accordance with the latest memorandum, and the well number shall depend on whether or not there are any other wells in existence on the lease.

b. any unit maps filed with an application for hearing must reflect proposed unit names in accordance with the latest memorandum.

4. units with alternate unit wells

for those cases where more than one well serves the same proration unit, the wells shall be named in accordance with the latest memorandum, and the well number shall be followed by the letters ALT in the case of each alternate well.

Example: LEASE NAME WELL NO.
 Hayes SUE; J. R. Smith #1
 Hayes SUE; Dave Luke #1 ALT
 Hayes SUE; St. Mary #22 ALT

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943, amended (August 1958), amended (August 1961), amended (May 1973).

§105. All Other Applications

A. All applications for permits to repair (except ordinary maintenance operations), abandon (plug and abandon), acidize, deepen, perforate, perforate and squeeze, plug (plug back), plug and perforate, plug back and side-track, plug and squeeze, pull casing, side-track, squeeze, squeeze and perforate, workover, cement casing or liner as workover feature, or when a well is to be killed or directionally drilled, shall be made to the district office on Form MD-11-R and a proper permit shall be received from the district manager before work is started. A description of the work done under the above recited work permits shall be furnished on the reverse side of the Well History and Work Resume Report (Form WH), which form shall be filed with the district office of the Department of Conservation in which the well is located within twenty days after the completion or recompletion of the well. At least 12 hours prior notice of the proposed operations shall be given the district manager and/or an offset operator in order that one of them may witness the work. If the district manager fails to appear within 12 hours, the work may be witnessed by the offset operator, but failing in this, the work need not be held up longer than 12 hours. This rule shall not deter an operator from taking immediate action in an emergency to prevent damage.

B. When a service company, other than the drilling contractor, cements, perforates or acidizes, either before or after completion of a well, the service company shall furnish the district manager with legible exact copies of reports furnished the owner of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (August 1958).

§107. Records

A. The district office shall be supplied with available field maps showing lease lines and well locations for all producing areas within the district, such maps to be provided by persons or companies operating in the field, on request of the commissioner or his agent.

B. Electrical logs, when run, of all test wells, or wells drilled in search of oil gas sulphur and other minerals, shall be mailed in duplicate to the district office of the Department of Conservation in which the well is located, such copies to be mailed within 10 days after completion of the well. These logs shall be filed on the following scales:

1. all North Louisiana districts

normal log - two inches to 100 feet.

2. all South Louisiana districts

normal log - one inch to 100 feet

detailed log - five inches to 100 feet.

C. The service company running the electric log on the well shall include as a part of she information on the log the permit serial number of the well.

D. A new form entitled "Well History and Work Resume Report" (Form WH) shall be filed with the district office in which the well is located within 20 days after completion of the well. This report shall be filed on forms furnished by the Department of Conservation or on like forms as reproduced by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943, amended (August 1958).

§109. Casing Program

A. Conductor Pipe

Conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. The use and removal of conductor pipe during the drilling of any oil and gas well shall be at the option of the operator.

B. Surface Casing

1. Where no danger of pollution of fresh water sources exists, the minimum amount of surface of first-intermediate casing to be set shall be determined from "Table Number One" hereof:

TABLE NUMBER ONE

Total Depth of Contact	Casing Required	Number of Sacks Cement	Surface Casing Test Pressure Lbs. Per. Sq. In.
0-2500	100	200 or circulate to surf	300
2500-3000	150	500 "	600
3000-4000	300	500 "	600
4000-5000	400	500 "	600
5000-6000	500	500 "	750
6000-7000	800	500 "	1000
7000-8000	1000	500 "	1000
8000-9000	1400	500 "	1000
9000-Deeper	1800	500 "	1000

**Circulate to the Surface* shall mean the calculated amount of cement necessary to fill the theoretical annular space plus 10 per cent.

In known low-pressure areas, exceptions to the above may be granted by the commissioner or his agent. If, however, in the opinion of the commissioner, or his agent, the above regulations shall be found inadequate, and additional or lesser amount of surface casing and/or cement or test pressure shall be required for the purpose of safety and the protection of fresh water sands.

2. Surface casing shall be tested before drilling the plug by applying a minimum pump pressure as set forth in "Table One" after at least 200 feet of the mud-laden fluid has been displaced with water at the top of the column. If at the end of 30 minutes the pressure gauge shows a drop of 10 per cent of test pressure as outlined in "Table One", the operator shall be required to take such corrective measures as will insure that such surface casing will hold said pressure for 30 minutes without a drop of more than 10 per cent of the test pressure. The provisions of Subsection D.7, below, for the producing casing, shall also apply to the surface casing.

3. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating test or drilling plug. *Under Pressure* is complied with if one float valve is used or if pressure is held otherwise.

C. Intermediate Casing

1. Intermediate casing is that casing used as protection against caving of heaving formations or when other means are not adequate for the purpose of segregating upper oil, gas or water-bearing strata.

2. If an intermediate casing string is deemed necessary by the district manager for the prevention of underground waste, such regulations pertaining to a minimum setting depth, quality of casing, and cementing and testing of sand, shall be determined by the department after due hearing. The provisions of Subsection D.7, below, for the producing casing, shall also apply to the intermediate casing.

D. Producing Oil String

1. Producing or oil string is that casing used for the purpose of segregating the horizon from which production is obtained and affording a means of communication between such horizons and the surface.

2. The producing string of casing shall consist of new or reconditioned casing, tested at mill test pressure or as otherwise designated by the department and set at a sufficient depth to cut off all gas formations above the oil-saturated horizon in which the well is to be completed. The position of the oil horizon shall be determined by coring, testing or electrical logging, or other satisfactory method, and the producing string of casing shall be bottomed and cemented at a point below the gas/oil contact if determinable and practicable.

3. Cement shall be by the pump-and-plug method, or another method approved by the department. Sufficient cement shall be used to fill the calculated annular space behind the casing to such a point, as in the opinion of the district manager, local conditions require to protect the producing formations and all other oil and gas formations occurring above, but in every case, no less cement shall be used than the calculated amount necessary to fill the annular space to a point 500 feet above the shoe.

4. The amount of cement to be left remaining in the casing, until the requirements of Paragraph 5 below, have been met, shall be not less than 20 feet. This shall be accomplished through the use of a float-collar, or other approved or practicable means, unless a full-hole cementer, or its equivalent, is used.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating test or drill plug in the producing or oil string. *Under Pressure* is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. Before drilling the plug in the producing string of casing, the casing shall be tested by pump pressure, as determined from "Table Two" hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

TABLE NUMBER TWO
(Intermediate and Producing Casing)

String Pressure		Producing Test
<u>Depth Set</u>	<u>No. of Sacks of Cement</u>	<u>(Lbs. Per Sq. In.)</u>
2000-3000'	200) But in every case no less cement	800
3000-6000'	300) shall be used than the calculated	1000
6000-9000'	500) amount necessary to fill the annular	1200
9000-and deeper	500) space to a point 500' above the shoe	1500

If at the end of 30 minutes the pressure gauge shows a drop of 10 per cent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that the producing string of casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 per cent of the test pressure on the gauge.

7. If the commissioner's agent is not present at the time designated by the operator for inspection of the casing tests of the producing string, the operator shall have such tests witnessed, preferably by an offset operator. An affidavit of test, on the form prescribed by the Department of Conservation, signed by the operator and witness, shall be furnished to the district office of the Department of Conservation showing that the test conformed satisfactorily to the above mentioned regulations before proceeding with the completion. If test is satisfactory, normal operations may be resumed immediately.

8. If the test is unsatisfactory, the operator shall not proceed with the completion of the well until a satisfactory test has been obtained.

E. Tubing and Completion

1. All flowing wells shall be produced through tubing not larger than two and one-half inches, unless otherwise allowed by the department, upon application.

2. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

3. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure of the casing.

F. Wellhead Connections

Wellhead connections shall be tested prior to installation at a pressure indicated by the district manager in conformance with conditions existing in areas in which they are used. Whenever such tests are made in the field, they shall be witnessed by an agent of the department. Tubing and tubingheads shall be free from obstructions in wells used for bottomhole pressure test purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (February 1951), amended (August 1958).

§111. Blowout Preventers

A. All wells drilling or running casing or tubing are to be equipped with a master gate and a blowout preventer having the correct size rams or plugs installed and in first class condition, together with a flowing valve of the recommended size and working pressure. If a *fillup* line is connected to the blowout preventer, the line shall be equipped with such valves and fittings of at least the same working pressure as the blowout preventer. If the preventer is hydraulically operated,

adequate pressure shall at all times be available for efficient operations.

B. The entire control equipment shall be in good working order and condition at all times and shall meet with the test or inspection requirement of the department.

C. If at any time, evidence indicates that the preventer is not efficient, the casing shall be blocked off below the preventer by some effective method and such repairs to the preventer shall be made as to allow it to hold the originally designated pressure test.

D. Drill strings shall be equipped with a stop-cock or some other type of drill-stem back-pressure valve for the purpose of controlling back-flow.

E. No casing shall be perforated until adequate control equipment has been installed and in good working order. Such control equipment shall consist of Master Valve and Lubricator, or their equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§113. Casing-heads

All wells shall be equipped with casing-heads with a test pressure in conformance with conditions existing in areas in which they are used. Casing-head body, as soon as installed shall be equipped with proper connections and valves accessible to the surface. Reconditioning shall be required on any well showing pressure on the casing-head, or leaking gas or oil between the oil string and next larger size casing string, when, in the opinion of the district managers, such pressure or leakage assume hazardous proportions or indicate the existence of underground waste. Mud-laden fluid may be pumped between any two strings of casing at the top of the hole, but no cement shall be used except by special permission of the commissioner or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§115. Fire Hazards

A. 1. All wells shall be cleaned into a pit, barge, or tank, located at a distance of at least 100 feet from any fire hazard.

2. Before any well shall be perforated, the drilling fluid in the well shall be conditioned and brought to a weight necessary to hold the normal hydrostatic pressure at the point to be perforated with a reasonable margin of safety; provided, however, in cases where the tubing and Christmas Tree are set for production, the weight of the drilling fluid may be reduced below that weight necessary to hold the normal hydrostatic pressure at the point to be perforated. Before perforating, proper connections for lubricating the gun in and out of the hole shall be installed.

3. a. All drill stem tests shall be started and completed during daylight hours, except in fields where from bottom-hole pressures and other information it is known that the pressure does not exceed the pressure of a column of oil from top to hole to the producing horizon. *Started and Completed* shall mean the opening and the closing of the drill-stem testing tool valve or valves controlling the flow through the choke.

b. In the absence of special prior permission from the department, no drill-stem test shall be conducted with chokes larger than 1/4 inch on both top and bottom.

4. All wells shall be swabbed or bailed during the daylight hours except in cases of low pressure wells as Paragraph 3 above.

B. No boiler, open fire, or electric generator shall be operated within 100 feet of any producing oil or gas well, or oil tank.

C. 1. Each permanent oil tank or battery of tanks that are located within the corporate limits of any city, town or village, or where such tanks are closer than 500 feet to any highway or inhabited dwelling or closer than 1000 feet to any school or church, or where such tanks are so located as to be deemed a hazard by the commissioner of Conservation, must be surrounded by a dike (or firewall) or retaining wall of at least the capacity of such tank or battery of tanks, with the exception of such areas where such dikes (or firewalls) or retaining walls would be impossible such as in water areas. At the discretion of the commissioner of Conservation, firewalls of 100 per cent capacity can be required where other conditions or circumstances warrant their construction.

2. In water, swamp or marsh areas, where the building of firewalls is impossible or impracticable, in the future, permanent tanks shall be placed on an impervious platform surrounded by a metal gutter to catch all the oil and other wastes which may cause either a fire-hazard or pollution. A sump shall be provided to catch the run-off from the gutters; however, if the operator or company has devised a plan which serves the same purpose, the district manager may after being presented with the plan, waive the above requirements.

3. Tanks not falling in the above categories (Paragraphs 1 and 2) must be surrounded by a retaining wall, or must be suitably ditched to a collecting sump, each of sufficient capacity to contain the spillage and prevent pollution of the surrounding areas.

D. All gas vents from oil tanks shall terminate outside of the firewall.

E. Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 100 feet from the vicinity of wells, tanks, and pump stations. All waste shall be burned or disposed of in such a manner as to avoid creating a fire hazard or polluting streams and fresh water strata.

F. Each operator shall so conduct his operations and maintain his equipment as to reduce to a minimum the danger of explosion or fire, and consequent waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (March 1955), amended (December 1963).

§117. Drilling Fluids

The inspectors and engineers of the Department of Conservation shall have access to the mud records of any drilling well, except those records which pertain to special muds and special work with respect to patentable rights, and shall be allowed to conduct any essential test or tests on the mud used in the drilling of a well. When the conditions and tests indicate a need for a change in the mud or drilling fluid program in order to insure proper control of the well, the district manager shall require the operator or company to use due diligence in correcting any objectionable conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§119. Well Allowables and Completion

A. New Well and Recompleted Well Allowables ,

1. Upon completion or recompletion of a well, immediate notice within 24 hours from the time of completion (Sundays and Holidays excepted) must be filed in writing with the district office on forms provided by the department. Notice of completion or recompletion of a well may be made by telephone or telegram to the district manager if supplemented by written notice on proper form within three days from the date of completion or recompletion. Wells shall be considered completed when turned into the tanks. A potential and gas/oil ratio test shall then be conducted by the operator or company, and witnessed by an inspector of the department within five days from the date of completion or recompletion (Sundays and Holidays excepted.)

2. After receipt of the completion reports and reports or tests required by the commissioner, a completed or recompleted well shall be given a daily allowable, determined in the same manner as was used in computing the schedule of daily allowables for the months in which such completion is made.

3. The daily well allowable when determined shall be effective from 7 a.m. on the date of completion or recompletion if the well is completed or recompleted before 7 p.m.; and from 7 a.m. of the following day if the well is completed or recompleted after 7 p.m.; provided the completion or recompletion report has been filed in accordance with the above-mentioned provisions, and if the initial potential and gas/oil ratio test has been made within five days from the date of completion or recompletion.

If the completion or recompletion is not reported as provided, then the daily well allowable shall be effective from the date of receipt of the completion or recompletion report, with a one-day tolerance. If the initial potential and gas/oil ratio test is not made within five days from the date of completion or recompletion, the daily well allowable shall be effective as of the date of request by the operator for an inspector of the department to witness the said test.

B. Allowables given to wells for oil produced on drill-stem tests, production test and any miscellaneous production of oil shall be in accordance with the following rule:

All operators are required, within five days, to file three signed copies of the records of the daily production from the well, showing the number of hours the well produced and the interval of production; as from 8 a.m., August 5 to 3 p.m., August 8, 1941.

C. All leases are to be so equipped as to permit the determination of gas/oil ratios on individual flowing and gas-lift wells. Gas/oil ratio data on all wells shall be available to the inspector of the department at all times.

D. No flowing and/or gas-lift oil wells shall be permitted to produce with excessive gas/oil ratio, except where special orders are operative. Wells that are gas/lifted with gas from gas wells shall be prorated in the same manner as are hi-ratio naturally flowing oil wells, the G.O.R. being defined for this purpose as the total output gas less the total input gas divided by the number of barrels of oil produced. The uneconomic or unreasonable use of gas for gas-lift will not be permitted.

E. 1. Each lease shall be provided with sufficient tankage or meters to permit proper gauging of the oil produced. The tanks or meters must be identified by a sign showing the ownership of the tanks or meters and name of the lease from which the oil is being produced. In no case shall meters be the sole means of measuring oil runs from any field. There must be used at least one gauge tank to check the reading of meters. Applications for the use of oil meters in lieu of gauge tanks, shall be the subject of open hearings until rules are formulated.

2. All flowing and gas-lift oil wells are to be produced through efficient operating separators, except in the case of low-pressure headings of gas-lift wells with low-gas output.

3. All oil meters and bypass settings shall be provided with the necessary connections to permit the installation of seals and such seals shall be affixed by the operator. A record shall be kept on file and available for inspection by any agent of the department or any party at interest for a period of not less than three years, which reflects the oil meter seal number, the date and time the oil meter is sealed, the date and time the seal is broken and the reason for breaking the seal. To obviate the necessity of affixing oil meter seals, oil meters with nonresettable counters may be used.

4. When it becomes necessary to use a bypass or other flowline connection which the operator has been required to seal or which has been sealed by the department, permission to use same must be obtained from the district manager. In the event that an unforeseen emergency requires the use of bypass or flowline connections before notification to the district office, a detailed, written report, in duplicate, setting forth the occasion for such action must be given, and the bypass or other connection shall forthwith be resealed.

F. In the event that any operator considers that his well has not had a fair determination of its gas/oil ratio, or that its gas/oil ratio has changed due to natural causes or to corrective work on his well, he may make application in writing to the district manager for a retest or a special test of the gas/oil ratio of his well, and for an adjustment of the allowable of his well. If, upon retesting a well, the district manager finds that the new gas/oil ratio justifies a change in the allowable, he is authorized to make such change.

G. Changed or corrected allowable shall be effective from the date of completion of such work, but in no case shall the effective date be before the date of request by the operator to the district manager for a retest or a special test.

H. Gas wells shall not be tested by the open-flow method. The back-pressure method of determining the open flow, as outlined by the Bureau of Mines in their Monograph 7, "Back Pressure Data on Natural Gas Wells", shall be used. When, for any reasons, the back-pressure method is not feasible, an acceptable method, not entailing excessive physical waste of gas, may be used, upon recommendation of the technical staff of the department.

I. It is recognized that wells capable of producing their daily oil allowable may underproduce one day and overproduce another day during the period of an allowable schedule; however, such deficiencies as occur in this manner may be made up by excess production from the same well on the succeeding days during the period of that schedule, or such overproduction may be adjusted by underproduction on the succeeding days during the period of that schedule; provided, however, that no well shall produce in any one calendar month more than the total daily allowable per well multiplied by the total number of days in the calendar month; however, in order to provide working stocks of oil and to facilitate the production and gathering of oil including testing, bottomhole pressure survey, et cetera, the production and possession of a quantity of oil in the lease storage not exceeding three days current allowable production for the

lease at the end of the month in excess of the total monthly allowables, as determined in accordance with the provisions of the production and proration order, shall not be construed to be a violation of said order.

The authorization of production and possession of a quantity of oil not exceeding three days current allowable production shall not be construed to be the granting of authority to any operator to offer to a market, or market, or any transporter to transport any quantity of oil in excess of the quantity specifically determined to be the total monthly allowable for each respective lease whose allowable shall have been determined by the summation of the monthly quantities determined by the multiplication of the quantity shown in the allowable schedule times the days of the month for which said allowable is effective plus or minus any allowable additions or cancellations multiplied by the days which either or both may be effective during the period covered by the schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (January 1963), amended (June 1969).

§121. Production, Production Records, Production Tests

A. All oil tendered to any transportation system shall be gauged and tested for B. S. & W. and temperature. For each and every transfer of oil from the lease tanks, the number of the *on-seal* and *off-seal* observed temperature, and the percent of B. S. & W. shall be recorded on each and every run ticket, and each party of any transfer of oil from lease tanks shall receive a copy of the run or delivery ticket or tickets.

B. 1. There shall not be any simultaneous movement of oil into and out of any lease tank that is being used for delivering oil to a gatherer or transporter. Transfer of oil or gas from the possession of one lease to the possession of another lease, except when properly accounted for, is hereby prohibited.

2. The possession of improper mechanical means for transferring oil from one lease tank or well to the lease tank or well of another lease is hereby prohibited.

3. All pipeline outlets from lease tanks shall be kept sealed at all times except when a pipeline run is being made from the tank, and the number of the on-seal and off-seal shall be recorded on each and every run ticket.

4. B. S. & W. bleed-off lines of lease tanks shall be sealed or locked at the time any pipeline run is being made.

5. Oil produced from separately-owned leases, not pooled, unitized or consolidated shall not be commingled in lease tanks.

6. All leases having more than one producing well shall be equipped with a test line, so as to obviate the necessity of spudding in wells when taking individual well tests.

C. Producers shall keep the following records in the main office for a period of three years and the current records in the field office for three months:

1. the monthly production in gross barrels produced from each lease and tank into which the oil was produced. A record of choke, percent B. S. & W., tubing pressures, and casing pressures of each oil well on that particular lease shall be recorded on a monthly basis, and if a choke is changed, the date of such change shall be recorded on the monthly record. If a well is put on production, either initially or returned to production after cessation of production, during the monthly period preceding the date of the record, the date the well was put on production shall also be recorded on the monthly record;

2. a record of stock on hand on the first day of each month;
3. a record of all deliveries of oil from the lease, to whom made, and the identity of the means of transportation, and the transporter; and
4. gauge tickets, and run tickets, as made by the employees actually performing or directing the operations recorded on such records.

D. 1. Every producer shall make and report to the district managers production tests of each of his oil wells by the 10th of February, April, June, August, October and December. The data collected shall include the daily rate of production, size choke, percent B. S. & W., tubing pressure, casing pressure, gravity at 600 Fahrenheit, or observed gravity and temperature, gas/oil ratio and volume of gas produced, which shall be recorded on the daily gauge report on or before the above date. A signed record of such tests shall be filed with the district manager.

2. When any well or wells shall go off production other than because of ordinary maintenance operations, same shall be reported to the district office immediately and a letter of cancellation of allowable for that well shall be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (January 1963), amended (July 1959).

§123. Oil and Gas Measurements

A. Quantities of oil shall be computed from correctly compiled tank tables and no deduction shall be taken therefrom. Corrections shall be made for temperature to the basis of 60° Fahrenheit in accordance with Table 6 in ASTM Designation: D 1250 - IP Designation: 200. The full per centum of B.S. & W. as shown by the centrifugal or other tests shall be deducted after making correction for temperature.

B. Combined Correction Tables for making both temperature and B. S. & W. correction at the same time may be used, if the combined tables are based on the above-mentioned Abridged Volume Correction Table for Petroleum Oils, and if the factors are calculated in such a manner that they give the same results as would be obtained by making the temperature correction and the B.S. & W. deduction separately.

C. A cubic foot of gas is hereby defined as that amount of gaseous hydrocarbons contained in a cubic foot of space at the base temperature of 60° Fahrenheit and an absolute pressure of 14.4 lbs./sq. in. plus 10 oz./sq. inch, which temperature and pressure are referred to as the base temperature and pressure, respectively.

D. Basic orifice coefficients used in the calculation of gas flow shall be those contained in the American Gas Association's Gas Measurement Committee Report No. 1 and No. 2, or some other basic orifice coefficients generally accepted in the industry and approved by the Department of Conservation, such as those published by the Foxboro Company, American Meter Company, and Pittsburg Equitable Meter Company. Corrections for base pressure, base temperature shall be made. Corrections for supercompressibility are recommended when equal to or greater than one percent in cases where data are available. Corrections for Reynolds number and expansion factor are recommended only in cases where their combined correction is equal to or exceeds one percent.

E. Gas Measurements with Pitot Tubes shall be based on Reid's formula and shall follow recommendations similar to those set forth in Appendix 4 of the Bureau of Mines Monograph 7. Corrections for base pressure, base temperature, shall be made as in orifice measurements.

F. Gas measurements with orifice Well Tests shall follow recommendations similar to those set forth in Bulletin #E-7 of the American Meter Company. Corrections for base pressure and base temperature, and gravity shall be made as in orifice measurements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (January 1954), amended (May 1973).

§125. Delegation of Authority

It is the duty of the commissioner of Conservation, or his agents, to make such changes in the monthly production and proration orders as may appear reasonably necessary for the purposes of safety, conservation, the prevention of waste, or the maintenance of proper gas/oil ratio, in accordance with the orders and regulations of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§127. Bottomhole Pressure

The commissioner shall have the authority to require bottom-hole pressure surveys of the various fields at such times as he may designate. However, operators shall be required to take bottom-hole pressures in those wells only which are not likely to suffer any injurious effects therefrom. Tubing and tubingheads shall be free from obstructions in wells used for bottom-hole pressure test purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§129. Pollution Control

A. Permits Required

1. Permits are required for wells which inject fluids:

a. which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

b. for enhanced recovery of oil and natural gas; and

c. for storage of hydrocarbons which are liquid at standard temperature and pressure.

2. Sub-surface injection or disposal by use of a well as described in Paragraph 1.a, above is prohibited unless authorized by permit or rule. This authorization shall be conditioned upon the applicant taking necessary or corrective action to protect underground sources of drinking water as specified by the commissioner. *Underground source of drinking water* (USDW) means an aquifer or its portion:

a.i. which supplies any public water system; or

ii. which contains a sufficient quantity of ground water to supply a public water system; and

(a). currently supplies drinking water for human consumption; or

(b). contains fewer than 10,000 mg/l total dissolved solids; and

b. which is not an *exempted aquifer* (see Part XVII.1.103.H).

3. Existing enhanced recovery, saltwater disposal, and liquid hydrocarbon storage wells are authorized by rule and are not required to reapply for a new permit. However, they are subject to the provisions of Subsection J.3.

4. the provisions and requirements of this Section shall apply to underground injection by federal agencies or any other person whether or not occurring on property owned or leased by the United States.

B. Onsite Storage, Treatment and Disposal of Nonhazardous Oilfield Waste (NOW) Generated from the Drilling and Production of Oil and Gas Wells

1. Definitions

Community Saltwater Disposal Well or System is defined in Section 129.M.

Contamination is the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

Elevated Wetland Area is a wetland area which is not normally inundated with water and where land mass and levee material are available for mixing with waste fluids during closure of a pit.

Groundwater Aquifer is water in the saturated zone beneath the land surface that contains less than 10,000 mg/l TDS.

Hydrocarbon Storage Brine is well water, potable water, rainwater, or brine (partially saturated to completely saturated) used as a displacing fluid in hydrocarbon storage well operations.

Manufactured Liner means any man-made synthetic material of sufficient size and qualities to sustain a hydraulic conductivity no greater than 1×10^{-7} cm/sec. after installation and which is sufficiently reinforced to withstand normal wear and tear associated with the installation and pit use without damage to the liner or adverse affect on the quality thereof. For purposes of this Section 129.B and Section 129.M, a manufactured liner used in pit construction must meet or exceed the following standards:

Parameter or Test Standard

Thickness (average)	10 mil (.01 in)
Breaking Strength (Grab Method)*	90 lbs
Bursting Strength*	140 psi
Tearing Strength*	25 lbs
Seam Strength*	50 lbs

* Testing is to be performed according to ASTM method D-751, latest revision.

Mining Water is well water, potable water, rainwater, or unsaturated brine which is injected into a brine solution mining well for recovery as saturated brine.

NOW is nonhazardous oilfield waste.

Nonhazardous Oilfield Waste is defined in Section 129.M.

Onsite for purposes of this Section means on the same lease or contiguous property owned by the lessor, or within the confines of a drilling unit established for a specific well or group of wells.

Operation of Oil and Gas Facilities as used in Section 129 means all oil and gas wells, disposal wells, enhanced recovery injection wells and facilities, flowlines, field storage and separation facilities, natural gas processing and/or gas sweetening plants, and compressor stations.

Pit for purposes of Section 129 means a natural topographic depression or manmade excavation used to hold produced water or other nonhazardous oilfield waste, hydrocarbon storage brine, or mining water. The term does not include lined sumps less than 660 gallons or containment dikes, ring levees or firewalls constructed around oil and gas facilities.

Produced Water includes liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

Production pits are either earthen or lined storage pits for collecting NOW sediment periodically cleaned from tanks and other producing facilities, for storage of produced water or other nonhazardous oilfield wastes produced from the operation of oil and gas facilities, or used in conjunction with hydrocarbon storage and solution mining operations as follows:

a. *burn pits* are earthen pits intended for use as a place to temporarily store and periodically burn nonhazardous oilfield waste (excluding produced water) collected from tanks and facilities;

b. *compressor station pits* are lined or earthen pits intended for temporary storage or disposal of fresh water condensed from natural gas at a gas pipeline drip or gas compressor station;

c. *emergency pits* are lined or earthen pits used to periodically collect produced water and other NOW fluids only during emergency incidents, rupture or failure of other facilities;

d. *produced water pits* are lined or earthen pits used for storing produced water and other nonhazardous oilfield wastes, hydrocarbon storage brine, or mining water;

e. *washout pits* are lined or earthen pits used to collect wash water generated by the cleaning of vacuum truck tanks and other vessels and equipment only used to transport nonhazardous oilfield waste. Any materials other than NOW are prohibited from being placed in such pits;

f. *well test pits* are small earthen pits intended for use to periodically test or cleanup a well; or

g. *natural gas processing plant pits* are lined or earthen pits used for the storage of process waters or stormwater runoff. No produced water may be stored in a natural gas processing plant pit.

Reserve Pits are temporary earthen pits used to store only those materials used or generated in drilling and workover operations.

Submerged Wetland Area is a wetland area which is normally inundated with water and where only levee material is available for mixing with waste fluids during closure of a pit.

Underground Source of Drinking Water (USDW) for the purpose of administering these rules and regulations is defined in Section 129.A.2.

Upland Area is an area which is not identified as a wetland and includes farmland, pasture land, recreational land and residential land.

2. General Requirements

a. Produced water generated from the drilling and production of oil and gas wells shall be disposed of into subsurface formations not productive of hydrocarbons, unless discharged or disposed of according to the provisions of Section 129.B.2.e or transported offsite in accordance with Section 129.M.

b. Produced water may be disposed of by subsurface injection into legally permitted or authorized operators saltwater disposal wells, commercial saltwater disposal wells, enhanced recovery injection wells, community saltwater disposal wells, or gas plant disposal wells. The use of hydrocarbon storage brine and mining water in storage and/or mining operations is not considered to be disposal.

c. Contamination of a groundwater aquifer or a USDW with NOW is strictly prohibited. In addition, the injection of NOW into a groundwater aquifer or a USDW is strictly prohibited.

d. Produced water and other NOW generated in the drilling and production of oil and gas wells shall not be disposed of into a zone producing or productive of hydrocarbons unless such disposal is approved by the Office of Conservation after a public hearing or unless prior approval to use the proposed zone for such disposal can be documented.

e. The discharge of produced water or other NOW (including drilled solids) into manmade or natural drainage or directly into state waters is allowed only in conformance with any applicable state or federal discharge regulatory program.

f. The use of closed NOW storage systems is encouraged by the Office of Conservation; therefore, the use of new or existing pits to store produced water, drilling fluids, and other NOW generated from the drilling and production of oil and gas wells is prohibited unless:

i. notification for each pit is submitted to the Office of Conservation as outlined in Subsection B.3;
and

ii. pits are in conformance with standards set forth in Subsection B.4.

g. Unless exempted from liner requirements in Section 129.B.2.M or N below, all existing produced water pits, natural gas plant pits, compressor station pits, and washout pits which are to be utilized in the operation of oil and gas or other facilities must be shown to comply with the liner requirements of Subsection B.4.a.i or be permanently closed in accordance with the pit closure criteria of Subsection B.6 and B.7 within 36 months of the effective date (January 20, 1986) of this amendment. A certification attesting to compliance with these requirements shall be submitted to this office in a timely manner.

h. All existing pits which are not to be utilized in the operation of oil and gas or other facilities must be permanently closed according to the requirements of Subsection B.6 and B.7 within 36 months of the effective date (January 20, 1986) of this amendment. A certification attesting to compliance with these requirements shall be submitted to this office in a timely manner.

i. Within six months of the effective date (January 20, 1986) of this amendment, operators of existing pits are required to comply with all applicable operational requirements of Section 129.B.4.a.ii and iv, b.i,ii and iii, c.ii, iv, v, and vi, d.ii, iv, and v, and e.i, iii, iv, and vi.

j. Production pits, except for those identified in Subsection B.2.k and n below, may not be constructed in a V or A zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA), unless such pits have levees which have been built at least one foot above the 100 year flood level and able to withstand the predicted velocity of the 100-year flood. Location, construction and use of such pits is discouraged.

k. Production pits located within inland tidal waters, lakes bounded by Gulf of Mexico or saltwater marshes must be constructed to maintain a levee with an elevation of at least two feet above mean high tide, the liquid level in pit(s) shall not be permitted to rise within two feet of top of pit levee or walls, and any surface water discharge from an active pit must be done in accordance with appropriate state or federal regulatory programs. Such discharge must be piped to open water (within the marsh) that receives good flushing action and shall not otherwise significantly increase the salinity of the receiving body of water or marsh. Location, construction, and use of such pits is discouraged.

l. Within six months of the completion of the drilling or workover of any permitted well, the operator (generator) shall certify to the commissioner the types and number of barrels of NOW generated, the disposition of such waste, and further certify that such disposition was conducted in accordance with applicable rules and regulations of the Office of Conservation. Such certification shall become a part of the well's permanent history.

m. The following pits are exempt from the liner requirements of Subsection B.4:

i. production pits located within inland tidal waters, lakes bounded by the Gulf of Mexico, or saltwater marshes, provided that such pits are part of an approved treatment train to remove residual oil and grease from permitted produced water discharges; and

ii. natural gas processing plant pits and compressor station pits which collect and store process water and stormwater runoff.

n. Based upon the best practical technology, production pits located within an A zone (FEMA) which meet the following criteria are not subject to the levee height requirements of Subsection B.2.j above or the liner requirements of Subsection B.4.a.i:

- i. pit size is less than or equal to 10' x 10' x 4' deep;
- ii. such pit contains only produced brine; and
- iii. such pit is utilized for gas wells producing less than 25 mcf per day and less than or equal to one barrel of saltwater per day (bswpd).

Evidence of contamination of a groundwater aquifer or USDW may require compliance with the monitoring program of Subsection B.5, compliance with the liner requirements of Subsection B.4.a.i, or immediate closure of the pit.

3. Notification

a. Existing Pits

i. Each pit which was constructed prior to the effective date of this amendment is an existing pit. Use of an existing pit is prohibited unless the operator has reported that pit to the Office of Conservation within six months of the effective date of this rule according to the requirements of this Subsection. Notification shall contain the information requested below. Pits closed prior to the effective date of this amendment are not considered existing pits.

ii. Within six months of the effective date of this rule, operators of existing pits must submit the following information to the Office of Conservation:

(a). for each existing pit to be utilized in the operation of oil and gas facilities, the information requested in Subsection B.3.d.i - viii below;

(b). for each existing pit not to be utilized in the operation of oil and gas facilities, the information requested in Subsection B.3.d.i - vi below; and

(c). a plan and schedule of abandonment for closure of pits identified in Subclause (b) above. Such plan must comply with the provisions of Subsection B.2.h, and Subsections B.6, and B.7. Failure to comply with the plan in a timely manner will subject an operator to appropriate civil penalties.

b. New Pits

Except for reserve pits, operators must notify the Office of Conservation of the intent to construct new pits at least 10 days prior to start of construction. Notification shall contain all information requested in Subsection B.3.d below. The Office of Conservation may inspect any proposed pit site prior to or during construction; however, initial use of the completed pit need not be deferred if no inspection is made.

c. Reserve Pit Notification

For reserve pits used in drilling and workover operations, notification requirements of this rule shall be satisfied by application for a drilling or workover permit.

d. Notification Information Required:

- i. name of facility pit (indicate whether new or existing)
- ii. field designation, if applicable
- iii. section, township and range (include approximate footage location of pit center)
- iv. parish name
- v. type of pit (consistent with definitions in Section 129.B.1)
- vi. size of pit (length, width and depth)
- vii. type of liner, if applicable

viii. certification that each pit will or does conform to standards stipulated under Subsection B.4 below, applicable to that type pit and that such compliance will be within the time frame described in Section 129.B.2.g and h, and i, if applicable.

4. Pit Classification, Standards and Operational Requirements

Pits shall meet the following criteria as applicable:

- a. produced water, natural gas plant, compressor station and washout pits

i. except where exempted by Section 129.B.2.m and n, groundwater aquifer and USDW protection for above listed pits shall be provided by one of the following:

(a). a liner along the bottom and sides of pits which has the equivalent of three continuous feet of recompacted or natural clay having a hydraulic conductivity no greater than 1×10^{-7} cm/sec. Such liners include, but are not limited to the following:

(i). *natural liner* - natural clay having a hydraulic conductivity meeting the requirements of Subclause (a) above;

(ii). *soil mixture liner* - soil mixed with cement, clay-type, and/or other additives to produce a barrier which meets the hydraulic conductivity requirements of Subclause (a) above;

(iii). *recompacted clay liner* - in situ or imported clay soils which are compacted or restructured to meet the hydraulic conductivity requirements of Subclause (a) above;

(iv). *manufactured liner* - synthetic material that meets the definition in Subsection B.1 and is equivalent or exceeds the hydraulic conductivity requirements of Subclause (a) above. Pits constructed with a manufactured liner must have side slopes of 3:1 and the liner at the top of the pit must be buried in a one foot wide and one foot deep trench. A sufficient excess of liner material shall be placed in the pit to prevent tearing when filled with NOW; and

(v). *combination liner* - a combination of two or more types of liners described in this Section which meets the hydraulic conductivity requirements of Subclause (a) above.

(b). any other alternate groundwater aquifer and USDW protection system acceptable to the Office of Conservation.

ii. pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphon or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal and/or state regulatory programs are not considered to be pollution or contamination as used herein.

iii. a representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under Subsection B.3.b.

iv. liquid levels in pits shall not be permitted to rise within two feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overfill, and leakage of NOW to the environment.

v. when use of a pit will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of all fluids in a manner compatible with all applicable regulations and closed in accordance with Subsections B.6 and B.7 within six months of abandonment.

b. Reserve Pits

i. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Authorized surface discharges of pit contents under federal or state regulatory programs are not considered to be pollution or contamination as used herein.

ii. Liquid levels in pits shall not be permitted to rise within two feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overfill, and leakage of NOW to the environment.

iii. Operators shall prevent the placing of produced water, waste oil, trash, or any other material into a reserve pit which would increase the difficulty in cleanup of the pit or otherwise harm the environment. Such material shall be properly stored and disposed of according to applicable state or federal regulations.

iv. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with Subsections B.6 and B.7 within six months of completion of drilling or workover operations.

c. Burn Pits

i. Pits shall be constructed in such a manner as to keep fire hazards to a minimum, and in no case shall be located less than 100 feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

ii. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination.

iii. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under Subsection B.3.b.

iv. Any burning process shall be carried out in conformance with applicable Air Quality Regulations. Notification as required by said regulation shall be made to the Air Quality Division, Department of Environmental Quality.

v. No produced water, radioactive material (except industry accepted and license-approved radioactive material utilized in oil field operations, and radioactive material naturally occurring in the produced fluids), or other noncombustible waste products shall be placed in pits, except water or emulsion which may be associated with crude oil swabbed or otherwise produced during test operations, or during tank or other vessel cleaning operations. NOW must be removed or burned periodically to assure that storage of materials in the pit is kept to a minimum.

vi. Liquid levels in pits shall not be permitted to rise within two feet of top of pit levees or walls. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

vii. When use of pits will be permanently discontinued by the operator of record, the Office of Conservation shall be notified in writing. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with Subsections B.6 and B.7 within six months of abandonment.

d. Well Test Pits

i. Pits shall be constructed in such a manner as to keep fire hazards to a minimum, and in no case shall be located less than 100 feet from a well location, tank battery, separator, heater-treater, or any and all other equipment that may present a fire hazard.

ii. Pits shall be protected from surface waters by levees or walls and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination.

iii. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pit as provided under Subsection B.3.b.

iv. Within 30 days after completion of a well test, pits shall be emptied of produced fluids and must remain empty of produced fluids during periods of nonuse.

v. Liquid levels in pits shall not be permitted to rise within two feet of top of pit walls or dikes. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

vi. When use of pits will be permanently discontinued, the Office of Conservation shall be notified in writing. Pits shall be emptied of fluids in a manner compatible with all applicable regulations, and closed in accordance with Subsections B.6 and B.7 within six months of abandonment.

e. Emergency Pits

i. Groundwater aquifer and USDW protection for emergency pits shall be evaluated on a case-by-case basis. Operators who intend to utilize existing or new emergency pits without liners must demonstrate by written application to the Office of Conservation that groundwater aquifer and USDW contamination will not occur; otherwise, emergency pits shall be lined. Applications to demonstrate unlined pits will not contaminate groundwater aquifers and USDW's shall at a minimum address the following:

(a). emergency incident rate - operator shall estimate the number of times a pit will be utilized each year. A detailed discussion of the facility operation and reasons for the emergency incident rate must be addressed;

(b). soil properties - operator shall describe and evaluate soil properties onsite. Soil hydraulic conductivity and physical properties must be addressed to assess potential groundwater aquifer and USDW impacts;

(c). groundwater aquifer evaluation - water quality, ground-water aquifer, and USDW depth shall be evaluated; and

(d). produced water composition (total dissolved solids and oil and grease) - must be determined to assess potential impacts on the site.

ii. All emergency pits required to be lined must conform to hydraulic conductivity requirements in Subsection B.4.a.i above.

iii. No produced water or any other NOW shall be intentionally placed in any emergency pit not meeting the hydraulic conductivity requirements (1×10^{-7} cm/sec. for three continuous feet of clay) except in the case of an emergency incident. In emergency situations, notice must be given to the Office of Conservation within 24 hours after discovery of the incident. Produced water and any other NOW must be removed from the pit within seven days following termination of the emergency situation.

iv. Pits shall be protected from surface waters by levees and by drainage ditches, where needed, and no siphons or openings will be placed in or over levees or walls that would permit escaping of contents so as to cause pollution or contamination. Surface discharges of pit contents under federal or state permits are not considered to be pollution or contamination as used herein.

v. A representative of the Office of Conservation must be given an opportunity to inspect prior to and during construction of the pits as provided under Subsection B.3.b.

vi. Liquid level in pits shall not be permitted to rise within two feet of top of pit levees. Pit levees or walls shall be maintained at all times to prevent deterioration, subsequent overflow, and leakage of NOW to the environment.

vii. When use of pits will be permanently discontinued, the Office of Conservation shall be notified in writing. After notification to the Office of Conservation, pits shall be emptied of all fluids in a manner compatible with all applicable regulations, and closed in accordance with Subsections B.6 and B.7 within six months of abandonment.

f. Office of Conservation Corrective Action and Closure Requirement

Should the Office of Conservation determine that continued operation of pits specified in Subsection B.4 may result in contamination of a groundwater aquifer or a USDW, or the discharge of fluids into manmade or natural drainage or directly into state waters, or contamination of soils outside the confines thereof, further use of the pit shall be prohibited until conditions causing or likely to cause contamination have been corrected. If corrective measures are not satisfactorily completed in accordance with an Office of Conservation compliance order or schedule, the commissioner may require closure of the pit. When an order for closure is issued, a pit shall be closed in accordance with Subsections B.6 and B.7 and the operator must comply with any closure schedule issued by the Office of Conservation.

5. Monitoring Program

a. Upon a determination by the operator or the Office of Conservation that any pit subject to this rule is likely to contaminate a groundwater aquifer or a USDW, the Office of Conservation shall require the timely submission of a plan for the prevention of such contamination. Such plan may include using an under-built drainage and collection system, monitoring wells, and/or other means that the Office of Conservation may approve to prevent or detect contamination. Any required monitor wells shall be registered with the appropriate state agency.

b. When required by the Office of Conservation, monitoring shall be conducted on a quarterly schedule. A written report summarizing the results of such monitoring shall be submitted to the Office of Conservation within 30 days of the end of each quarter.

c. If monitoring of groundwater aquifer of USDW indicates contamination due to & discharge from a pit, the owner or operator shall immediately notify the Office of Conservation. Within 30 days, the operator shall empty the pit of all NOW and submit a remedial plan for prevention of further contamination of any groundwater aquifer or any USDW. Upon approval, the remedial plan shall be implemented by the operator and monthly progress reports, reviewing actions taken under the plan and their results, will be filed with the Office of Conservation until all actions called for in the plan have been satisfactorily completed.

d. Notification received by the Office of Conservation, pursuant to Subsection B.5.a, b, or c above, of any contamination of a ground-water aquifer or a USDW as the possible result of a discharge, or information obtained by the exploitation of such notification shall not be used against the reporting owner or operator in any criminal action, including but not limited to those provided for by R.S. 30:18, except in a prosecution for perjury or for giving a false statement.

6. Pit Closure

a. Pits must be closed properly to assure protection of soil, surface water, groundwater aquifers and USDW's. Operators may close pits utilizing onsite land treatment, burial, solidification or other techniques approved by the Office of Conservation only if done so in compliance with Subsections B.7 and B.8. Otherwise, all NOW must be manifested according to Section 129.M.6 and transported offsite to a permitted commercial facility.

b. Liability for pit closure shall not be transferred from an operator to the owner of the surface land(s) on which a pit is located.

c. For evaluation purposes prior to closure of any pit and for all closure and onsite and offsite disposal techniques, excluding subsurface injection of reserve pit fluids, nonhazardous oilfield waste (pit contents) must be analyzed for the following parameters:

i. pH

ii. total metals content (ppm) for:

- | | | |
|-------------|--------------|--------------|
| (a) arsenic | (d) chromium | (g) selenium |
| (b) barium | (e) lead | (h) silver |
| (c) cadmium | (f) mercury | (i) zinc |

- iii. oil and grease (per cent dry weight)
- iv. soluble salts and cationic distributions:
 - (a). electrical conductivity - EC in mmhos/cm (millimhos);
 - (b). sodium adsorption ratio - SAR;
 - (c). exchangeable sodium percentage - ESP(per cent); and
 - (d). cation exchange capacity - CEC (milliequivalents/100 gm soil).

d. Laboratory Procedures for Nonhazardous Oilfield Waste Analyses

i. Soluble salts, cationic distributions and oil and grease (organics):

(a). samples are to be analyzed using standard soil testing procedures (latest revision) as described in the following:

(i). *Methods of Soil Analysis* (Page, 1982);

(ii). *Handbook No. 60* (USDA, 1954); and

(iii). *Test Methods for Evaluating Solid Waste* (EPA/SW 846, 1982, 2nd Rev.);

(b). the pH, electrical conductivity (EC), soluble cations, and SAR are to be determined for saturated paste extracts. The pH and EC are read direct. Metal cations (Ca, Mg, and Na), required for calculating the SAR, are determined by flame atomic absorption spectroscopic technique (AAS);

(c). cation exchange capacity (CEC) is determined by the $\text{NaC}_2\text{H}_3\text{O}_2$ method buffered at pH 8.0. Exchangeable cations (Na, K, Mg and Ca) are determined by $\text{NH}_4\text{C}_2\text{H}_3\text{O}_2$ extraction buffered at pH 7.0;

(d). exchangeable sodium percentage (ESP) is calculated as adsorbed Na divided by the CEC and expressed as a whole number by multiplying by 100, and

(e). oil and grease is assayed gravimetrically following extraction with 15 percent diethylether in dichloromethane (Brown and Deuel, 1981).

ii. Total metals:

(a). samples are to be analyzed for total metals following vigorous digestion with nitric acid as described in *Methods for Chemical Analysis of Water and Wastes* (EPA 1979);

(b). silver, barium, cadmium, chromium, lead and zinc are determined by direct aspiration AAS, graphite furnace AAS or other approved EPA test protocol;

(c). arsenic and selenium are determined by hydride generation and flame AAS, graphite furnace AAS or other approved EPA test protocol; and

(d). mercury is analyzed by cold vapor technique.

e. Documentation of testing and closure activities, including onsite disposal of NOW, shall be maintained in operator's files for at least three years after completion of closure activities. Upon notification, the Office of Conservation may require the operator to furnish these data for verification of proper closure of any pit. If proper onsite closure has not been accomplished, the operator will be required to bring the site into compliance with applicable requirements.

f. Reserve pits utilized in the drilling of wells less than 5,000 feet in depth are exempt from the testing requirements of Subsections B.6.c and B.7 provided the following conditions are met:

i. the well is drilled using only fresh water native mud which contains no more than 25 lbs/bbl bentonite, 0.5 lbs/bbl caustic soda or lime, and 50 lbs/bbl barite; and

ii. documentation of the above condition is maintained in the operator's files for at least three years after completion of pit closure activities.

7. Pit Closure Techniques and Onsite Disposal of NOW

a. Reserve pit fluids, as well as drilling muds, cuttings, etc. from holding tanks, may be disposed of onsite provided the technical criteria of Subparagraphs c, d, e, or f below are met, as applicable. All NOW must be either disposed of onsite or transported to an approved commercial facility or transfer station in accordance with the requirements of Subsection M or under the direction of the commissioner.

b. Prior to conducting onsite pit closure activities, an operator must make a determination that the requirements of this Paragraph are attainable.

c. For all pit closure techniques in this Paragraph, except solidification, waste/soil mixtures must not exceed the following criteria:

i. range of pH: 6 - 9; and

ii. total metals content (ppm):

PARAMETER	LIMITATION
Arsenic	10
Barium	2000
Cadmium	10
Chromium	500
Lead	500
Mercury	10
Selenium	10
Silver	200
Zinc	500

d. Land Treatment

Pits containing NOW may be closed onsite by mixing wastes with soil from pit levees or walls and adjacent areas provided waste/soil mixtures at completion of closure operations do not exceed the following criteria, as applicable, unless the operator can show that higher limits for EC, SAR and ESP can be justified for future land use or that background analyses indicate that native soil conditions exceed the criteria:

i. in addition to the pH and metals criteria listed in Subparagraph c above, land treatment of NOW in submerged wetland, elevated wetland and upland areas is permitted if the oil and grease content of the waste/soil mixture after closure is 1 percent (dry weight);

ii. additional parameters for land treatment of NOW in elevated, freshwater wetland areas where the disposal site is not normally inundated:

(a). electrical conductivity (EC-solution phase): < 8 mmhos/cm

(b). sodium adsorption ratio (SAR-solution phase): < 14

(c). exchangeable sodium percentage (ESP-solid phase): < 25 percent

iii. additional parameters for land treatment of NOW in upland areas:

(a). electrical conductivity (EC-solution phase): < 4 mmhos/cm

(b). sodium adsorption ratio (SAR-solution phase): < 12

(c). exchangeable sodium percentage (ESP-solid phase): < 15 percent

e. Burial or Trenching

Pits containing NOW may be closed by mixing the waste with soil and burying the mixture onsite, provided the material to be buried meets the following criteria;

i. the pH and metals criteria in Subparagraph c above;

ii. moisture content: < 50 percent by weight.

iii. electrical conductivity (EC): 12 mmhos/cm.

iv. oil and grease content: < 3 percent by weight.

v. top of buried mixture must be at least five feet below ground level and then covered with five feet of native soil; and

vi. bottom of burial cell must be at least five feet above the seasonal high water table.

f. Solidification

Pits containing NOW may be closed by solidifying wastes and burying it onsite provided the material to be buried meets the following criteria:

- i. pH range: 6 - 12;
- ii. leachate testing² for oil and grease: ≤ 10 mg/l

* Note: The leachate testing method for oil and grease must be submitted in writing to the commissioner for approval.

iii. leachate testing (EP Tox) for the following metals:

(a) arsenic	≤ 0.5	mg/l	(f) mercury	≤ 0.02	mg/l
(b) barium	≤ 10.0	mg/l	(g) selenium	≤ 0.1	mg/l
(c) cadmium	≤ 0.1	mg/l	(h) silver	≤ 0.5	mg/l
(d) chromium	≤ 0.5	mg/l	(i) zinc	≤ 5.0	mg/l
(e) lead	≤ 0.5	mg/l			

iv. top of buried mixture must be at least five feet below ground level and covered with five feet of native soil;

v. bottom of burial cell must be at least five feet above the seasonal high water table; and

vi. solidified material must meet the following criteria²:

- (a). unconfined compressive strength (Qu): 200 lbs/in² (psi).
- (b). permeability: 1×10^{-6} cm/sec; and
- (c). wet/dry durability: 10 cycles to failure.

* Note: Testing must be conducted according to ASTM or other approved methods prior to pit closure by solidification processes.

g. Offsite Disposal of NOW

i. Except for produced water, drilling, workover and completion fluids, and rainwater which may be transported by an oil and gas operator to a community well or an operators permitted Class II disposal well or discharged to surface waters where authorized, nonhazardous oilfield waste shall not be moved offsite for storage, treatment or disposal unless transported to an approved commercial facility or transfer station in accordance with the requirements of Section 129.M or under the direction of the commissioner.

ii. The criteria for land treatment, burial or solidification listed above will apply, as appropriate, to the onsite disposal of any nonhazardous oilfield waste remaining onsite.

iii. NOW that fails to meet the criteria of this Paragraph for onsite disposal shall be moved offsite by the operator to a permitted commercial facility or transfer station in accordance with the requirements of Section 129.M.

8. Disposal of Reserve Pit Fluids by Subsurface Injection

a. General Provisions

i. The disposal (subsurface injection) of drilling and workover waste fluids (including reserve pit fluids) into (1) a newly drilled well which is to be plugged and abandoned or (2) into the casing annulus of a well being drilled, a recently completed well, or a well which has been worked over is prohibited, except when such injection is conducted in accordance with the requirements of this Subparagraph.

ii. Injection of drilling and workover waste fluids shall not commence until approval has been granted by the Office of Conservation. Operators may apply for approval when applying for a drilling permit. Approval for injection into a well will remain valid for subsequent workovers provided the criteria in §129.B.8.c below continue to be met.

iii. Injection of drilling and workover waste fluids (including reserve pit fluids) shall be limited to injection of only those fluids generated in the drilling, stimulation or workover of the specific well for which authorization is requested. Reserve pit fluids may not be transported from one well location to another for injection purposes.

iv. Injection of drilling and workover waste pit fluids into zones that have been tested for hydrocarbons or are capable of hydrocarbon production is prohibited, except as otherwise provided by the commissioner.

v. Pump pressure shall be limited so that vertical fractures will not extend to the base of the USDW and/or grand-water aquifer.

vi. A drilling and workover waste fluids injection site may be inspected by a duly authorized representative of the commissioner prior to approval.

vii. Drilling and workover waste fluids to be injected pursuant to the provisions of this Subparagraph are exempt from the testing requirements of §129.B.6.c.

b. Application Requirements

i. Prior to the onsite injection of reserve pit fluids, an application shall be filed by the well operator on the appropriate form. The original and one copy of the application (with attachments) shall be submitted to the Office of Conservation for review and approval.

ii. An application for approval of reserve pit fluid injection shall include:

(a). Schematic diagram of well showing:

(i). total depth of well,

(ii). depths of top and bottom of all casing strings and the calculated top of cement on each,

(iii). size of casing, and

(iv). depth of the deepest USDW.

(b). Operating data:

(i). Maximum pressure anticipated, and

(ii). Estimated volume of fluids to be injected.

(c). A copy of the electric log of the well (if run) or a copy of the electric log of a nearby well;

(d). Additional information as the commissioner may require.

c. Criteria for Approval

i. Casing string injection may be authorized if the following conditions are met and injection will not endanger underground sources of drinking water:

(a). Surface casing annular injection may be authorized provided the surface casing is set and cemented at least 200 feet below the base of the lowermost USDW, except as otherwise provided by the commissioner; or

(b). Injection through perforations in the intermediate or production casing may be authorized provided that intermediate or production casing is set and cemented at least 200 feet below the base of the lowermost USDW, except as otherwise provided by the commissioner.

ii. Surface casing open hole injection may be approved provided the surface casing is set and cemented at least 200 feet below the lowermost USDW and a cement plug of at least 100 feet has been placed across the uppermost potential hydrocarbon bearing zone.

9. Requirements for Community Saltwater Disposal Wells and Systems.

a. The use of legally permitted saltwater disposal well and system for community saltwater disposal purposes is prohibited unless the disposal well system operator submits a statement of noncommercial operation and the information requested in §129.B.9.b. below to the Office of Conservation. Such statement must indicate that the operators using the community saltwater disposal system share only in the cost of operating and maintaining the well and related storage tanks and equipment (system).

b. The operator of an existing or proposed community saltwater disposal well and system must submit the following information to the Office of Conservation:

i. The name of the community saltwater disposal system including the disposal well name(s) and number(s), serial number(s), field, and section, township, and range.

ii. A list of the operators using the community saltwater disposal system.

iii. A list of the producing wells (well name, number, and serial number) from which saltwater going into the community saltwater system is generated.

iv. The approximate number of barrels per month of saltwater received from each producing well.

v. The method of transportation of the saltwater to the community system (i.e., truck, pipeline, etc.).

c. Within six months of the effective date of this amendment and annually thereafter, the operator of an existing community saltwater disposal system shall report the information required in §129.B.9.b above to the Office of Conservation

C. Application Requirements for New Enhanced Recovery Injection and New Saltwater Disposal Wells

1. Each application for the approval of a new enhanced recovery injection well or disposal well shall be filed on Form MD-10-R and shall be verified by a duly authorized representative of the operator. The original and one copy of the application and two complete sets of attachments shall be furnished to the commissioner. An application for the approval of an injection well which is a part of a proposed enhanced recovery operation may be consolidated with the application for the approval of the enhanced recovery project (see Subsection C.2.d below).

2. The application for the approval of an enhanced recovery injection or disposal well or wells shall be accompanied by:

a. a map showing the disposal well or enhanced recovery project area for which a permit is sought and the applicable area of review (for individual wells- $\frac{1}{4}$ mile radius; for enhanced recovery projects - the project area plus a circumscribing area the width of which is $\frac{1}{4}$ mile) and the following information:

i. within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells and dry holes;

ii. identification of the surface owner of the land on which the enhanced recovery injection or disposal is to be located within the area of review;

iii. identification of each operator of a producing leasehold within the area of review;

iv. the map may also show surface bodies of water, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or projected; and

v. only information on file with the Office of Conservation and pertinent information known to the applicant is required to be included on this map.

b. if the well has been drilled, a copy of the Well History and Work Resume Report (WH-1) and any available electric or radioactive log of the well. A descriptive statement of the proposed zone to be used for injection or disposal. The approximate depth of said zone in the case of undrilled wells along with an electric or radioactive log of a nearby well, if available.

c. a schematic diagram of the well showing:

i. the total depth, drilled out depth or plugged back depth of the well;

ii. the depth of the top of the injection or disposal interval;

iii. the geological name of the injection or disposal zone;

iv. the depths of the tops and bottoms of the casing and amount of cement used to cement each string of casing: (Every well used for injection shall be cased, cemented and tested in accordance with Subsections H and J of this Order.)

v. the size of the casing and tubing, and the depth of the packer; and

vi. the depth of the base of the deepest USDW.

d. information showing that injection into the proposed zone will not initiate fractures through the overlying strata which could enable the injection fluid or formation fluid to enter an underground source of drinking water. This requirement will be satisfied upon proper demonstration by the applicant that the pressure in the well at the depth of injection shall not exceed 75 percent of the pressure needed to fracture the formation.

e. proposed operating data:

i. daily injection rates and pressures;

ii. geologic names, depths and location of injection fluid sources;

iii. qualitative and quantitative analysis of water from two or more existing water wells within one-quarter mile of proposed enhanced recovery injection or disposal well or wells. Give location of said water wells and date(s) samples were taken, or statement why samples were not submitted;

iv. qualitative and quantitative analysis of representative sample of water to be injected;

v. geological name of injection zone and vertical distance separating top of injection zone from base of the deepest USDW, and a geological description of each major separating bed including individual bed thickness; and

vi. geological name, if known, and depth of the base of the deepest USDW.

D. Application Requirements for Enhanced Recovery Projects

1. An enhanced recovery project shall be permitted only by order of the commissioner after notice and public hearing.

2. The application for a permit authorizing an enhanced recovery project shall contain the following:

a. the names and addresses of the operator or operators of the project;

b. in addition to the information on the map required in Paragraph C.2.a of this amendment, show the lease, group of leases, unit or units included within the proposed project;

c. the common source or sources of supply in which all wells are currently completed;

d. the name, description and depth of each common source of supply to be affected;

e. a log of a representative well completed in the common source or sources of supply;

f. a description of the existing or proposed casing programs for injection wells, and the proposed method of testing all casing;

g. a description of the injection medium to be used, its source or sources and the estimated amounts to be injected daily;

h. for a project within an allocated pool, a tabulation showing recent gas-oil ratios and oil and water production tests for each of the producing oil and/or gas wells;

i. the proposed plan of development of the area included within the project; and

j. a schematic diagram of existing and/or proposed injection well(s) as set out in Subsection C.2.c of this amendment.

3. A copy of the application shall be mailed to each operator offsetting the project as shown on the application within five days after the application is filed. An affidavit of compliance with this rule shall be filed on or before the hearing.

4. Injectivity Tests and Pilot Projects

a. Injectivity test - The commissioner may administratively approve for a period of one week an injectivity test in order to determine the injection rate, injectivity index, and/or pressure analysis of a well for enhanced recovery.

i. Requests for injectivity tests must include the following:

(a). well name and number

(b). serial number

(c). Form WH-1 of the well

(d). schematic diagram of the well

(e). sand, reservoir, and field

(f). brief discussion of the proposed test

ii. The commissioner must be provided with the results of the injectivity test after completion.

b. Pilot Projects - The commissioner may administratively approve pilot projects for enhanced recovery for a period of six months from the date of initiation of injection.

i. Requests for pilot projects must include Form UIC-II(EOR) for each well to be used for injection within the project and such additional information the commissioner deems necessary to justify the approval of the pilot project.

ii. Wells used for injection within the pilot project are exempt from the provisions of Section 129.E of this Order.

iii. Within 10 days of initiation of injection the operator must notify the commissioner in writing the date injection actually commenced.

iv. To continue operation beyond the six month pilot project approval, the operator must obtain approval of an enhanced recovery project (prior to the expiration date of the administratively approved six month pilot project) pursuant to the rules of procedure for conducting hearings before the commissioner of Conservation, R.S. 30:5C, R.S. 30:6, and Section 129.C.1 and 2, Section 129.D.1, 2, and 3 of this Order.

v. In the event the pilot project is unsuccessful, the operator must submit a letter to the commissioner requesting termination of such project.

E. Permit Notice Requirements

1. Applications for saltwater disposal, enhanced recovery wells or projects, and other Class II facilities shall be advertised in the official state journal.

2. Notice requirements for commercial saltwater facilities can be found in Section 129.M of the Amendment to Statewide Order 29-B (Section 129) entitled *Offsite Disposal of Drilling Mud and Saltwater* dated July 20, 1980.

3. Public Hearings

a. If any person protests the application for a saltwater disposal or other Class II facility by filing written comments with the commissioner within 15 days following publication of notice, the application shall be set for public hearing at the election of the applicant or the commissioner.

b. All enhanced recovery well or project applications shall be approved only after a 30 day comment period and public hearing. The notice of hearing shall be mailed out to each interested owner and to each interested party.

4. The commissioner may administratively approve or deny the application for a Class II well other than an enhanced recovery well or project, after review, without a public hearing if there are no comments received during the application comment period. If the commissioner denies administrative approval, the operator shall have a right to a public hearing on the decision.

5. Response to Comments

a. At the time that any final permit is issued, following a public hearing, the commissioner shall issue a response to comments. This response shall briefly describe and respond to all significant comments on the permit application raised during the public comment period, or during any hearing.

b. The response to comments shall be available to the public.

F. Duration of Permits

1. Permits authorizing injection into enhanced recovery injection wells and disposal wells shall remain valid for the life of the well, unless revoked by the commissioner for just cause.

2. A permit granting underground injection may be modified, revoked and reissued, or terminated during its term for cause. This may be at the request of any interested person or at the commissioner's initiative. All requests shall be in writing and shall contain facts or reasons supporting the request.

3. A permit may be modified, revoked and reissued, or terminated after notice and hearing, if:

a. there is a substantial change of conditions in the enhanced recovery injection well or the disposal well operation, or there are substantial changes in the information originally furnished;

b. information as to the permitted operation indicates that the cumulative effects on the environment are unacceptable, such as pollution of USDW's;

- c. there are substantial violations of the terms and provisions of the permit; and
- d. the operator has misrepresented any material facts during the permit issuance process.

G. Transfer of Permits

A permit authorizing an enhanced recovery injection well or disposal well shall not be transferred from one operator to another without the approval of the commissioner (Form MD-10-R-A).

H. Construction Requirements For New Wells

1. Each new enhanced recovery injection well or disposal well shall be completed, equipped, operated and maintained in a manner that will prevent endangerment of USDW's or damage to sources of oil or gas and will confine injected fluids to the interval or intervals approved.

2. The casing and cementing program shall conform to the following requirements:

a. surface casing set through the base of the deepest USDW and cemented back to the surface in accordance with Section 109.B.1 of this order; and

b. long string casing shall be cemented above the injection zone in accordance with Section 109.D.3 of this Order.

3. Tubing and Packer. New wells drilled or existing wells converted for disposal after the effective date of this rule shall be equipped with tubing set on a mechanical packer. Packers shall be set no higher than 150 feet above the top of the disposal zone.

4. Pressure Valves. The wellhead shall be equipped with aboveground pressure observation valves on the tubing and for each annulus of the well; said valves will be equipped with 1/2 inch female fittings. Operators of existing wells shall comply with this requirement by no later than six months after adoption of this amendment.

5. Well History. Within 20 days after the completion or conversion of a disposal well, the owner or operator shall file in duplicate to the commissioner a completed form WH-1.

I. Monitoring and Reporting Requirements

1. The operator shall monitor injection pressure and injection rate of each enhanced recovery injection well or disposal well on a monthly basis with the results reported annually on Form SWD-1R-2.

2. The operator shall report on Form SWD-1R-2 any casing annulus pressure monitoring used in lieu of pressure testing and any other casing annulus pressure test performed.

3. All reports submitted to the Office of Conservation shall be signed by a duly authorized representative of the operator.

4. The operator of an enhanced recovery injection well or disposal well shall, within 30 days, notify the commissioner of the date upon which injection or disposal commenced.

5. The operator shall request permission from the commissioner for suspension of injection if an injection well or project is to be removed from service for a period of six months or more, and give reasons or justification for such suspension of injection. Said permission shall not exceed one year. After one year, the well or well(s) in a project shall be plugged and abandoned as outlined in Section 137 of this Order. The operator may request a hearing for an extension exceeding one year. Wells required for standby service, provided they meet all requirements for wells in active service, are exempt from the plugging requirements of this Subsection.

6. The operator shall, within 30 days notify the commissioner of the date injection into an enhanced recovery injection well, enhanced recovery injection project or disposal well is terminated permanently and the reason therefore; at which time the permit authorizing the well or project shall expire. Notification of project injection termination must be accompanied by an individual well status report for all project injection wells.

7. Mechanical failures or downhole problems which indicate an enhanced recovery injection well or disposal well is not, or may not be, directing the injected fluid into the permitted or authorized injection zone may be cause to shut-in the well. If said condition may endanger a USDW, the operator shall orally notify the commissioner within 24 hours at (504) 342-5515. Written notice of this failure shall be submitted to the Office of Conservation within five days of the occurrence together with a plan for testing and/or repairing the well. Results of such testing and well repair shall be included in the annual monitoring report to the commissioner. Any mechanical downhole well repair performed on the well not previously reported shall also be included in the annual report.

J. Logging and Testing Requirements

1. New Wells

a. Before operating a new well drilled for enhanced recovery injection or saltwater disposal, the casing outside the tubing shall be tested under the supervision of the Office of Conservation at a pressure not less than the maximum authorized injection pressure, or at a pressure of 300 psi, whichever is greater.

b. i. If open-hole logs of a nearby well were not run through the lowermost USDW, a new well shall be logged from the surface to the total depth before casing is set.

ii. If such logs exist for a nearby well, the new well need only be logged electrically below the surface casing before the longstring is let.

c. After cementing the casing, a cement bond log, temperature survey, x-ray log, density log or some other acceptable test shall be run to assure there are no channels adjacent to the casing which will permit migration of fluids up the wellbore from the disposal formation to the lowermost USDW. The casing program shall be designed for the lifetime of the well.

2. Converted Wells

Before operating an existing well newly converted to enhanced recovery injection or disposal, the casing outside the tubing shall be tested under supervision of the Office of Conservation at a pressure of 1000 psi or maximum authorized injection pressure, whichever is less, provided no testing pressure shall be less than 300 psi.

3. Existing Wells

a. An injection well has mechanical integrity if:

i. there is no significant leak in the casing, tubing or packer; and

ii. there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection wellbore.

b. One of the following methods must be used to evaluate the absence of significant leaks under Paragraph 3.a.i above:

i. monitoring of annulus pressure; or

ii. pressure test with liquid; or

iii. records of monitoring showing the absence of significant changes in the relationship between injection pressure and injection flow rate for the following enhanced recovery wells:

(a). existing wells completed without a packer provided that a pressure test has been performed and the data is available and provided further that one pressure test shall be performed at a time when the well is shut down and if the running of such a test will not cause further loss of significant amounts of oil or gas; or

(b). existing wells constructed without a longstring casing, but with surface casing which terminates at the base of the lowest USDW provided that local geological and hydrological features allow such construction and provided further that the annular space shall be visually inspected. For these wells, the commissioner shall prescribe a monitoring program which will verify the absence of significant fluid movement from the injection zone into an USDW.

c. One of the following methods must be used to determine the absence of significant fluid movement under Paragraph 3.a.ii above:

i. cementing records demonstrating the presence of adequate cement to prevent such migration; or

ii. the results of a temperature or noise log.

d. The commissioner may approve a request for the use of a test to demonstrate mechanical integrity other than those listed in Paragraphs 3.b and 3.c above, if the proposed test will reliably demonstrate the mechanical integrity for wells for which its use is proposed.

e. Each disposal and enhanced recovery well shall demonstrate mechanical integrity at least once every five years. The commissioner will prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with this requirement.

4. The operator shall notify the commissioner at least 48 hours prior to the testing. Testing shall not commence before the end of the 48 hour period unless authorized by the commissioner. The commissioner may authorize or require alternative tests or surveys as IS deemed appropriate and necessary.

5. A complete record of all mechanical integrity pressure tests shall be made out, verified and filed in duplicate on the Form PLT#1 within 30 days after the testing.

K. Confinement of Fluids

If the operator or the commissioner determines that the disposal operation is causing fluid to enter an unauthorized stratum or to escape to the land surface, the operator shall shut-in the disposal well immediately and notify the commissioner by telephone within 24 hours at (504) 342-5515. Injection into the disposal well shall not be resumed until the commissioner has determined that the well is in compliance with all material permit conditions. If the certificate of compliance is not issued within 90 days, the permit shall be canceled and the disposal well shall be plugged and abandoned in accordance with Section 137.

L. Enhanced recovery injection wells and disposal wells shall be plugged in accordance with the provisions of the commissioner's rules governing the plugging of oil and gas wells, as found in Section 137.

M. Offsite Storage, Treatment and/or Disposal of Nonhazardous Oilfield Waste Generated from Drilling and Production of Oil and Gas Wells

1. Definitions

Cell is an earthen area constructed within a land treatment facility used for the placement, treatment, disposal and degradation of non-hazardous oilfield waste.

Closed System is a system in which nonhazardous oilfield waste is stored in enclosed tanks or barges prior to being treated and/or disposed of. Pits are not utilized in a closed system.

Commercial Facility is a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of nonhazardous oilfield waste for a fee or other consideration.

Commissioner is the Commissioner of Conservation of the State of Louisiana.

Community Saltwater Disposal Well or System is a saltwater disposal well within an oil or gas field which is used by operators in the field or adjacent fields for disposal of their produced water.

Generator is any person or entity who generates or causes to be generated any nonhazardous oilfield waste (NOW), sometimes referred to as operator.

Groundwater Aquifer is defined in Section 129.M.2.

Land Treatment is a dynamic process involving the controlled application of nonhazardous oilfield waste onto or into the aerobic surface soil horizon by a commercial facility, accompanied by continued monitoring and management, to alter the physical, chemical, and biological state of the waste. Site, soil, climate and biological activity interact as a system to degrade and immobilize waste constituents thereby rendering the area suitable for the support of vegetative growth and providing for beneficial future land use.

Offsite, for purposes of Section 129 and Paragraph M, shall mean outside the confines of a drilling unit for a specific well or group of wells, or in the absence of such a unit, outside the confines of a lease or contiguous property owned by the lessor upon which a well is drilled.

NOW is nonhazardous oilfield waste.

Nonhazardous Oil field Waste (NOW) is waste generated by the drilling and production of oil and gas wells and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations. Such wastes include the following:

- a. saltwater (produced brine or produced water), except for saltwater whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations;
- b. oil base drilling mud and cuttings;
- c. water base drilling mud and cuttings;
- d. drilling, workover and completion fluids;
- e. production pit sludges;
- f. production storage tank sludges;
- g. produced oily sands and solids;
- h. produced formation fresh water;
- i. rainwater from ring levees and pits at production and drilling facilities;
- j. washout water generated from the cleaning of vessels (barges, tanks, etc.) that transport nonhazardous oilfield waste and are not contaminated by hazardous waste or material;
- k. washout pit water from oilfield related carriers that are not permitted to haul hazardous waste or material;
- l. nonhazardous natural gas plant processing waste which is or may be commingled with produced formation water;
- m. waste from approved salvage oil operators who only receive waste oil (BS&W) from oil and gas leases;
- n. pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pig water, i.e., waste fluids generated from the cleaning of a pipeline;
- o. wastes from permitted commercial facilities; and
- p. material used in crude oil spill clean-up operations.

Oil-based Drilling Muds is any oil-based drilling fluid composed of a water in oil emulsion, organophilic clays, drilled solids and additives for down-hole rheology and stability such as fluid loss control materials, thinners, weighting agents, etc.

Pit is an earthen surface impoundment constructed to retain nonhazardous oilfield waste, often referred to as a pond or lagoon.

Reusable Material is a material that would otherwise be classified as nonhazardous oilfield waste, but which is capable of resource conservation and recovery and has been processed in whole or in part for reuse. To meet this definition, the material must have been treated physically, chemically, or biologically or otherwise processed so that the material is significantly changed (i.e., the new material is physically, chemically, or biologically distinct from the original material), and meets the criteria of Section 129.M.8.f.

Saltwater (Produced Brine) is produced water from an oil or gas well with a chloride content greater than 500 ppm.

Transfer Station is a nonhazardous oilfield waste receiving and storage facility, located offsite, but operated at an approved location in conjunction with a permitted commercial facility, which is used for temporary storage of manifested nonhazardous oilfield waste for a period of 30 days or less.

Transporter is a legally permitted carrier of nonhazardous oilfield waste contained in trucks, barges, boats, or other transportation vessels.

Water-based Drilling Muds is any water based fluid composed of fresh water, naturally occurring clays, drilled solids and additives for fluid loss control, viscosity, thinning, pH control, weight control, etc., for downhole rheology and stability.

2. Offsite Storage, Treatment, and/or Disposal of Nonhazardous Oilfield Waste at Commercial Facilities.

(NOTE: Onsite disposal requirements are listed in Section 129.B.)

a. Generators of Nonhazardous Oilfield Waste

i. For NOW taken offsite for storage, treatment, or disposal, the generator is responsible for the proper handling and transportation of such waste to assure its proper delivery to an approved commercial facility. Failure to properly transport such waste shall subject the generator to penalties provided for in R.S. 30:18. Each shipment must be documented as required by Subsection M.6.

ii. Any spills which occur during the offsite transportation of NOW shall be reported to the Office of Conservation, including the appropriate state and federal agencies, within 24 hours of the spill.

iii. Operators (generators) are required to report the discovery of any unauthorized disposal of NOW by transporters, pit treaters, or any other oilfield contracting company.

iv. Within six months of the completion of the drilling or work-over of any permitted well, the operator (generator) shall certify to the commissioner the type(s) and number of barrels of NOW generated, the disposition of such waste, and certify further that such disposition was in accordance with applicable rules and regulations of this office. Such certification shall become part of the well's permanent history.

b. Approval of Commercial Facility Required

The storage, treatment, and/or disposal of NOW by a commercial facility must be approved by the commissioner as provided in this Paragraph. Subsurface disposal of saltwater is required and regulated by other applicable paragraphs of Section 129. The requirements of this Paragraph do not apply to either lease saltwater disposal wells or to community saltwater disposal wells. The unpermitted or unauthorized storage, treatment, disposal or discharge of NOW is prohibited and is a violation of these rules.

c. Approval of Transfer Station Required

The construction and operation of a transfer station must be approved by the commissioner upon submission of a permit application according to the requirements of Subsection M.3.g.

d. Location Criteria

Commercial facilities and associated saltwater disposal wells may not be located in any area:

i. where the disposal well or related storage tanks, pits, treatment facilities or other equipment are within 500 feet of a residential, commercial, or public building, unless adherence to this requirement is waived by the owner of the building, or in the case of a public building, by the responsible administrative body. Any such waiver shall be in writing and must be made part of the permit application;

ii. where the subsurface geology of any proposed injection zone (reservoir) does not exhibit the following characteristics:

(a). adequate thickness and areal extent of the proposed injection zone; and

(b). adequate clay confining beds separating the top of the proposed injection zone and the base of the lowermost underground source of drinking water.

iii. where pits or land treatment facilities are located in a V or A zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA) unless adequate levees are constructed to at least one foot above the 100-year flood elevation as certified by a professional engineer or surveyor and able to withstand the velocity of the 100 year flood. Said maps and data are on file and may be viewed by interested parties at the Office of Conservation, Injection and Mining Division, Baton Rouge, La. Existing facilities located in a V or A zone will be required to build facility levees above the 100-year flood elevation as certified by a professional engineer or land surveyor. As conditions change and new data is made available by FEMA, owners of existing commercial facilities will be required to update their facilities accordingly;

iv. where such area, or any portion thereof, has been designated as wetlands by the U.S. Corps of Engineers during, or prior to, initial facility application review; and

v. where other surface or subsurface conditions exist which in the determination of the commissioner of Conservation would cause the location to pose a threat of substantial, adverse effects on the environment at or near the location.

e. Design Criteria

i. Commercial facilities, associated saltwater disposal wells, and transfer stations shall be designed in such a manner as to prevent the movement of waste materials into groundwater aquifers or underground sources of drinking water (USDW's) or to prevent the discharge of waste materials into manmade or natural drainage or directly into state waters unless a discharge permit has been received from the appropriate state or federal agency.

ii. Commercial facilities and transfer stations shall be designed and constructed in accordance with, but not limited to, the following requirements:

(a). Section 129 and other applicable sections of this Order;

(b). retaining walls (levees) shall be built around all above-ground storage tanks to a level that will provide sufficient capacity to retain the contents of each tank and prevent the escape of stored wastes due to tank leakage, or some other cause;

(c). spill containment systems shall be built around unloading areas to prevent the escape of any wastes spilled during off-loading; and

(d). limited access shall be provided by a lockable gate system. In addition, the need for a six-foot chain link fence around an entire facility or any portion of a facility will be determined after a site investigation by the commissioner or his designated representative. Gates shall be locked except during the hours a facility is permitted to receive nonhazardous oilfield waste.

3. Permit Application Requirements for Commercial Facilities and Transfer Stations

a. Application and Permit Required

Every person who intends to construct and operate a new offsite commercial facility, or make a major modification to an existing facility, shall file a permit application with the Office of Conservation.

b. Notice of Intent

i. At least 30 days prior to filing such application, the applicant shall publish a notice of intent to apply. Such notice shall contain sufficient information to identify the following:

(a). name and address of the applicant;

(b). the location of the proposed facility;

(c). the nature and content of the proposed waste stream(s); and

(d). the method(s) of storage, treatment and/or disposal to be used.

ii. The notice of intent shall be published in both the official state journal, The State Times, and the official journal of the parish in which the proposed facility will be located.

iii. Such notice shall be in bold-face type and not less than one-quarter page in size and shall be published on three separate days in each journal.

c. General Information

Except for the filing and hearing fees, the following general information must be provided in duplicate in each application for approval to operate a commercial facility:

- i. a \$500 non-refundable filing fee;
- ii. a \$300 non-refundable hearing fee;
- iii. a list of names and addresses of the principal officers of the company or corporation;
- iv. documentation of compliance with the location criteria of Subsection M.2.d.i. Provide a list of the names and addresses of all property owners, residents, off-set operators and industrial facilities within one-quarter mile of the proposed facility or disposal well. Include copies of waivers where applicable. Names and addresses of local governing authorities must also be included. Attached to this list must be a simplified drawing (map) showing the following information:
 - (a). property boundaries of the commercial facility;
 - (b). the boundaries and ownership of all land adjacent to the commercial facility; and
 - (c). the location and identification of all storage tanks and/ or pits, treatment facilities, the disposal well, and all residential, commercial or public buildings within one-quarter mile of the facility.
- v. for operators proposing the construction and operation of a disposal well, complete the appropriate application form, including all required attachments;
- vi. a copy of the title to the property upon which the facility will be located. If a lease or other agreement is in effect on the property, a copy of this instrument shall be included in the application;
- vii. a parish map of sufficient scale to identify the location of the proposed facility;
- viii. a detailed statement of the proposed method of operation of the facility, including procedures for the receipt, storage, treatment and/or disposal of wastes. This statement shall include a complete explanation of procedures for witnessing the receipt, sampling and testing of wastes to assure that only permitted nonhazardous oilfield wastes are accepted.
- ix. documentation that the facility and/or disposal well will have limited access through a lockable gate system with appropriate fencing.
- x. financial responsibility (insurance)
 - (a). Evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or waste from the commercial facility or transfer station must be provided by the applicant prior to issuance of a permit.

(b). Financial responsibility may be evidenced by filing a certificate of insurance (indicating the required coverage is in effect and all deductible amounts applicable to the coverage), letter of credit, bond, certificate of deposits issued by and drawn on Louisiana banks, or any other evidence of equivalent financial responsibility acceptable to the commissioner.

(c). In no event shall the amount and extent of such financial responsibility be less than the face amounts per occurrence and/or aggregate occurrences as set by the commissioner below:

(i). \$1,000,000 minimum coverage for commercial facilities which operate open pits; or

(ii). \$500,000 minimum coverage for any other commercial facility which stores, treats or disposes of nonhazardous oilfield waste solids (i.e. oil or water base drilling fluids, etc.); or

(iii). \$250,000 minimum coverage for a commercial saltwater disposal facility which utilizes underground injection and a closed storage system; and

(iv). \$100,000 minimum coverage for each transfer station operated in conjunction with a legally permitted commercial facility subject to the guidelines of Paragraph 3.

Note: The commissioner retains the right to increase the face amounts set forth above as needed in order to prevent waste and to protect the public health, safety and welfare.

(d). If insurance coverage is used to meet the financial responsibility requirement, it must be provided by a company licensed to operate in the State of Louisiana.

(e). For a commercial facility which operates open earthen pits, such insurance must provide sudden and accidental pollution liability coverage as well as environmental impairment liability coverage.

(f). For any commercial facility or transfer station which does not operate open earthen pits, such insurance must provide sudden and accidental pollution liability coverage.

(g). The application shall contain documentation of the method by which proof of financial responsibility will be provided by the applicant. Where applicable, include copies of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the commissioner.

(h). Prior to making a final permit decision, final (official) documentation of financial responsibility must be submitted to and approved by the commissioner.

(i). A copy of the insurance policy subsequently issued in conjunction with any certificate of insurance is to be immediately filed with the Office of Conservation upon receipt by the operator.

(j). Such documentation of financial responsibility must be renewable on April 1 of each year. Existing facilities must comply with this requirement upon the next renewal date.

xi. Provisions for Adequate Closure (Bonding)

(a). Documentation that a bond or irrevocable letter of credit will be provided for adequate closure of the facility. Such documentation shall be provided as follows:

(i). submission of a detailed cost estimate for adequate closure of the proposed facility. This cost estimate must include a detailed description of proposed future closure procedures including, but not limited to, plugging and abandonment of the disposal well(s) (if applicable), plugging of any monitor wells according to applicable state regulations, closing out any pits or land treatment cells, removing all surface equipment, and returning the environment as close as possible to its natural state. The closure plan and cost estimate must be prepared by an independent professional consultant, must include provisions for closure acceptable to the commissioner, and must be designed to reflect the costs to the commissioner to complete the approved closure of the facility; and

(ii). submission of a draft irrevocable letter of credit or bond in favor of the State of Louisiana and in a form which includes wording acceptable to the commissioner.

(b). Upon completion of the application review process, the commissioner will set the amount of the required bond or irrevocable letter of credit.

(c). The bond or letter of credit must then be submitted to and approved by the commissioner prior to issuance of a final permit decision.

(d). The bond or letter of credit must be renewable on October 1 of each year. Existing facilities must comply with this requirement upon the next renewal date.

xii. Verification that a discharge permit has been obtained from the appropriate state or federal agencies or copies of any applications submitted to such agencies. If a facility does not intend to discharge treated waste water or other water, a completed and notarized Affidavit of No Discharge must be provided.

xiii. In order to document compliance with the location criteria of Subsection M.2.d.ii, commercial facilities which propose to permit a disposal well must provide strike and dip geologic cross sections intersecting at the location of the disposal well for which a permit is sought. These cross sections must include, at a minimum, available log control, geologic units, and lithology from the surface to the lower confining bed below the injection zone. The sections shall be on a scale sufficient to show the local geology in at least a two-mile radius from the proposed disposal well. The following information must be included on these cross sections:

- (a). the base of underground sources of drinking water (USDW's);
- (b). the vertical and lateral limits of the proposed injection zone (reservoir);
- (c). the vertical and lateral limits of the upper and lower confining beds; and
- (d). the location of faults or other geologic structures.

xiv. A list of all other licenses and permits needed by the applicant to conduct the proposed commercial activities. Include identification number of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses.

d. Additional Permit Application Requirements for Closed Systems

i. In addition to the information requested in Subsection M.3.c above, the following information must be provided in duplicate in each application for approval of a closed system:

a detailed schematic diagram of the proposed facility of sufficient scale to show placement of access roads, buildings, unloading areas, storage tanks or barges (including design capacities), treatment system, levees, flow lines, filters, the injection well and all other equipment and operational features of the storage, treatment and/or disposal system.

ii. Documentation of compliance with the location criteria of Subsection M.2.d.iv.

e. Additional Permit Application Requirements for Commercial Facilities Utilizing Pits for Temporary Storage of NOW

Pits will not be approved for the permanent disposal of NOW. The construction and use of a receiving pit for temporary storage of NOW may be approved if the requirements of this Subsection are met. A receiving pit for temporary storage will only be approved for use as a gathering, collection, and/or temporary storage location if specifically designed for use in connection with a NOW treatment system (i.e. land treatment, chemical fixation, physical dewatering, incineration, etc.). Any proposed pit for temporary storage is not to be constructed until a permit for the NOW treatment system has been issued. Such temporary storage pit must be located on the site of the permitted NOW treatment system and such pit may not exceed a design capacity of more than 50,000 barrels.

In addition to the information requested in Subsection M.3.c above, the following information must be provided in duplicate in each application for approval of a commercial facility incorporating the use of a pit:

i. a detailed schematic diagram of the proposed facility of sufficient scale to show placement of access roads, buildings, unloading areas, monitor well(s), pits, storage tanks, treatment system, flow lines, filters, the injection well and all other equipment and operational features of the storage, treatment, and/or disposal system. The diagram must include the dimensions and design capacity (in barrels) of each proposed pit, tank or barge. The diagram shall also include the following information:

(a). the location and elevation of each soil boring required in Subsection M.3.e.iv below;

(b). the location and elevation of each monitor well required in Subsection M.3.e.vi below;

(c). the elevation for the top of each levee;

(d). the elevation of the bottom (base) of each pit;

(e). the elevation of the 100-year flood level; and

(f). the general location of groundwater aquifers and USDW's under the site and general direction(s) of area groundwater flow.

ii. documentation of compliance with the location criteria of Subsection M.3.d.iii and iv;

iii. documentation must be presented which indicates that groundwater and USDW protection shall be provided by one of the following:

(a). a liner along the bottom and sides of pits which has the equivalent of five continuous feet of recompacted or natural clay having a hydraulic conductivity no greater than 1.0×10^{-7} cm/sec. Such liners include, but are not limited to the following:

(i). *natural liner* - recompacted natural clay having a hydraulic conductivity meeting the requirements of Subclause (a) above;

(ii). *soil mixture liner* - soil mixed with cement, clay-type, and/or other additives to produce a barrier which meets the hydraulic conductivity requirements of Subclause (a) above;

(iii). *recompacted clay liner* - in situ or imported clay soils which are compacted or restructured to meet the hydraulic conductivity requirements of Subclause (a) above;

(iv). *manufactured liner* - synthetic material that meets the definition of Subsection M.2.a and is equivalent to or exceeds the hydraulic conductivity requirements of Subclause (a) above. Pits constructed with a manufactured liner must have side slopes of 3:1 and the liner at the top of the pit must be buried in a one foot wide and one foot deep trench. A sufficient excess of liner material shall be placed in the pit to prevent tearing when filled with NOW; and

(v). *combination liner* - a combination of two or more types of liners described in this Section which meets the hydraulic conductivity requirements of Subclause (a) above.

(b). any other alternate groundwater aquifer and USDW protection system acceptable to the Office of Conservation.

iv. the determination of near-surface geological conditions shall be made by soil borings. These borings shall be made prior to construction of any proposed pit. Specific requirements for soil borings and soil testing according to ASTM methods are as follows:

(a). soil borings and soil testing shall be performed by an independent engineering or geotechnical soil testing company or laboratory;

(b). the number and locations of borings shall be sufficient to develop an accurate representation of the subsurface conditions at all points beneath the pit(s) and shall be determined in consultation with the commissioner;

(c). the soil borings shall be sampled to at least 10 feet below the bottom of the maximum pit excavation, and they must be continuously sampled to at least five feet below maximum excavation;

(d). upon completion of the borings, groundwater levels should be obtained and the boreholes shall be adequately sealed by plugging with a cement/bentonite slurry from the bottom up to the ground surface; and

(e). the logs of all borings made onsite, together with associated laboratory testing to classify soils and to measure soil strength, permeability and other related parameters, shall be submitted.

v. a cross section showing the proposed placement and type of materials to be used in the construction of the pit levees. The levees must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. The levees must be properly tied into the barrier along the bottom and sides of the pits. Actual construction of the levees must be monitored and documented by a professional engineering or geotechnical soil testing company. Documentation that a barrier exists within the levee which consists of at least three feet of soil with a hydraulic conductivity of 1.0×10^{-7} cm/sec. or less must be provided. All levees must be provided with a means to prevent erosion and other degradation.

vi. a schematic diagram depicting the proposed or actual construction of each monitor well. A minimum of three monitor wells will be required to insure that any seepage into a groundwater aquifer or USDW beneath the pit(s) will be detected prior to leaving the disposal site's perimeter. Monitor wells shall be certified by a professional engineer, hydrologist or geologist as adequate to detect any contamination. Additional monitor wells may be required; the number and location of additional wells will be determined upon review of the pit size(s) and configuration(s) and base line water quality data.

f. Additional Permit Application Requirements for Land Treatment Systems

In addition to the information requested in Subsection M.3.c, the following information must be provided in duplicate in each application for approval of a commercial facility incorporating the use of land treatment cells:

i. include a detailed description of the site considered for land treatment with relation to the following:

- (a). past and present land use;
- (b). geology/soil properties/hydrogeology;
- (c). drainage and flood control;
- (d). hydrologic balance; and
- (e). highest seasonal groundwater level.

ii. provide a detailed description of the facility design, including maps and drawings, and a discussion of the following:

- (a). site layout;
- (b). proposed waste application technique;
- (c). drainage control;
- (d). proposed waste loading rate; and
- (e). expected facility life.

- iii. Submit an explanation of the proposed management plan with reference to the following topics:
 - (a). sampling and testing of incoming waste;
 - (b). method of receiving waste;
 - (c). waste segregation;
 - (d). application scheduling;
 - (e). waste-soil mixing; and
 - (f). proposed land treatment cell and groundwater monitoring plan.
- iv. provide detailed information concerning closure and post-closure activities and monitoring as follows:
 - (a). proposed closure procedures;
 - (b). post-closure maintenance; and
 - (c). closure and post-closure monitoring.
- v. documentation of compliance with the location criteria of Section 129.M.2.d.iii and iv; and
- vi. documentation shall be provided that indicates the requirements of Section 129.M.7 will be met.

g. Permit Application Requirements for a Transfer Station

i. The application for construction and operation of a transfer station by an existing Louisiana commercial facility permitted by the Office of Conservation shall include, but may not be limited to the following information:

(a). A statement of the proposed method of operation of the transfer station, including, but not limited to, the following:

- (i). A description of the storage system;
- (ii). A statement as to the method of transportation of wastes to and from the transfer station; and
- (iii). A statement as to the final disposition of the waste.

(b). Documentation that sudden and accidental pollution coverage (liability insurance) in the amount of \$100,000 is in effect for the transfer station;

(c). Documentation of compliance with the bonding requirements of Section 129.M.3.c.xi;

(d). A parish map of sufficient scale upon which the location of the proposed transfer station is identified;

(e). A schematic drawing showing the following:

(i). The boundaries of the land, owned or leased, upon which the transfer station is operated; and

(ii). The location and identification of all storage tanks or barges (including design capacities), access roads, buildings, unloading areas, levees, flow lines, filters and other operational equipment.

(f). A copy of the title of the property upon which the transfer station will be located, or if a lease or other agreement is in effect on the property, a copy must be included in the application; and

(g). Documentation of compliance with the location criteria of Section 129.M.2.d.i.

ii. The application for construction and operation of a transfer station by the operator of an out-of-state, legally permitted commercial facility shall consist of the following:

(a). Compliance with the notice of intent requirements of Subsection M.3.b;

(b). Submission of the information required in Subsection M.3.c;

(c). A detailed schematic diagram of the proposed transfer station of sufficient scale to show the location of access roads, buildings, unloading areas, storage tanks or barges (including design capacities), any treatment system, levees, flow lines, filters and all other equipment and operational features of the transfer facility; and

(d). Submission of a copy of any permits issued by the appropriate regulatory agencies of the state in which the out-of-state commercial facility is located.

4. Permitting Procedures

a. The Office of Conservation will review a new commercial facility application or transfer station application within ninety days of receipt and inform the applicant of its completeness.

b. If the application is not complete, the applicant shall be advised of additional information to be submitted for approval or the application shall be returned and the applicant will be required to resubmit the application.

c. Upon acceptance of the application as complete, the Office of Conservation shall set a time and date and secure a location for the required public hearing to be held in the affected parish.

d. At least 30 days prior to the hearing, the applicant is required to file six copies of the complete application with the local governing authority of the parish in which the proposed facility is to be located to be made available for public review.

e. Public Hearing Notice Requirements

i. Upon acceptance of the application as complete, the Office of Conservation shall publish in the next available issue of the Louisiana Register, a notice of the filing and the location, date and time of the public hearing to be held in the affected parish. Such public hearing shall not be less than 30 days from the date of notice in the Louisiana Register.

ii. At least 30 days prior to the scheduled public hearing, the Office of Conservation shall publish in *The State Times* a notice of the filing of the application and the location, date and time of the hearing.

iii. The applicant shall publish a substantially similar notice in the official journal of the affected parish on three separate days at least 15 days prior to the date of the hearing. Such notice shall not be less than one-quarter page in size and printed in bold-face type.

f. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All interested persons shall be allowed the opportunity to present testimony, facts or evidence related to the application or to ask questions.

g. Permit Issuance

i. The commissioner shall issue a final permit decision within 90 days of the closing of the public comment period.

ii. A final permit decision shall become effective on the date of issuance.

iii. Approval or the granting of a permit to construct a commercial facility (and any associated disposal well) shall be valid for a period of one year and if construction is not completed in that time, the permit shall be null and void. Requests for an extension of this one-year requirement may be approved by the commissioner for extenuating circumstances only.

h. The application for construction and operation of a new or additional transfer station by an existing commercial facility permitted by the Office of Conservation shall either be administratively approved or denied.

5. Criteria for the Operation of Commercial Facilities and Transfer Stations

a. Commercial facilities and transfer stations shall be operated in compliance with, but not limited to, the following:

i. The area within the confines of tank retaining walls (levees) shall be kept free of debris, trash and accumulations of oil or other materials which may constitute a fire hazard;

ii. The area within the confines of tank retaining walls (levees) must be kept free of accumulations of water. This water shall be properly disposed of or discharged in accordance with the conditions of a discharge permit granted by the appropriate state agency;

iii. Pit levees shall be kept free of debris, trash or overgrowth which would constitute a fire hazard or hamper or prevent adequate inspection;

iv. Pit surfaces shall at no time have an accumulation of oil of more than two inches; and

v. Pit levels shall be maintained with at least two feet of freeboard at all times.

b. All facilities and systems of treatment, control and monitoring (and related appurtenances) which are installed or used to achieve compliance with the conditions of a permit shall be properly operated and maintained at all times.

c. Inspection and entry by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

d. Notification Requirements

i. Any change in the principal officers, management or ownership of an approved commercial facility must be reported to the commissioner in writing within 10 days of the change.

ii. Transfer of Ownership

(a). A commercial facility permit may be transferred to a new owner or operator only upon approval by the commissioner.

(b). The current permittee shall submit an application for transfer at least 30 days before the proposed transfer date. The application shall contain the following:

(i). Name and address of the proposed new owner (permittee);

(ii). Date of proposed transfer; and

(iii). A written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, insurance coverage and liability between them.

(c). If no agreement described in Subclause (b).(iii) above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing permittee to the new permittee on the date the transfer is approved.

iii. Commercial facility and transfer station operators shall give written notice to the commissioner of any planned physical or operational alterations or additions to a permitted facility. Requests to make such changes must be submitted to and approved by the commissioner prior to beginning construction or accomplishing the change by other means.

iv. The operator of a newly approved commercial facility, transfer station, and/or disposal well must notify the commissioner when construction is complete. The operator shall not commence receiving nonhazardous oilfield waste or injecting saltwater until the facility has been inspected for compliance with the conditions of the permit and the disposal well has been tested for mechanical integrity.

v. An operator of a commercial facility or transfer station shall report to the commissioner any noncompliance, including but not limited to those which may endanger public health or safety or the environment. Such notice shall be made orally within 24 hours of the noncompliance and followed by written notification within five days explaining details and proposed methods of corrective action.

vi. When a commercial facility or transfer station operator refuses to accept a load of waste (other than nonhazardous oilfield waste), he shall notify the Office of Conservation immediately, providing the names of the generator and transporter of the waste.

e. Hours of Receiving

i. Commercial facilities and transfer stations shall be adequately manned during hours of receiving and shall receive nonhazardous oilfield waste by truck during daylight hours only. Daylight hours shall be defined as the daily hours for sunrise and sunset as listed in Table No. 1119 entitled Sunrise and Sunset at Baton Rouge, Louisiana, prepared by the Nautical Almanac Office, United States Naval Observatory, Washington, DC 20390.

ii. The commissioner may grant approval for after hours (nighttime) receipt of nonhazardous oilfield waste by a commercial facility or transfer station (by truck) when an emergency condition exists which may endanger public health or safety or the environment. Generators shall be responsible for obtaining prior approval for nighttime hauling by calling the Office of Conservation at (504) 342-5515. When such approval has been granted, the Office of Conservation shall notify both the commercial facility which will receive the waste and the state police.

iii. Commercial facilities or transfer stations with barge terminals may receive NOW transported by barge on a 24-hour a day basis.

f. Monitoring of Injection Wells

i. Except during approved workover operations, a positive pressure of no less than 100 psi shall be maintained on the well annulus at all times.

ii. Except during approved workover operations, wells shall be equipped with pressure gauges located on the wellhead, and situated so as to monitor the pressure of the injection stream and the pressure of the annular space between the casing and the injection string.

iii. The pressure gauges shall have half-inch fittings, be scaled in increments of not more than 10 psi, and be maintained in good working order at all times.

iv. A daily pressure monitoring log shall be maintained by the operator of the facility and shall contain the following information:

- (a). the date;
- (b). the operator's name and address;
- (c). the well name, number and serial number;
- (d). the monitored injection pressure;
- (e). the monitored annulus pressure;
- (f). whether or not the well was injecting at the time the pressures were recorded; and
- (g). the name or initials of the person logging the information.

v. The pressure gauges shall be read and pressures recorded in the daily log.

vi. The daily log information shall be recorded on the appropriate form and submitted to the Office of Conservation within 15 days of the end of each month.

vii. Any discrepancies in the monitored pressures, which would indicate a lack of mechanical integrity and constitute noncompliance with applicable sections, shall be reported to the Office of Conservation within 24 hours.

g. Discharges from pits, tanks and/or barges into manmade or natural drainage or directly into state waters will be allowed only after the necessary discharge permit has been obtained from the appropriate state and/or federal agencies and in accordance with the conditions of such permit.

h. Monitor Well Sampling and Testing Requirements for Facilities with Temporary Storage Pits

i. Water samples from monitor wells shall be sampled by an independent professional consultant and analyzed by an independent testing laboratory. Samples shall be analyzed for pH, electrical conductivity (EC), chloride (Cl), sodium (Na), total dissolved solids (TDS), total suspended solids (TSS), oil and grease (%), As, Ba, Cd, Cr, Pb, Hg, Se, Ag and Zn.

ii. Water from newly constructed monitor wells on new facilities shall be sampled and analyzed prior to receipt of waste materials by the facility to provide baseline data for the monitoring system. This data shall be submitted to the Office of Conservation to be made part of the facility's permanent file.

iii. Water from monitor wells on existing facilities shall be sampled and analyzed on a quarterly basis, with a copy of the analysis submitted to the Office of Conservation within 15 days of the end of each quarter.

i. Receipt, Sampling and Testing of Nonhazardous Oilfield Waste

i. Only NOW (as defined in Section 129.M.1 from approved generators of record may be received at commercial facilities or transfer stations.

ii. Before off-loading at a commercial facility or transfer station, each shipment of nonhazardous oilfield waste shall be sampled and analyzed (by facility personnel) for pH, conductivity, and chloride (Cl) content. Records of these tests shall be kept on file at each facility for a period of three years and be available for review by the commissioner or his designated representative.

iii. An eight ounce sample (minimum) of each load must be collected and labeled with the date, operator and manifest number. Each sample shall be retained for a period of 30 days.

j. Renewal of Insurance Coverage. Documentation that the required liability insurance coverage for a commercial facility or transfer station has been renewed must be received by March 15 of each year or procedures to initiate permit suspension will be initiated. Any such permit suspension will remain in effect until insurance coverage has been confirmed.

k. A sign shall be prepared and displayed at the entry of each permitted commercial facility or transfer station. Such sign shall state the facility name, address and phone number and shall be made applicable to the activities of each facility according to the following example:

"This waste (storage, treatment and/or disposal) facility has been approved for (temporary storage, treatment and/or disposal) of non-hazardous oilfield waste only and is regulated by the Office of Conservation. Violations shall be reported to the Office of Conservation at (504) 342-5515."

6. Manifest System

a. In order to adequately monitor the movement and disposal of nonhazardous waste, every shipment of waste transported to a commercial facility shall be accompanied by a manifest entitled "Oil Field Waste Shipping Control Ticket". It is expressly forbidden to transport or accept such waste without a properly completed manifest form.

b. At the time of transport, the generator shall initiate the manifest by completing and signing Part I. After the transporter completes and signs Part II, the generator shall immediately mail Conservation Copy No. 1 (white) to the Office of Conservation and retain the Generator's Copy (green) for his files. All other copies shall accompany the waste shipment.

c. Upon delivery of the waste, the transporter shall complete and sign Part III of the manifest. The transporter shall then retain the Transporter's Copy (pink) for his files.

d. Upon completion of the manifests, the commercial facility operator shall retain the Commercial Facility Copy (yellow) for his files, mail a copy of the completed manifest to the generator, and mail Conservation Copy No. 2 (gold) to the Office of Conservation no later than the next working day.

e. The generator, transporter and commercial facility operator shall maintain file copies of completed manifests for a period of not less than three years.

f. Oil and gas, commercial facility and transfer station operators who transport NOW out-of-state to a permitted disposal facility or receive NOW from out-of-state must comply with the manifest system requirements of Paragraph 6.

7. Land Treatment Facility Requirements

a. Land treatment facilities shall be isolated from contact with public, private or livestock water supplies, both surface and underground.

b. The siting, design, construction, operation, testing and closure of land treatment facilities shall be approved only after an application is submitted to and approved by the commissioner pursuant to the requirements of Subparagraph M.3.

c. General Requirements

i. The soil shall contain a slowly permeable horizon no less than 12 inches thick containing enough fine grained material within three feet of the surface to classify it as CL, OL, MH, CH or OH under the Unified Soil Classification System.

ii. The pH of the treatment zone (0-24") shall be or shall be adjusted to be between 6.5 and 9.0 throughout the facility's operational life and closure/post closure period.

iii. The seasonal high water table shall be maintained throughout the facility's operational life at least 36 inches below the soil surface, either as a result of natural or artificial drainage.

iv. The concentration of salts in the treatment zone shall at no time exceed levels that would raise the electrical conductivity (EC) of a saturated paste above 10 mmhos/cm, the sodium adsorption ratio (SAR) of a saturated paste extract above 12, and the exchangeable sodium percentage (ESP) above 15 percent.

v. The concentration of organics (oil and grease) in the treatment zone (after incorporation of NOW) shall at no time exceed 5 percent by weight.

vi. The concentration of metals in the treatment zone shall at no time exceed the following levels:

PARAMETER	LIMITATION (ppm)
Arsenic	40
Barium	3000
Cadmium	10
Chromium	1000
Lead	1000
Mercury	10
Selenium	10
Silver	200
Zinc	500

vii. The concentration of measured constituents in any groundwater aquifer shall at no time significantly exceed background water quality data.

viii. An unsaturated zone monitoring system shall be installed to provide early warning of possible migration of mobile waste constituents. The unsaturated zone shall be defined in the permit application.

ix. An independent professional consultant and laboratory shall perform the necessary monitoring to assure adherence to the requirements of Paragraph 7.

d. Monitoring Requirements

Note: References for the parameters required in Paragraph 7 are listed as follows:

- EC - electrical conductivity (millimhos/cm for soil, micromhos/cm for water)
- SAR - sodium adsorption ratio
- ESP - exchangeable sodium percentage (percent)
- CEC - cation exchange capacity (milliequivalents/100 gm soil)
- TOC - total organic carbon (percent)

Total metals as follows:

As	- arsenic	Cr	- chromium	Se	- selenium
Ba	- barium	Pb	- lead	Ag	- silver
Cd	- cadmium	Hg	- mercury	Zn	- zinc
TDS	- total dissolved solids				
TSS	- total suspended solids				
O&G	- oil & grease (percent)				

Soluble cations:

Na	- sodium
Ca	- calcium
Mg	- magnesium

Soluble anions:

Co3	- carbonate
HCO ₃	- bicarbonate
Cl	- chloride
S04	- sulfate

i. Prior to the receipt of NOW in a newly permitted and constructed land treatment system or cell, baseline data must be provided by the following sampling and testing program:

(a). soil in the treatment zone (0-24 inches) of each cell must be sampled and tested for the following parameters: pH, EC, SAR, ESP, CEC, TOC, O&G, As, Ba, Cd, Cr, Pb, Hg, Se, Ag and Zn; and

(b). groundwater must be sampled and tested for the following parameters: Ph, EC, TDS, TSS, O&G, Cl, Na, As, Ba, Cd, Cr, Pb, Hg, Se, Ag and Zn.

ii. The following monitoring program must be conducted during the active life of a permitted NOW land treatment system:

(a). soil in the treatment zone (0-24 inches) must be sampled and tested semiannually to determine waste degradation and accumulation of metals. A composite of a minimum of four samples per cell must be analyzed for the following: As, Ba, Cd, Cr, Pb, Hg, Se, Ag, Zn, TOC and O&G;

(b). soil in the treatment zone (0-24 inches) must be sampled and tested quarterly to determine the accumulation of salts and to provide data for determining necessary soil amendments. A composite of a minimum of four samples per cell must be analyzed for the following: pH, EC, SAR, ESP, CEC, soluble cations (Na, Ca, Mg), and soluble anions (Co3, HCO3, Cl, S04);

(c). discharge water: A copy of each discharge monitoring report made in conformance with any applicable state and/or federal regulatory program shall be furnished to the Office of Conservation on a timely basis;

(d). the unsaturated zone must be sampled as soon as practicable following significant precipitation events (within 90 days) to determine the presence of mobile constituents. If free drainage soil solution samplers are utilized, sampling and testing shall be performed on a quarterly basis. A composite of at least three samples per management unit (or cell if applicable) are to be analyzed for the following: TDS, pH, Na, Cl, EC, O&G, Ba, Cr, Pb and Zn;

(e). groundwater levels in monitor wells shall be measured monthly for a period of two years to determine seasonal fluctuation in water table. Water level shall be measured quarterly each year thereafter.

(f). groundwater from monitor wells shall be sampled quarterly to determine the impact of facility operation on groundwater. A composite of at least two samples per well shall be tested for the following: TDS, TSS, pH, Cl, Na, EC, O&G, As, Ba, Cr, Pb and Zn; and

(g). the Office of Conservation may approve an alternative monitoring program upon receipt of evidence that such procedures shall provide adequate monitoring during the active life of a facility.

iii. Sampling and Testing Requirements

(a). A stratified random sampling system shall be used to determine soil sampling locations in land treatment cells.

(b). Soil samples in land treatment cells shall be taken at 0-12 inches and 12-24 inch depth increments. (Over time, the depth of the treatment zone sampled may need to be increased due to solids buildup on land treatment cells.) The degree of waste incorporation shall be noted at the time of sampling.

(c). Testing for required parameters shall be performed according to acceptable EPA guidelines and/or the laboratory procedures for nonhazardous oilfield waste analyses found in Section 129.B.6.d.

e. Closure and Post-Closure Monitoring

i. Operators of land treatment systems shall submit closure and post-closure maintenance and monitoring programs to the Office of Conservation for approval. The monitoring program shall address sampling and testing schedules for soil in the treatment zone, water collected from the unsaturated zone monitoring system, surface runoff water and groundwater.

ii. Sampling and testing must be performed during the entire closure and post-closure periods. To certify closure of a land treatment system, water collected from the unsaturated zone monitoring system and groundwater must meet background water quality values; in addition, soils in the treatment zone and surface runoff water must meet the following criteria:

CONSECUTIVE PARAMETER	CRITERIA	NO. OF SAMPLES
Soils in the Treatment Zone		
pH	6.5-9.0	2
O&G	≤3.0 percent	2
EC	≤10 mmho/cms	2
SAR	≤12	2
ESP	≤15 percent	2
Metals (ppm)		
As	≤10	2
7Ba		2
Cd	≤10	2
Cr	≤1000	2
Pb	≤1000	2
Hg	≤10	2
Se	≤10	2
Ag	≤200	2
Zn	≤500	2
Runoff Water		
Ph	6.5-9.0	4
O&G	≤15 ppm	4
EC	≤0.75 mmhos/cm	4
SAR	≤10	4
TSS	≤60 ppm	4
COD	≤125 ppm	4
Chloride	≤500 ppm	4
Metals (ppm)		
As	≤0.2	4
Ba	≤undetermined (reserve)	4
Cd	≤0.05	4
Cr	≤0.15	4
Hg	≤0.01	4
Pb	≤0.10	4
Se	≤0.05	4
Zn	≤1.0	4

iii. Post-closure monitoring shall be performed on intervals of 6 months, one, two and five years following certification that closure is complete.

8. Resource Conservation and Recovery of Nonhazardous Oilfield Waste

a. In order to encourage the conservation and recovery of resources in the oilfield industry, the processing of nonhazardous oilfield waste into reusable materials, in addition to or beyond extraction and separation methods which reclaim raw materials such as crude oil, diesel oil, etc., is recognized as a viable alternative to other methods of disposal.

b. Commercial facilities may function for the purpose of generating reusable material only, or they may generate reusable material in conjunction with other storage, treatment or disposal operations.

c. Commercial facilities that produce reusable material are subject to all of the permitting requirements imposed on other commercial facilities. They are also subject to the same operational requirements without regard to the distinction between waste and reusable material. Existing permits may be amended to allow re-use activities at commercial facilities which acquire the capability to engage in processing for re-use. Commercial facilities which utilize extraction or separation methods to reclaim raw materials such as crude oil, diesel oil, etc. may do so without amendment of existing permits.

d. The onsite generation of reusable material by pit treating companies or other companies which do not hold a legal commercial facility permit is prohibited unless the company desiring to perform such activities complies with the requirements of Subparagraph d and submits the following information to the commissioner for approval:

i. the names, addresses and telephone numbers of the principal officers of the company;

ii. a detailed description of the process by which the company will treat pit fluids and/or solids (NOW), including the types of chemicals and equipment used in the process, diagrams, test data or other information; and

iii. a description of the geographical area in which the company expects to do business (i.e., statewide, North Louisiana, southwest Louisiana, etc.).

e. In addition to other applicable requirements, companies seeking to be permitted for the production of reusable materials from non-hazardous oilfield waste shall have the following obligations:

i. prior to permit approval or permit amendment approval, applicants must submit the following information:

(a). a detailed description of the process to be employed for generation of reusable material;

(b). types of facilities and/or equipment to be constructed (or added);

(c). identification of the proposed uses for the reusable material; and

(d). a description of the proposed monitoring plan to be utilized.

ii. all proposed uses of reusable material must be approved by the commissioner in writing.

iii. the production of reusable material must be conducted in accordance with a monitoring plan approved by the commissioner with issue of the permit for each facility or process.

iv. for purposes of regulatory authority only by the Office of Conservation and the establishment of reusable material, compliance with the testing criteria of Subsection M.8.f below allows permitted companies to offer the material for the following uses:

(a). daily cover in sanitary landfills which are properly permitted by state and/or local authorities. The use of reusable material in a sanitary landfill will require written approval of the Department of Environmental Quality; and

(b). various types of construction material (fill) on a case-by-case basis. The commissioner may approve such use only after submission and review of an application for the intended use. Approval will be dependent upon the composition of the material and the proposed location of use. Reusable material may not be used as fill for construction purposes unless the specific use has been approved in writing by the commissioner of Conservation.

f. Testing Criteria for Reusable Material

Parameter	Limitation
1. moisture content	50 percent (by weight) or zero free moisture
2. pH*	6.5 - 9.0
3. Electrical conductivity (EC)*	8 mmhos/cm
4. Sodium adsorption ratio (SAR)	12
5. Exchangeable Sodium Percentage (ESP)	15 percent
6. Leachate testing ** for:	
a. oil and grease	10.0 mg/l
b. chlorides	500.0. mg/l
7. Leachate (EP Tox):	
a. arsenic	0.5 mg/l
b. barium	10.0 mg/l
c. cadmium	0.1 mg/l
d. chromium	0.5 mg/l
e. lead	0.5 mg/l
f. mercury	0.02 mg/l
g. selenium	0.1 mg/l
h. silver	0.5 mg/l
i. zinc	5.0 mg/l

* Non-hazardous oilfield waste when chemically treated (fixated) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in Subparagraph f.vi. above and extraction procedure for toxicity (EP) tests for metals in Subparagraph f.vii. above.

** The leachate testing method for oil and grease and chlorides must be submitted in writing to the commissioner for approval.

g. The commissioner of Conservation, the secretary of the Department of Natural Resources, and the State of Louisiana upon issuance of a permit to a company facility under this Section shall be held harmless from and indemnified for any and all liabilities arising from the operation of such facilities and use of their products, and the company shall execute such agreements as the commissioner requires for this purpose.

h. Reporting

Each company which generates reusable material must furnish the commissioner a monthly report showing the disposition of all such material.

9. Closure

a. All offsite commercial facilities and transfer stations under the jurisdiction of the Office of Conservation shall be closed in a manner approved by the commissioner to insure protection of the public, the environment, groundwater aquifers and underground sources of drinking water. A plan for closure must be developed in accordance with the requirements of the commissioner.

b. Closure bond or letter of credit amounts will be reviewed each year prior to the renewal date according to the following process:

i. a detailed cost estimate for adequate closure of each permitted commercial facility and transfer station shall be prepared by a independent professional consultant and submitted to the commissioner on or before February 1 of each year;

ii. the closure plan and cost estimate must include provisions for closure acceptable to the commissioner and must be designed to reflect the costs to the Office of Conservation to complete the approved closure of the facility;

iii. upon review of the cost estimate, the commissioner may increase, decrease or allow the amount of the bond or letter of credit to remain the same; and

iv. documentation that the required closure bond or letter of credit has been renewed must be received by September 15 of each year or the commissioner shall initiate procedures to take possession of the funds guaranteed by the bond or letter of credit and suspend or revoke the permit under which the facility is operated. In addition, procedures to initiate permit suspension will be initiated. Any such permit suspension will remain in effect until renewal is documented.

N. Liquid Hydrocarbon Storage Wells

1. Authorization for the use of salt dome cavities for storage of liquid hydrocarbons is provided in Statewide Order No. 29-M.

2. Authorization for all other liquid hydrocarbon storage wells will be granted by the commissioner after notice and hearing, provided there is a finding that the proposed operation will not endanger USDW's.

O. A filing fee of \$100 shall be attached to each application for a saltwater disposal well or enhanced recovery project.

P. Annular Disposal. The commissioner may approve annular disposal of saltwater for a period of one year. The applicant shall provide the commissioner a radioactive tracer survey (accompanied by an interpretation of the survey by the company who performed the test) to prove that the injected fluid is entering the correct zone and there are not leaks in the casing. The applicant shall furnish the commissioner an economic study of the well and the economics of alternative methods for disposal of the produced saltwater.

Q. Exceptions. The commissioner may grant an exception to any provision of this amendment upon proof of good cause. The operator must show proof that such an exception will not endanger USDW's.

R. This Order shall supersede Section 129 of Office of Conservation Statewide Order No. 29-B (effective November 1, 1967). Any existing special orders authorizing disposal of saltwater under conditions which do not meet the requirements hereof shall be superseded by this amendment and the operator shall obtain authority for such disposal after complying with the provisions hereof.

S. Effective Date

This amendment shall be effective on and after February 20, 1982.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July, 1980), amended LR 8:79 (February 1982), amended LR 9:337 (May 1983), amended LR 10:210 (March, 1984), amended LR 12:26 (January 1986), LR 17:382 (April, 1991).

§131. Deficient Wells

In the event a well does not have the capacity to produce its total allowable then it shall produce such amount of oil and gas less than its allowable that it is able to produce, and the deficiency of such well shall not be made up by the overproduction of any other well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§133. Monthly Reports

The producing, transporting, storing and/or refining of oil shall be reported in accordance with Order No. 25, or as it may be amended, or superseded. The length of time reports and other pertinent data, as defined by Section 16 of Act 157 of the Regular Legislative Session of 1940, shall be kept on file by operators and companies in their offices, and available for inspection by an agent of the Department of Conservation, shall in no case be less than a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§135. Directional Drilling and Well Surveys

A. Except as otherwise provided in Section 135, every well drilled in the State of Louisiana shall be drilled in such a manner that at any measured depth the actual or apparent location of the wellbore shall be within a circle whose center is the surface location and whose radius is equal to said measured depth multiplied by the factor 0.087156. The actual or apparent resultant deviation of the wellbore from the vertical shall not be in excess of five degrees at any measured depth. In the event a survey indicates that the wellbore is outside the above circle at any measured depth, the wellbore must be straightened and drilling may continue only within the specified limit. A directional survey shall be required and shall be filed with appropriate district manager as confirmation that the wellbore has been straightened and is in fact within the above limit.

1. After an operator has commenced drilling a well and desires to change the bottom-hole location by directionally controlling and intentionally deflecting said well from the vertical whether more or less than five degrees, unless done to straighten the hole or to sidetrack junk in the hole or because of other mechanical difficulties, he shall first make application for an amended location showing by attached plat the amended projected bottom-hole objective and secure an amended permit to drill before commencing such operations. The amended bottom-hole location or objective shall comply with all minimum distances from lease or property lines as prescribed by all statewide orders or any other applicable field orders.

2. In the event a well is to be drilled at a distance from a property line where such distance is less than the apparent resultant lateral deviation, as determined by multiplying the proposed total depth of the well by the factor 0.087156, a Permit to Drill for Minerals will be issued with the understanding that the operator will be required to furnish the appropriate district manager with inclination and/or directional survey data as proof that the well will be completed in compliance with the provisions of this Statewide Order No. 29-B before an allowable is assigned to said well.

B. An *Inclination Survey* shall be made on all wells drilled in the State of Louisiana with the first shot point at a depth not greater than that of the surface casing seat and succeeding shot points not more than 1000 feet apart. Inclination surveys conforming to these requirements may be made either during the normal course of drilling or after the well has reached total depth. Such survey data shall be certified by the operator's representative and/or drilling contractor and shall indicate the resultant lateral deviation as the sum of the calculated lateral displacement determined between each inclination survey point assuming that all such displacement occurs in the direction of the nearest property line. If a directional survey determining the bottom of the hole is filed with the commissioner of Conservation upon completion of the well, it shall not be necessary to furnish the inclination survey data.

Except as otherwise specified herein, all inclination and/or directional survey data shall be filed along with Form WH (Well History).

C. A *Directional Survey* shall be run and three certified copies thereof filed by or at the direction of the operator with the appropriate district manager of the Department of Conservation on all future wells drilled in the State of Louisiana where:

1. the well is direction ally controlled and is thereby intentionally deflected from the vertical; or
2. the surface location is less than 330 feet from the nearest property line, and the well is drilled below a depth of 3,786 feet; or

3. the resultant lateral deviation as calculated from inclination survey data is a distance greater than the distance from the center of the surface location of the wellbore to the nearest property line; or

4. the wellbore deviates laterally a resultant distance greater than that determined by a five degree angle from a vertical line passing through the center of the surface location of the wellbore.

Property Line, as used herein, shall mean the boundary dividing tracts on which mineral rights, royalty rights or leases are separately owned except that where a unit as defined in Section 9, Paragraph B, of Revised Statutes of 1950, has been created, the boundaries of the unit shall be considered the *property line*.

D. The commissioner of Conservation, on his own initiative or at the request of an offset operator, shall have the right to require the operator to run a directional survey on any well if there is reasonable cause therefor. Whenever a survey is so required by the commissioner at the request of an offset operator and the operator of the well and the offset operator are unable to agree as to the terms and conditions for running such survey, the commissioner, upon request of either, shall determine such terms and conditions, after notice to all interested parties and a public hearing.

E. Unless required by the commissioner of Conservation under Section 135.D hereof, a directional survey shall not be required for any well which is not directionally controlled and thereby intentionally deflected from the vertical and which has a surface location, maximum angle of deviation, and total depth, all in compliance with the provisions hereof.

F. The commissioner of Conservation may assess appropriate penalties for failure to comply with any of the provisions hereof.

G. The provisions hereof shall not alter or affect the minimum spacing provisions of Statewide Orders 29-E and 29-H or any other applicable orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (March 1967).

§137. Plugging and Abandonment

A. Schedule of Abandonment

1. Dry Holes

All wells drilled for oil or gas and found to be dry prior to or after the effective date of this order shall be plugged within 90 days after operations have been completed thereon or 90 days after the effective date of this order, whichever is later, unless an extension of time is granted by the commissioner of Conservation.

2. Other Wells on or After Effective Date of Order

a. All wells wherein production operations or use as a service well have ceased on or after the effective date of this order shall continue to be reported on the Form DM-1-R or Form DT-1 with the appropriate notation that the well is off production or no longer in use as a service well along with the date of last production or date the service well ceased to be used; and, after six months, if such a well has not been restored to production or use as a service well, it shall thereafter be reported by the operator on the semiannual *Inactive Well Report*, Form INACT WR-1 (1974) which report shall be filed with the Department of Conservation showing the status of such well as of April 1 and October 1

of each year (report to be filed no later than April 25 and October 25). Such wells shall continue to be reported on the Form DM1-R or Form DT-1 showing the date of last production or the date the well ceased to be used as a service well, together with a notation showing the well is carried on the Form INACT WR-1 (1974), Inactive Well Report, until the well is plugged and abandoned.

b. The Inactive Well Report shall list the field, well name, well number and other pertinent data and provide an appropriate column to classify such well as having either 1) future utility, or 2) no future utility. If the well is classified as having future utility, operator shall specify such utility by completing the appropriate column on the form. Wells so classified shall be reviewed periodically by the district manager who, at his discretion, may require an operator to supply additional information to justify the classification.

c. All such wells classified on the Inactive Well Report by either the operator or the district manager as having no future utility shall be plugged within 90 days from the date of such classification unless any such well is included in a *Schedule of Abandonment* approved or promulgated by the commissioner of Conservation or an extension of time is otherwise granted by the commissioner of Conservation. The date any Schedule of Abandonment is approved or promulgated or an extension of time expires shall be shown in the appropriate column on the form.

3. Other Wells Prior to Effective Date of Order

a. All wells wherein production operations or use as a service well have ceased prior to the effective date of this order shall continue to be reported on the Form DM-1-R or Form DT-1 with the appropriate notation that the well is off production or no longer in use as a service well along with the date of last production or date the service well ceased to be used; and, after six months from the effective date of this order if such a well has not been restored to production or use as a service well it shall thereafter be reported, classified and subject to review in the same manner provided for in the preceding Subparagraph b except as hereinafter otherwise provided.

b. A well classified on the *Inactive Well Report* by either the operator or the district manager as having no future utility shall not be required to be plugged within a specified period of time but will be plugged in accordance with a Schedule of Abandonment submitted by the operator and approved or otherwise promulgated by the commissioner of Conservation.

4. Schedule of Abandonment

A Schedule of Abandonment submitted in accordance with Paragraph 2.b or Paragraph 3.b above shall include a schedule or program for the orderly plugging of wells which should be consistent with prudent operating practices and take into account any economic considerations and other circumstances which would affect such a program of plugging wells. Any Schedule of Abandonment approved or promulgated by the commissioner of Conservation shall be followed unless modified by the operator with approval of the commissioner. Reference to the approved Schedule of Abandonment shall be made on the Inactive Well Report for each well which is included in such a program and has not yet been plugged.

5. Administrative Interpretation

For purposes of administering the heretofore mentioned paragraphs, it is understood that:

a. a wellbore which is completed in more than one common source of supply (multiple completions) shall not be considered as ceasing to produce and shall not be reported on the Inactive Well Report as long as there is production from or operations in any completion in the wellbore.

b. wells classified as having *future utility* may be off production or shut-in but are considered to have future utility for producing oil or gas for use as a service well.

c. no completion with a transferred allowable credit will be carried on the Inactive Well Report.

B. The responsibility of plugging any well over which the commissioner of Conservation has jurisdiction shall be the owner(s) of record.

C. In the event any owner(s) responsible for plugging any well fails to do so, and after a diligent effort has been made by the department to have said well plugged, then the commissioner may call a public hearing to show cause why said well was not plugged.

D. The commissioner or his agent may require the posting of a reasonable bond with good and sufficient surety in order to secure the performance of the work of proper abandonment.

E. The district manager shall be notified immediately by the new operator whenever a change of operator occurs. This must be accomplished by submitting Department of Conservation Form MD-10-RA (Application for Amended Permit to Drill for Minerals) to reflect the new operator.

F. Plugging Procedures

1. Notification of intention to plug any well or wells over which the commissioner of Conservation has jurisdiction, shall be given to the appropriate district manager prior to the plugging thereof. Notification shall be made in writing to the district office in the form of a WORK PERMIT (Form DM-4 Rev.) for which an original and three copies are required. Where plugging involves a well with a rig on location, the district manager may grant verbal approval to plug and abandon the well provided the Work Permit is subsequently submitted. Any operator who fails to comply with this requirement may be required by the district manager to place additional cement plug(s) and/or prove the plug(s) are placed as the operator states they are.

2. Once an operator has been issued a Work Permit to plug and abandon a well by the appropriate district manager, then said operator shall be required to contact the appropriate oil and gas inspector a minimum of 12 hours prior to beginning the plugging operations shall be waived at the time verbal notification is made to the district office.

3. In plugging wells, it is essential that all oil or gas bearing formations be protected.

a. Sufficient cement shall be used to adequately isolate each perforated pool, one from the other. A cement plug of at least 100 feet shall be placed immediately above or across the uppermost perforated interval of the pool. If he deems it advisable, the district manager may allow a bridge plug with a minimum of 10 feet of cement on top to be placed immediately above each producing pool.

b. In wells completed with screen or perforated liners, if it is impractical for the operator to remove the screen or perforated liner, he shall place a cement plug of at least 100 feet with the bottom as near as practical to the top of the screen or liner. If the district manager deems it advisable, a bridge plug with a minimum of 10 feet of cement on top and placed as near as practical to the top of the screen or liner may be used in lieu of the cement plug.

c. When production casing is not run or is removed from the well, a cement plug of at least 100 feet shall be placed from at least 50 feet below the shoe of the surface casing to at least 50 feet above. In lieu of the above, the operator shall have the option of using a cement retainer placed at least 50 feet above the surface casing shoe and a sufficient amount of cement shall be squeezed below the retainer to form a cement plug from the base of the retainer to 50 feet below the base of the surface casing. A 10-foot cement plug shall be placed on top of the retainer.

d. If fresh water horizons are exposed when production casing is removed from the well, or as a result of production casing not being run, a cement plug shall be placed from at least 100 feet below the base of the deepest fresh water sand to at least 150 feet above the base of the sand. A cement plug of at least 100 feet shall also be placed from at least 50 feet below the shoe of the surface casing to at least 50 feet above it. In lieu of the above, the operator shall have the option of using a cement retainer placed at least 50 feet above the surface casing shoe and a sufficient amount of cement shall be squeezed below the retainer to form a cement plug from the base of the retainer to 50 feet below the base of the surface casing. A 10-foot cement plug shall be placed on top of the retainer.

e. The setting and location of the first plug below the top 30-foot plug shall be verified by tagging. In the event a retainer is used, tagging will not be necessary.

f. Additional cement plugs shall be placed to adequately contain any high pressure oil, gas or water sands or as may be required by the district manager.

g. A 30-foot cement plug minimum shall be placed in the top of the well.

h. Mud laden fluid of not less than nine pounds per gallon shall be placed in all portions of the well not filled with cement, unless otherwise approved by the district manager.

i. All cement plugs shall be placed by the circulation or pump down method unless otherwise authorized by the district manager. The hole must be in a static condition at the time the plugs are placed.

j. After placing the top plug, the operator shall be required on all land locations to cut the casing a minimum of two feet below plow depth. On all water locations, the casing shall be cut a minimum of 10 feet below the mud line. If an operator contemplates reentering the well at some future date for saltwater disposal or other purpose, the district manager may approve after receiving written request from an operator not to cut off the casing below plow depth or mud line.

k. The plan of abandonment may be altered if new or unforeseen conditions arise during the well work but only after approval by the district manager.

4. Upon plugging any well for any cause, a complete record thereof shall be made out, duly verified and filed in triplicate on Form P&A in the district office within 20 days after the plugging of such well. A cementing report shall be filed with the plugging report.

G. Well to be Used for Fresh Water

When the well to be plugged may be safely used as a fresh water well and the owner or owners of the well have, by a mutual written agreement with the landowner, agreed to turn the well over to the landowner for that purpose, then the well need not be filled above the plug set below the fresh water formation; provided, however, that the signed agreement or (if recorded in the public records) a certified copy thereof be filed with the appropriate district manager, which shall relieve the owner or owners who turn the well over to the landowner from responsibility above the plug. The plugging report shall indicate that the well has been or will be converted to a fresh water well.

H. Temporary Abandonment of Drilling Wells

Any drilling well which is to be temporarily abandoned and the rig moved away, shall be mudded and cemented as it would be for permanent abandonment, except a cement plug at the surface may be omitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (March 1974).

§139. Exceptions and Hearings

If any operator can show to the commissioner that the drilling and producing methods herein prescribed or the particular method by him prescribed for securing tests of wells, or any other part of this Order, as applies to his well or wells, result in waste or as to such operator are unreasonable, the commissioner may enter such an order, as a special exception to the aforesaid rules and regulations, as will prevent such waste or eliminate such unreasonable restraint, as may result from the application of the aforesaid rules and regulations to the well or wells of such operators; provided, however, that before any operator shall be allowed the benefit of an order granting an exception as authorized by this Section, such operator must establish that such exception, if granted, will not result in waste in the field as a whole or give him an inequitable and unfair advantage over another operator or other operators in the field. No special exception will be granted except upon written application, fully stating the alleged facts, which shall be the subject of a hearing to be held not earlier than 10 days after filing of the application. Prior to the hearing upon such application, at least 10 days notice thereof shall be given by publication to all operators in the field. In addition to said notice by publication, adjacent operators where appropriate may be given at least 10 days notice of said hearing by personal service, or by Registered Mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§141. Application of Special Field Orders

This Order shall be cumulative of, and in addition to, all special orders, rules and regulations affecting the drilling and production of oil and gas, as heretofore promulgated. In case of any conflict between this Order and the special orders on specific fields, said special orders on specific fields shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§143. Penalty for Infractions

In accordance with the laws of the State of Louisiana, and especially Act 157 of the Legislature of 1940, any infraction of these rules and regulations may result in shutting in and sealing of any drilling or producing well or wells, tank storage or lease or leases, involved in the infraction, and prohibition of acceptance of oil or gas from such well or lease for purchasing or transporting by agent or, in the alternative, as an additional penalty, be prosecuted under Section 17 of Act 157 of 1940.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

§145. Effective Date

This Order shall be effective from and after the first day of August, 1943.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943).

La. R.S. 30:2456.E¹⁸

E. If the coordinator finds it necessary to enter property to conduct a vessel or terminal-facility audit, inspection, or drill authorized under this Chapter or to respond to an actual or threatened unauthorized discharge, the coordinator may enter the property after making a reasonable effort to obtain consent to enter the property.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

La. R.S. 30:2477¹⁹

§ 2477. Audits, inspections, and drills

The coordinator, in conjunction with the United States Coast Guard, may subject a vessel covered by this Chapter as a condition to being granted entry into any port in this state, or a terminal facility to an announced or unannounced audit, inspection, or drill to determine the discharge prevention and response capabilities of the terminal facility or vessels.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s. 1, eff. April 23, 1991.)

LAC 43:XI.507-511 ²⁰

§507. Letter of Non-compliance, Relief Therefrom

A. Upon determination that a probable violation of R.S. 30:501 et seq., R.S. 33:4521 et seq., or R.S. 40:1892 et seq., or any rule, regulation or order issued thereunder has occurred, the assistant secretary may institute enforcement procedures by serving upon the intrastate natural gas pipeline operator a letter of non-compliance notifying said operator of said probable violation and directing said operator to correct said violation within a designated period of time to be determined by the assistant secretary or be subject to enforcement action prescribed by Section 509 through Section 517 hereof. A copy of the field inspection report or other evidence of violation shall be attached to the letter of non-compliance. The letter of non-compliance may inform the operator of the time at which reinspection of the facility will be conducted to confirm compliance and shall inform the operator of the time delays and procedure available to said operator for securing relief from said letter of non-compliance.

B. Except in cases of emergency action instituted pursuant to Section 513 hereof, within seven days of receipt of a letter of non-compliance, the operator who believes himself to be in compliance with the applicable statute and the rules, regulations or orders issued thereunder or who believes the time limits imposed upon him for compliance to be burdensome, may request a conference before the assistant secretary or his designated agent. The operator's request for said conference may be verbal or presented in writing.

C. The conference before the assistant secretary or his agent shall be informal without strict adherence to rules of evidence. The operator may submit any relevant information and materials which shall become part of the record and may examine the assistant secretary's files relative to the probable violation. If circumstances are deemed appropriate by the assistant secretary and upon request of the operator, this conference may be held by telephone conference.

D. Upon conclusion of the conference for relief, the assistant secretary may issue to the operator a modified letter of non-compliance extending the time for compliance or containing such other terms and conditions as may be appropriate considering the nature of the probable violation, the circumstances and exigency of the situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 12:600 (September 1986).

§509. Reinspection, Show Cause Conference

A. Upon expiration of the delay allowed in the letter of non-compliance or modified letter of non-compliance for correcting said probable violation, the operators facilities shall be reinspected and if the operator is found to be in compliance, the enforcement file for said violation will be closed.

B. If upon reinspection the operator is found to be in violation of the statute, rule or regulation for which a letter of non-compliance has been issued, the assistant secretary may:

1. reissue citation to the operator in the form of a letter of noncompliance containing such modifications or extensions of time as the case may warrant;

2. require that the operator attend a show cause conference with the assistant secretary or his agent to review the complaint and the operators effect in resolving or correcting the violation and at the conclusion of said conference the assistant secretary may reissue a modified letter of noncompliance containing such modifications or extensions of time as the case may warrant; or

3. immediately after reinspection or after the show cause conference, initiate one or more enforcement proceedings prescribed by Section 511 through Section 517.

C. The show cause conference shall be conducted informally without strict adherence to the rules of evidence. The operator may submit any relevant information, call witnesses on his behalf, and examine the evidence and witnesses against him. No detailed record of said conference shall be prepared but said record shall contain the materials in the enforcement case file pertinent to the issues, relevant submissions of the operator and the written recommendations of the assistant secretary or his agent.

§511. Show Cause Hearing, Notice, Rules of Procedure, Record, Order of Compliance

A. At any time that the assistant secretary determines that such action is appropriate, he may direct that an operator attend a formal show cause hearing and to show cause at said hearing why he should not be compelled to comply with applicable statutes and the rules and regulations promulgated thereunder.

B. The operator shall be given at least 10 days notice of said show cause hearing in the manner herein provided and shall be required to attend. The assistant secretary may issue such subpoenas as may be necessary for the attendance of witnesses and the production of documents.

C. The show cause hearing shall be conducted in accordance with the procedures for adjudication prescribed by the Administrative Procedure Act (R.S. 49:950 et. seq.)

D. The record of the case shall include those items required by R.S. 49:955E together with the enforcement file for the violation in question which enforcement file may include inspection reports and other evidence of violation, letters of non-compliance, modified letters of noncompliance, materials submitted by the operator pursuant to Section 507 through Section 509, all correspondence and orders directed to the operator by the assistant secretary, all correspondence received by the assistant secretary from the operator, and evaluations and recommendations of the assistant secretary or his staff.

E. After conclusion of the show cause hearing the assistant secretary shall issue an order of compliance directed to the operator setting forth findings and determinations on all material issues, including a determination as to whether each alleged violation has been proven, and a statement of the actions required to be taken by the operator and the time by which such actions must be accomplished. The compliance order shall become final as specified by the Administrative Procedure Act.

F. The assistant secretary may tax the operator with all costs of said hearing including but not limited to transcription and service costs and hearing fees in the amount prescribed by R.S. 30:21.

G. The operator and the assistant secretary may consent to waiver of the show cause hearing and enter into a consent order which will become final and non-appealable upon its issuance.

H. If the operator fails to comply with the final order of compliance, the assistant secretary may take whatever civil or criminal action is necessary to enforce said order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 12:600 (September 1986).

LAC 43:XI.513²¹

§513. Emergency

Should the assistant secretary, the director of pipelines or the chief of pipeline safety find an existing emergency due to non-compliance with law or the rules, regulations or orders issued pursuant thereto or due to gas leakage or lack of malodorization which in his judgment requires the issuance of an emergency order or an order for the immediate termination of the offending service without first complying with the procedures set forth herein and without having a hearing, he may issue the emergency order or terminate said offending service and invoke a show cause hearing pursuant to §511 requiring the operator to show cause why the circumstances giving rise to the emergency should not be corrected. The emergency order or order for termination of the offending service shall remain in force no longer than 15 days from its effective date. In any event, the emergency order shall expire when the order made after notice and hearing with respect to the same subject matter becomes effective. An emergency is defined as the lack of malodorant in gas required to be malodorized or any situation where there is a substantial likelihood that loss of life, personal injury, health or property will result before the procedures under this regulation for notice and hearing can be fully complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 12:600 (September 1986).

LAC 43:XI.515²²

§515. Civil Enforcement Injunction

Whenever it appears to the assistant secretary that any person or operator has engaged, is engaged, or is about to engage in any act or practice constituting a violation of R.S. 30:501 et seq., R.S. 33:4521 et seq., or R.S. 40:1892 et seq. or any rule, regulation or order issued thereunder, he may bring an action in the court having jurisdiction, to enjoin such acts or practice and to enforce compliance with the applicable statute and the rules, regulations and orders issued pursuant thereto, and upon proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with the applicable law or any rule, regulation or order issued thereunder, and to make restitution of money received in violation of any such rule, regulation or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 12:600 (September 1986).

LAC 43:XI.517²³

§517. Criminal Enforcement, Penalties

A. The assistant secretary may transmit such evidence as may be available concerning acts or practice in violation of R.S. 30:501 et seq., R.S. 33:4521 et seq., and R.S. 40:1892 et seq. or any rule, regulation or order issued pursuant thereto or any order issued pursuant to this regulation to the district attorney having jurisdiction over same who, in his discretion, may institute necessary proceedings to collect the penalties provided by statute.

B. Any person who willfully violates any provision of R.S. 30:501 et seq. or any rule, regulation or order issued pursuant thereto or any order issued pursuant to these enforcement regulations or who willfully furnishes false information to the assistant secretary shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, for each violation.

C. Any person who fails to fully comply, within 60 days after receipt thereof, with any rules, regulation or order of the Office of Conservation adopted pursuant to the provisions of R.S. 33:4521 et seq. or R.S. 40:1892, or any order issued pursuant to this regulation shall be fined \$1,000 for each day he fails to comply therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 12:600 (September 1986).

LAC 33:IX.505²⁴

§505. Administrative Enforcement

A. Administrative enforcement consists of procedures and actions which are initiated, decided, and enforced by the administrative authority, outside of civil or criminal actions in the courts. Upon receipt of information or a report of investigation that substantiates a violation, the administrative authority may commence enforcement proceedings under the Act.

B. Enforcement Actions

1. Upon a determination that a violation of the Act or rules has occurred or is about to occur, the administrative authority may initiate one or more of the actions set forth in R.S. 30:2025

2. Termination, modification, or revocation and reissuance of permits.

a. The administrative authority may for cause terminate, modify, or revoke and reissue any permit issued or continued under the authority of the Act or these regulations. Prior to taking such action the administrative authority shall notify the permittee by personal service, or by certified mail, return receipt requested, of the proposed action and the facts or circumstances which warrant it and shall provide an opportunity for the permittee to show cause why the permit should not be terminated, revoked and reissued, or modified.

b. Prior notification of the termination, revocation and reissuance, or modification of a permit shall not be required in the following cases:

i. the administrative authority finds that immediate action is required to protect public health, safety or welfare or to prevent severe environmental damage;

ii. the action taken was initiated at the request of the permittee;

iii. a civil penalty may be assessed according to the provisions of the Act for each day of violation of the Act or these regulations and for each day of continued violation or noncompliance resulting from failure to take corrective action within the time specified in a Compliance Order or Emergency Cease and Desist Order.

C. General Authority. The administrative authority may also issue such other orders or directives as are necessary to effectuate the purpose of and enforce the Act or these regulations.

D. The assessment of penalties will be in accordance with R.S. 30:2025 (E) (3) and (4) with consideration for the fair and equitable treatment of the regulated community. Additional factors that may be considered include the gravity of the offense, the economic benefit of noncompliance, the standard of care by the operator, the size and toxicity of the discharge, the degree of damages incurred, the ability to pay and any mitigating efforts by the discharger.

E. Service. All enforcement actions of the administrative authority shall be issued in writing and served in person or by certified mail, return receipt requested.

LA. R.S. 30:2025.B.1²⁵

§ 2025 Enforcement

A. General enforcement power.

(1) Any civil action necessary to carry out the provisions of this Subtitle shall be brought by the secretary or upon the direction of the commission. In such suits, the secretary or commission shall be represented by the attorney general.

(2) Violations shall be addressed in a formal and consistent manner in accordance with uniform and consistent procedures adopted for addressing violations.

B. Civil suit for damages.

(1) The department may bring a civil action in the name of the state to recover any damages or penalties resulting from a violation of any requirement of this Subtitle or any rule, regulation, or order adopted thereunder. In such suits the department shall be represented by the attorney general, and such actions shall be brought in a district court. Proper venue shall be any parish in which damage has occurred or any parish where the defendant resides, is domiciled, or has his principal place of business. The attorney general shall file a suit for assessment of a penalty or

collection of a penalty on those cases referred to him. If the court determines that a violation of this Subtitle has occurred, in assessing damages the court shall take into consideration the cost of restoring the affected area to its condition as it existed before the violation and its present market value and shall include therein the costs of all reasonable and necessary investigations made or caused to be made by the state in connection therewith. No civil proceedings brought under this Subsection shall limit or prevent any other actions or proceedings which are authorized by Subsections A, C, D, E, and G of this Section or by any other provision of this Subtitle which authorizes any action.

La. R.S. 30:2025.E.1 ²⁶

E. Civil penalties.

(1) (a) Any person found to be in violation of any requirement of this Subtitle may be liable for a civil penalty, to be assessed by the secretary, an assistant secretary, or the court, of not more than the cost to the state of any response action made necessary by such violation which is not voluntarily paid by the violator, and a penalty of not more than twenty-five thousand dollars for each day of violation. However, when any such violation is done intentionally, willfully, or knowingly, or results in a discharge or disposal which causes irreparable or severe damage to the environment or if the substance discharge is one which endangers human life or health, such person may be liable for an additional penalty of not more than one million dollars.

(b) If the penalty assessed by the department is upheld in full or in part, the department shall be entitled to legal interest as provided in Civil Code Article 2924 from the date of imposition of the fine or penalty until paid.

(c) Any person found to be in violation of any requirement of this Subtitle may be subject to the revocation or suspension of any permit, license, or variance which has been issued to the person.

La. R.S. 30:2025.E.2 ²⁷

(2) Any person to whom a compliance order or a cease and desist order is issued pursuant to R.S. 30:2025(C) who fails to take corrective action within the time specified in said order shall be liable for a civil penalty to be assessed by the commission, the secretary, the assistant secretary, or the court of not more than fifty thousand dollars for each day of continued violation or noncompliance.

La. R.S. 30:2025.F.1 ²⁸

F. Criminal penalties. Except as otherwise provided by law:

(1) (a) Any person who willfully or knowingly discharges, emits, or disposes of any substance in contravention of any provision of this Subtitle, of the regulations, or of the permit or license terms and conditions in pursuance thereof, when the substance is one that endangers or that could endanger human life or health, shall be guilty of a felony and shall be fined not more than one million dollars or the cost of any cleanup made necessary by such violation and in addition may be fined not more than one hundred thousand dollars per violation, which may be assessed for each day the violation continues, and costs of prosecution, or imprisoned at hard labor for not more than ten years, or both, provided that a continuous violation extending beyond a single day shall be considered a single violation.

(b) However, the discharge of air contaminants into the air of this state in violation of the provisions of this Subtitle, of the regulations, or of the permit or license terms and conditions in pursuance thereof, by the incineration of cardboard by a retail or wholesale merchant or by his employee or agent shall not subject such person to the fine herein provided for, unless such incineration would violate an applicable requirement of the federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended and the emission source meets any of the following:

(i) Emits or has the potential to emit, in the aggregate, ten tons per year or more of any toxic air pollutant listed by the department pursuant to R.S. 30:2060, or twenty-five tons per year or more of any combination of such toxic air pollutants.

(ii) Emits or has the potential to emit one hundred tons per year of any regulated air pollutant.

(iii) Is located in an ozone nonattainment area and emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", fifty tons per year or more in areas classified as "serious", twenty-five tons per year or more in areas classified as "severe", and ten tons per year or more in areas classified as "extreme".

La. R.S. 30:2025.F.2.a²⁹

(2) (a) Any person who willfully or knowingly discharges, emits, or disposes of any substance in contravention of any provision of this Subtitle of the regulations, or of the permit or license terms and conditions in pursuance thereof, when the substance does not endanger or could not endanger human life or health, or who willfully or knowingly violates any fee or filing requirement, or who willfully or knowingly makes any false statement, representation, or certification in any form, application, record, label, manifest, report, plan, or other document filed or required to be maintained under this Subtitle, or under any permit, rule, or regulation issued under this Subtitle, or who willfully or knowingly falsifies, intentionally tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Subtitle, or under any permit, rule, or regulation issued under this Subtitle, shall be guilty of a misdemeanor and may be fined not more than twenty-five thousand dollars per violation, which may be assessed for each day the violation continues, and costs of prosecution, or imprisoned for not more than one year, or both, provided that a continuous violation extending beyond a single day shall be considered a single violation. A finding that this Paragraph has been violated shall be a responsive verdict when the defendant has been charged with a violation of Paragraph (1) of this Subsection.

La. R.S. 30:2474³⁰

§ 2474. Suspension

If the coordinator determines that a registrant does not have a suitable or adequate discharge prevention and response plan or that the registrant's preventive measures or containment and cleanup capabilities are inadequate, the coordinator may, after an adjudicatory hearing pursuant to the regulatory authority provided in Part II of this Chapter, suspend the registrant's certificate until such time as the registrant complies with the requirements of this Chapter.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

La. R.S. 30:2480³¹

§ 2480. Presumption of natural resources damages

A. In any action to recover natural resources damages, the amount of damages established by the coordinator in conjunction with state-designated natural resources trustees, according to the procedures and plans contained in the state oil spill contingency plan, shall create a rebuttable presumption of the amount of such damages.

B. The coordinator may establish the rebuttable presumption by submitting to the court a written report of the amounts computed or expended according to the state plan. The written report shall be admissible in evidence.

(Added by Acts 1991, 1st Ex.Sess., No. 7, s 1, eff. April 23, 1991.)

LAC 33:V.10117.A³²

§10117. Failure to Report; Penalties

A. Failure to report any regulated material, as provided in these rules and under the authority of R.S. 30:2361-2379, may result in the levying of Civil Penalties up to \$25,000 for each regulated hazardous material not reported and/or for each non-reported release of a regulated hazardous material.

Memorandum of Understanding ³³

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
LOUISIANA OIL SPILL COORDINATOR'S OFFICE, OFFICE OF THE GOVERNOR
AND THE
GULF OF MEXICO OCS REGION, MINERALS MANAGEMENT SERVICE
OF THE DEPARTMENT OF THE INTERIOR
CONCERNING OIL SPILL PREVENTION AND RESPONSE
FOR FACILITIES IN OFFSHORE LOUISIANA STATE WATERS**

I. Purpose

This Memorandum of Understanding (MOU) is entered into by the Louisiana Oil Spill Coordinator's Office (LOSCO) and the Minerals Management Service (MMS), Gulf of Mexico OCS Region, for the purpose of coordinating and implementing consistent requirements with respect to oil spill prevention and response for facilities in offshore Louisiana State waters.

II. Definitions

For purposes of this MOU, the following definitions apply:

Facility - any structure, group of structures, equipment, or device (other than a vessel) including a pipeline which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. The term includes mobile offshore drilling units only when they are engaged in drilling or downhole operations.

Offshore Louisiana State Waters - the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

Oil Spill Response Plan - a plan prepared by a lessee and submitted to the MMS for approval which outlines the procedures, equipment, and personnel that the lessee will utilize when responding to an oil spill.

III. Agency Authorities and Responsibilities

A. As it relates to facilities in offshore Louisiana State waters, the MMS administers the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (OPA 90), implemented under Executive Order 12777, which gives MMS authority over certain oil spill prevention and response activities. The responsibilities given by this law include:

1. Establishing procedures, methods, and equipment to prevent and to contain discharges of oil and hazardous substances.
2. Requiring the preparation and submittal of oil spill response plans, approving the means to ensure the availability of private personnel and equipment, reviewing and approving oil spill response plans, and authorizing

the continued operation of facilities without an approved oil spill response plan.

3. Requiring the periodic inspection of booms, skimmers, and other equipment used to remove oil spills.

4. Issuing regulations concerning the financial responsibility of responsible parties in the event of an oil spill.

B. As it relates to facilities in offshore Louisiana State waters, the LOSCO administers the Oil Spill Prevention and Response Act. The responsibilities, among others, given by this law include:

1. Developing a statewide oil spill prevention and response plan.

2. Providing a coordinated response effort from all appropriate State agencies in the event of an oil spill which threatens to affect or potentially affect the land, coastal waters, or any other waters of Louisiana.

3. Coordinating the operational implementation and maintenance of an oil spill prevention program.

4. Adopting and enforcing regulations relating to matters regarding actual or threatened oil spills.

IV. Coordination Guidelines

To accomplish the purpose of this MOU, the LOSCO and the MMS agree to observe the following guidelines:

A. Prevention of Oil Spills

The LOSCO and the MMS will review and exchange their respective existing and proposed regulations regarding oil spill prevention.

B. Oil Spill Response Plans

The MMS will receive and review all oil spill response plans that cover facilities in offshore Louisiana State waters. The MMS will provide a copy of all such plans and any amendments thereto to the LOSCO as soon as they are approved. The MMS will consult with the LOSCO before disapproving any oil spill response plan that covers facilities in offshore Louisiana State waters.

C. Performance Testing of Oil Spill Response Equipment

The LOSCO and the MMS may agree to require the testing of any oil spill response equipment listed in an oil spill response plan that covers facilities in offshore Louisiana State waters to ensure that the equipment meets the performance standards stated in the plan. Lessees will receive

credit from both Agencies for the testing of any response equipment listed in the plan.

D. Training of Oil Spill Response Personnel

The MMS will ensure that all members of the oil spill response operating team and the spill response management team identified in an oil spill response plan that covers facilities in offshore Louisiana State waters are provided with appropriate training classes at least annually. The MMS will seek the assistance of the LOSCO in periodically auditing such training classes.

E. Oil Spill Response Drills

The LOSCO and the MMS will cooperate on oil spill response drills and will each recognize drills conducted in offshore Louisiana State waters and in Federal waters by the other. For facilities in offshore Louisiana State waters, the LOSCO and the MMS will exchange schedules for annual familiarization drills and will jointly schedule unannounced drills. Each Agency will be given the opportunity to observe or participate in any of these drills. When the MMS utilizes helicopter transportation in the observation or conduct of a drill, one space in the helicopter will, upon request, be reserved for a LOSCO representative, subject to the provisions of paragraph IX herein. The National Preparedness and Response Exercise Program will serve as a guide for the conduct of oil spill response drills. The LOSCO and the MMS will exchange industry and agency evaluations of the drills. Operators will receive credit from both Agencies for any drill involving facilities in offshore Louisiana State waters.

F. Inspections of Oil Spill Response Equipment

The LOSCO and the MMS will jointly schedule inspections of land-based oil spill response equipment. Each Agency will be given the opportunity to participate in these inspections. The Agencies will exchange or jointly prepare inspection reports.

G. Coordination During Actual Spills

If an oil spill originates from a facility located in offshore Louisiana State waters, upon request, the MMS will assist the LOSCO in ensuring that the responsible party abates the source of the spill and promptly and effectively contains and removes the oil spill in accordance with their approved oil spill response plan. If an oil spill originating from a facility located in Federal waters threatens or potentially threatens the land, the coastal waters, or any other waters of the State of Louisiana, the MMS will provide information and assistance to LOSCO to facilitate LOSCO's coordinated response effort.

H. Investigation of Major Oil Spills

The LOSCO and the MMS will establish methodologies and strategies for investigating and the reporting of major spills which originate from

facilities located in offshore Louisiana State waters. When an oil spill originating from a facility located in offshore Louisiana State waters occurs, the LOSCO and the MMS will jointly determine the necessity of an investigation and cooperate in the investigation and the preparation of the report. The MMS may seek the assistance of LOSCO when investigating and reporting on major oil spills which originate from facilities located in Federal waters. The Agencies will coordinate spill investigation strategies and exchange copies of industry and agency spill reports. The Agencies may also agree to prepare joint reports.

V. Exchange of Services

The LOSCO and the MMS will seek to cooperate in providing assistance, training, and transportation, as appropriate, in carrying out the provisions of this MOU.

VI. Information Exchange

Both Agencies will exchange information of mutual interest and provide each other with early drafts of rulemaking notices. The LOSCO will periodically provide the MMS with updated information regarding leases and facilities in offshore Louisiana State waters.

VII. Implementation

A. Each Agency will review its internal procedures and, where appropriate, will revise them to accommodate the provisions of this MOU.

B. Each Agency will periodically review its reporting and data collection requirements imposed on operators of facilities in offshore Louisiana State waters.

C. Both Agencies agree to meet periodically to discuss and review their respective services, operations, and programmatic initiatives as they relate to oil spill prevention and response. Further, at least one meeting per year will be devoted to briefing representatives of the oil and gas industry, other Louisiana State Agencies, and other interested parties on joint initiatives made pursuant to this MOU.

VIII. Limitations

Nothing in this MOU shall be interpreted to conflict with or be inconsistent with any Federal or State statute, regulation, or other provision of law applicable to the MMS or the State of Louisiana. Furthermore, this MOU does not constitute a delegation of any authority by either Agency to the other.

IX. Non-Indemnification Provision

Each Agency agrees that it will be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other Agency

and the result thereof. Each Agency therefore agrees that it will assume all risk and liability to itself, its agents or employees, for any injury to persons or property resulting in any manner from the conduct of its own operations and the operations of its agents or employees, under this agreement, and for any loss, cost, damage, or expense resulting at any time from any and all causes due to any act or acts, negligence, or the failure to exercise proper precautions, of or by itself or its own agents or its own employees, while occupying or visiting the premises under and pursuant to the agreement. The liability of the MMS shall be governed by the provisions of the Federal Tort Claims Act (28 U.S.C. 2671-80). The liability of the LOSCO shall be governed by the provisions of applicable Louisiana law.

X. Further Coordination

The LOSCO and the MMS will cooperate in the development of an MOU between LOSCO and the MMS which will address cooperation in research and development, data collection, information exchange, mapping projects, oil spill prevention and containment, and other topics.

XI. Evaluation

This MOU will be reviewed on a periodic or as needed basis to be determined by the Agencies to establish if revisions are necessary.

XII. Effective Date

This MOU is effective upon signature. It may be amended at any time by mutual agreement of the Agencies and may be terminated by either Agency upon a 30-day written notice.

Chris C. Oynes

Chris C. Oynes
Acting Regional Director
Gulf of Mexico OCS Region
Minerals Management Service

Date

11/16/94

Roland J. Guidry

Roland J. Guidry
Louisiana Oil Spill Coordinator
Office of the Governor
State of Louisiana

Date

11/22/94

Natural Resource Damage Assessment ³⁴

Paper ID # 158 & #325 (combined)

**COOPERATIVE DAMAGE ASSESSMENT:
LESSONS FROM THE GREENHILL SPILL**

J. Heather Warner Finley
Louisiana oil Spill Coordinator's office
P.O. Box 94095, Baton Rouge, LA 70804

Karolien Debusschere
Coastal Environments, Inc.
1260 Main Street, Baton Rouge, LA 70802

James G. Hanifen
Louisiana Department of Wildlife and Fisheries
P.O. Box 98000, Baton Rouge, LA 70898

Maura J. Newell
and
Brian E. Julius
NOAA Damage Assessment Center
1305 East-West Highway, Silver Spring MD 20910

Pasquale F. Roscigno
Minerals Management Service
Gulf of Mexico OCS Region
1201 Elmwood Park Blvd., New Orleans, LA 70123

Johannes von Beek
Coastal Environments, Inc.
1260 Main Street, Baton Rouge, LA 70802

ABSTRACT: Following a September 1992 natural gas and oil well blow out in Timbalier Bay, Louisiana, natural resource trustees took action under the oil Pollution Act of 1990 (OPA), Clean Water Act (CWA), and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to restore the natural resources injured by the spill. The State of Louisiana through its Oil Spill Coordinator's office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR); and the Federal government through the Department of Commerce - National Oceanic and Atmospheric Administration (NOAA) and Department of the Interior - Minerals Management Service (hereinafter collectively referred to as the "Trustees") worked cooperatively with Greenhill Petroleum Corporation (Greenhill), the owner and operator of the well, in a Natural Resource Damage Assessment (NRDA). The

resolution of the Greenhill NRDA marks an early success for all parties involved. The process was concluded in December 1993, only 14 months after the spill, when Greenhill and the Trustees signed a natural resource restoration agreement. The cooperative assessment and innovative approaches used by the Trustees and Greenhill resulted in the rapid resolution of the case, rapid implementation of restoration, and relatively low assessment costs.

THE SPILL

On September 29, 1992, natural gas and petroleum Well No. 250, in Timbalier Bay, Louisiana, began discharging crude oil and natural gas as a result of loss of well control during workover operations. Greenhill promptly initiated response actions to contain and remove spilled oil. While attempting to cap the well on the morning of October 1, 1992, the discharged oil and natural gas ignited, complicating efforts to cap the well. The well was successfully capped on October 9, 1992.

The blowout resulted in a discharge of approximately 96,000 gallons of oil into the Timbalier Bay estuarine environment. The concentration and quantity of oil discharged impacted, to varying degrees, approximately 122 acres of intertidal marshes on East Timbalier, Timbalier, Brush, Calumet and Casse-tete Islands (Figure 1). Oiled marsh grass, primarily *Spartina alterniflora*, experienced dieback or was assumed to have experienced other impacts to growth and productivity, thus increasing the vulnerability of oiled areas to erosion. Migratory birds and aquatic natural resources were affected by the discharge of oil as well.

Under OPA and CERCLA, natural resource trustees are authorized to recover funds (damages) sufficient to restore or replace natural resources injured as the result of a discharge of oil into navigable waters of the United States and adjoining shoreline. CERCLA defines natural resources to include living and non-living resources, such as air, land, and water. Recovered damages must be used to restore injured natural resources or replace the functions of those resources in the ecosystem (services) that have been lost as a result of a spill.

THE EARLY RESPONSE

The Trustees sent representatives to the spill site to initiate a preliminary on-scene assessment. Using methods outlined in NOAA's emergency procedures manual (Research Planning, Inc., 1994) they evaluated existing data sources from the area, including wildlife, fisheries, geomorphological, physical and chemical oceanographic data. They also collected zooplankton, benthos, and subtidal and intertidal samples as well as observational data on short-term impacts.

Simultaneously, Greenhill and the Trustees cooperated by participating in joint field surveys to quantify oil coverage and oiling characteristics in the impacted area. This working relationship persisted through the injury assessment and negotiation phases of the NRDA

process. The surveys consisted of mapping the general area of spill impact and assessing the area with regard to geomorphological and ecological characteristics. These data were intended to help prioritize clean-up operations.

THE COOPERATIVE ASSESSMENT

The Trustees conducted an initial meeting with Greenhill to discuss the results of the preliminary evaluation on October 16, 1992. At that time, all parties agreed that the cooperative relationships forged during the early phases of the incident were valuable and should carry over into a joint injury assessment and negotiation phase. Once clean-up efforts were concluded, the joint Greenhill/Trustee technical team, essentially consisting of the people who had participated in the preliminary assessment, discussed the assessment options available to them. The decision to use the same individuals for both the response and NRDA teams facilitated a rapid transition from response to NRDA.

Rather than contesting liability or the existence of environmental injuries, the parties agreed to participate in a joint damage assessment. This allowed an open exchange wherein technical personnel were given latitude to discuss and reach agreement on technical issues directly. In fact, many such discussions took place by telephone. By agreeing early to a technically-driven process, the Trustees and Greenhill established a framework that allowed technical personnel to discuss and resolve issues outside of meetings involving all Trustee and Greenhill case personnel. All discussions and negotiations were, however, undertaken with the knowledge and concurrence of the case teams, including legal counsel, to protect the interests of all parties.

The cooperative settlement approach provided all parties with more flexibility in performing a NRDA than under CERCLA. The primary benefit to the trustees in using the regulations is that they are granted a rebuttable presumption of accuracy in subsequent legal proceedings. Since both the Trustees and the Greenhill were confident that this case could be settled without litigation, where the rebuttable presumption is relevant, they decided not to follow the CERCLA NRDA regulations; the OPA regulations were still being drafted at this time.

Under the CERCLA NRDA regulations (43 CFR Part II), trustees would have been limited to either a Type A or Type B assessment approach. Type A assessments focus on small spills in coastal and marine environments where extensive scientific documentation either is not cost effective or impossible to carry out. The basis of the Type A regulations is a computer model: the Natural Resource Damage Assessment Model for Coastal and Marine Environments (NDRAM/CME). The NRDAM/CME is composed of three submodels which predict the physical fate of spilled substance, the biological effects, and the economic damages caused by the spill (Research Planning, Inc., 1994). The data needed to run the model generally are available in published literature, reports generated during the emergency response, and from other resource management agencies. However, the Type A model assumes a single short-term discharge. In addition, the model considers losses in terms of

certain biological resources and services only; it excludes injury to aquatic vegetation such as the marsh grasses impacted by this spill. Because the Greenhill case involved a prolonged oil release and the primary injury was to marsh grasses and the aggregate services provided by the marsh, the Type A model was not used.

Type B assessments, on the other hand, may be conducted for incidents involving complex situations or releases that occur over a period of time. They rely on site-specific studies conducted over extended periods and generally are costly in comparison to Type A assessments. A typical Type B assessment would involve site-specific studies of all or several potentially impacted resources, a calculation of damages for each injured resource, and the development of a restoration or replacement plan before a claim would be presented to the responsible party (RP). Given the extent and severity of the Greenhill blow out, a Type B assessment would not have been justifiable on a reasonable cost basis.

Since neither Type A nor Type B regulations were appropriate for the Greenhill case, an alternative method, the Habitat Equivalency Model (HEM), was selected because it was both technically applicable and cost-effective. The model determines the scale of restoration projects that are required to compensate for loss of resource services from the time of injury until recovery. Compensation is based on the initial level of services lost and the rate of recovery, as well as the rate and magnitude of services regained by restoration. Equating the services lost as a result of the discharge to those gained as a result of the restoration determines the proper scale of the habitat restoration/creation project. One requirement for use of the model is that feasible restoration techniques that will provide categories of services equivalent to those lost as a result of the spill exist. Damages can then be based either on the monetary cost of implementing the projects or restoration can be accomplished through in-kind compensation performed by the RP. In this case an in-kind settlement, creation of new intertidal marsh habitat, was selected as the preferred restoration alternative. Hartman et al. (in press) describe the HEM in detail.

In applying the HEM, the Trustees and Greenhill focused on quantifying injuries to selected natural resources and services resulting from the spill and on identifying data for model input. Sequential aerial photography and published maps were used to estimate the longevity of the island. Published values from the literature were used for marsh recovery projections.

The assessment of injuries, which provided the basis for calculation of required compensation through the HEM, was largely based on the field surveys conducted for clean-up. Trustee participation enabled the Trustees and Greenhill to use these data to document the extent of marsh oiled as the result of the spill. The data obtained through the field surveys were the only quantitative, site-specific data available for establishing the extent and severity of oiling. These data were analyzed and synthesized based on a combination of three parameters: oil width, distribution, and thickness, and classified according to a rating system: unoiled, very light, light, moderate, and heavy. Maps with polygons representing the respective oiling categories were produced and then entered into a geographic information system (GIS) for data processing and area calculations. The area calculations subsequently were used as input

for the HEM. However, area calculations obtained through this process reflect the total number of acres where varying degrees of oiling was observed rather than the surface area that was oiled. For example, if one acre had patches of oil uniformly distributed throughout and covering approximately half of the total surface area, the survey would record this as one acre with 50 percent surface oil coverage. During the data reduction process, the entire acre would be classified as "oiled" because measuring and mapping each oiled patch as a distinct polygon is time consuming and not relevant for clean-up operations. The one acre would subsequently be digitized as one polygon on the oiling map and assigned a surface oil category.

This analysis did not produce as precise an estimate of actual surface area oiled as would have been produced in a Type B assessment. By mutual agreement however, these area calculations served as model input because they were immediately available, site-specific, quantitative measurements of oil in the environment. In addition, marsh creation was assumed to compensate for other habitat and service losses that were not addressed directly in the HEM. Data regarding specific impacts of the event could have been collected and applied to the injury assessment as in a Type B procedure; however this would have increased the costs of the assessment and delayed the implementation of habitat restoration.

The model determined that the Greenhill spill resulted in loss of 43.43 acre-years of lost marsh services. It also determined that creation of 21.7 acres of new marsh habitat would compensate for the lost services.

THE SETTLEMENT

The Greenhill NRDA settlement was atypical: the Trustees and Greenhill agreed to an in-kind restoration project, using the HEM rather than pursuing monetary compensation for natural resource injuries. Greenhill agreed to implement restoration directly, using trustee performance criteria and with trustee oversight. Specifically, Greenhill would: 1) create 21.7 acres of planted *Spartina alterniflora* marsh on East Timbalier Island that would have 80% vegetative coverage at the 2-year mark following completion of planting and; 2) monitor the created marsh for 5 years, beginning after completion of the initial planting, to determine whether the restoration of marsh services was achieved as agreed.

In-kind compensation has several advantages over monetary compensation. First, planning for restoration alternatives is integrated into the NRDA process from the beginning. At the conclusion of the process, a specific restoration plan is agreed upon; therefore, questions regarding how restoration monies are to be spent are eliminated. In-kind compensation can also take advantage of in-house expertise and capabilities. In this case Greenhill had substantial expertise with dredging projects, and dredged material was available from a channel maintenance project.

In-kind compensation also takes advantage of efficient contracting mechanisms typically available to private firms. As a result, some of the costs and uncertainties involved with

restoration are minimized. The RP has the freedom to use cost-effective approaches to implement the project as long as the specified performance criteria are met. Since the amount paid by the RP is the actual cost incurred in restoration, in-kind compensation also eliminates the chance that the RP may pay more than it actually costs to perform the restoration. Likewise the Trustees avoid the risk of underestimating restoration costs.

REASONABLE COST

Both the current CERCLA and draft OPA regulations state that trustees may recover reasonable assessment costs. The trustees are charged with restoring natural resources that were injured as a result of an unauthorized discharge. Under the CERCLA regulations, if the cost of determining the value of the injured resources exceeds the value of those resources, then the cost of assessment would not be judged to be reasonable. Measuring injuries from an oil spill relies on expensive field and laboratory methods; therefore relatively few samples ultimately can result in a high assessment cost. For example, identification and quantification of benthic animals costs approximately \$300/sample. The sample replication rate needed to quantify benthic communities in coastal Louisiana accurately, depending on the location and fauna, is 5-7 samples per site. Consequently, one replicated sample at a single station can exceed \$2,000 in laboratory costs. Gas Chromatography/Mass Spectrometry analysis for fingerprinting is also very expensive. Since much of the injury to resources is sublethal (i.e., not immediately lethal but causing some impairment of ability to forage, reproduce, grow, etc.), expensive physiological analyses and/or long term monitoring would be required to determine injuries fully. Additional requirements to insure that samples are of litigation quality serve to increase costs further.

Because of these realities the trustees are often caught in a difficult situation. The cost of accurately quantifying the nature and extent of injury to trust resources is often very high. However, because NRDA's are conducted with the potential for litigation, it is often necessary to do detailed, sitespecific studies to establish impacts and assign values to injuries. Cooperative assessments keep costs reasonable by encouraging the use of joint sampling and a shared data sets. In this case, the parties worked cooperatively from the beginning. They also limited assessment costs by using computer models, negotiated settlement, and relying on existing data.

COMMUNICATION

In addition to cost considerations, communication influences every part of the assessment process. In most cases, several trustee agencies are involved and there may be more than one RP. Effective communication is vital to move the process toward resolution, and requires that the participants establish a working relationship early. Additionally, a single point-of-contact for each party and clear lines of communication should be identified. In this case, many of the participants in the NRDA process began their working relationships during the initial response to the blow out.

Later, many of these same individuals participated in the field surveys used to map the oiling of the islands.

A single point of contact for each of the participants facilitates the efficient conduct of business throughout the spill and its aftermath. For example, in the State of Louisiana, LOSCO is statutorily designated as the lead administrative trustee for the State for NRDA resulting from oil spills. As such, they served as the voice of the State Trustees. In the Greenhill negotiations, LOSCO facilitated communication among all the Trustees, and presented a single point-of-view in all discussions with Greenhill and the Federal Trustees. Thus, more rapid decision-making was possible in the joint Trustee/Greenhill negotiations.

A cooperative NRDA process requires clear lines of communication, i.e., each participant in the process must understand its role in the activity and position in the organization. By establishing consistency in administrative, legal, and technical personnel a rapport can be established among the parties, and negotiations can move more quickly to conclusion. Administrative participants should function only to maintain the continuity of the proceedings and serve as the spokesperson for their group. The role of legal counsel should be to insure that all actions are consistent with applicable state and federal law. Technical representatives should provide the scientific input needed to bring negotiations to a successful conclusion. Action taken by participants outside their designated roles should be taken only with the agreement of the group.

THE LEARNING PROCESS

The OPA mandated that NOAA promulgate regulations for oil spill NRDA. At the time of the Greenhill blowout those regulations were not yet available. The State of Louisiana had limited experience with the NRDA process, having participated in only one prior to this case. Greenhill had no experience with NRDA. The experience gained in the conduct of this cooperative assessment should enhance the pace of future actions, and potentially decrease assessment costs. In addition, pre-spill planning will identify restoration alternatives in advance. Including preliminary NRDA planning in oil spill drills could also serve to provide a basis for pre-spill planning.

CONCLUSION

The use of cooperative and expedited assessment procedures such as the HEM and in-kind compensation can greatly benefit Trustees, RP's and, most importantly, natural resources. Areas of agreement and compromise can be identified in the discussions among the technical teams. A cooperative assessment strictly based on technical merits should remove many of the legal and emotional issues. The combination of these approaches used in the Greenhill case enabled the participants to accelerate the assessment process through an expedited assessment and open communications, minimize assessment costs, reach a settlement within 14 months of the initial discharge of oil into Timbalier Bay, and provide direct in-kind compensation for the resources that were injured.

To conduct a successful cooperative NRDA, both the Trustees and RP should identify the administrative, legal, and technical teams who will be responsible for the process and keep those teams intact as much as possible. Every effort should be made to identify common ground that is technically defensible as a base to build from. If negotiations get contentious, the parties should return to common ground and try a different approach. Fostering cooperation among parties on technical aspects of data collection, analyses, and interpretation, will result in lower costs of the injury assessment phase and, ultimately, lower costs of restoration of the natural resources themselves. Use of existing data and innovative approaches to data interpretation, such as the HEM, will achieve more rapid and efficient restoration of natural resources injured in oil spills.

BIOGRAPHY

Heather Warner Finley holds degrees in geology and biology from Michigan State University and the University of Southwestern Louisiana. She has worked in petroleum exploration and production, and now does oil spill planning for the state of Louisiana's Department of Wildlife and Fisheries and oil Spill Coordinator's office.

REFERENCES

1. Hartman, R.D., T. Osborn, B. Julius, M. Newell, A. Arnold, and E. Zobrist. in press. Mitigating an oil Spill in Timbalier Bay, Louisiana: NOAA's Damage Assessment and Restoration Program in Action. In Proceedings 21st Annual Conference on Wetlands Restoration and Creation, Hillsborough Community College, Tampa, FL.
2. Research Planning, Inc. 1994. Natural Resource Damage Assessment Emergency Guidance Manual, Version 1.1 prepared for the Damage Assessment Center, National Oceanic and Atmospheric Administration, Silver Springs, MD