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TRANSPORTATION
Part I. Highway Construction

Chapter 1. Cash Management Plan

§101. Phased Funding

A. The department is authorized to utilize cash management on multi-fiscal year projects which exceed the contract limit established in R.S. 48:251. The department is authorized to allocate only sufficient appropriated funds in any fiscal year to pay for anticipated actual contract obligations incurred in that fiscal year. A multi-fiscal year phased funding plan will be developed for each project approved by the secretary for phased funding. The phased funding plan will provide annual anticipated expenditure projections over the life of the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 24:1324 (July 1998), amended by the Department of Transportation and Development, Office of the Secretary, LR 29:192 (February 2003).

§103. Project Eligibility for Phased Funding

A. In order to qualify for phased funding, the proposed project must be a multi-fiscal year project which exceeds the contract limit established in R.S. 48:251.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR. 24:1324 (July 1998), amended by the Department of Transportation and Development, Office of the Secretary LR 29:192 (February 2003).

Chapter 3. Roadside Vegetation Management

§301. Introduction

A. The authority of this manual is given in Act No. 682 of the Regular Session of the State Legislature of 1989. Under normal budgetary conditions, the vegetation control guidelines as described herein should be followed as closely as possible. However, during times of severe budget restraints when state revenues are not available to fund this vegetation control policy, it may be necessary to adjust guidelines to operate within the reduced budget. Items addressed in this manual include: Guidelines and Categories of Roadside Vegetative Maintenance, Herbicides, Wildflowers and Landscaping. Deviation from policies in this manual must have written approval of the DOTD chief landscape architect and the DOTD chief engineer. Roadside vegetative maintenance guidelines are intended to accomplish the following objectives:

1. provide for safety of the traveling public;
2. blend the roadside with adjacent land uses;
3. improve aesthetic quality;
4. reduce erosion;
5. increase efficiency of maintenance operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:204 (February 1991), amended LR 26:1645 (August 2000).

§303. Guidelines and Categories of Roadside Vegetative Maintenance

A. General Conditions for All Highway Systems

1. DOTD will encourage the growth, planting and preservation of wildflower areas.

2. The district roadside development coordinator shall monitor and coordinate planting of all wildflower areas. He will record locations of the plantings on DOTD Wildflower Inventory Form and return them to headquarters for placement in the master file.

3. Wildflowers may be planted to within 30 feet of the roadway on multi-lane systems and 15 feet on two-lane facilities or the back of the required drainage channel, whichever is greater. Wildflowers that have naturalized and are 15 feet or more from the travel lane should be allowed to remain. Every effort should be made to mow around them and avoid spraying herbicides unless it is spot treatment to eliminate certain weed species. Wildflowers may be planted in medians providing that they do not interfere with sight distances. Naturalized species occurring in wet areas such as iris, lilies and cattails will be allowed to remain when they do not obstruct drainage. The district maintenance engineer will decide when plants are obstructing drainage or sight distances and will take the necessary action to correct the deficiency.

4. Remove litter prior to mowing designated areas. For roads in the Adopt-A-Road Program, it would be beneficial to contact the sponsor agency and advise them of the mowing schedule in order for them to assist in the removal of litter prior to the mowing operation.

5. Sight distance at horizontal curves, vertical curves, intersections, railroad crossings, signs, signal lights, delineators, hazard markers and warning devices should be clear of obstructions. Sight distance can be obtained on the inside of horizontal curves by mowing the area 30 feet from the edge of the surface or from the edge of the surface to the right-of-way line or from the edge of the surface to the fence

line, whichever is the shortest distance. Transition should begin 150 feet prior to the beginning and end of the curve. All vegetation shall be maintained to permit clear visibility for all regulatory traffic signs. Trim or remove trees that interfere with proper sight distance or side and overhead clearance.

6. All vegetation shall be maintained to permit clear visibility for all regulatory traffic signs. Trim or remove trees that interfere with proper sight distance, or side and overhead clearance.

7. All dead trees or leaning trees with weakened root systems within DOTD rights-of-way which may endanger traffic by falling across the highway shall be removed and disposed of in a timely manner. Stumps within a mowable area are to be removed to ground level with a stump removing machine. If the stumps are located in an area designated not to be mowed, they may remain but should be cut to within 5 inches of ground level.

8. In order to ensure proper drainage, mow to the top of backslopes. When ditch bottoms are inaccessible and impeding drainage, treat unwanted vegetation with an approved herbicide labeled for use over water.

9. Mowing heights should be 5-6 inches; shorter cutting heights may cause stress on the vegetation and damage to equipment. Do not mow during long rainy spells and when the right-of-way is too wet. Mowing during these times will cause rutting and possibly cause erosion in the future.

10. Observe and initiate appropriate erosion control procedures when necessary.

11. General herbicide treatment is to be confined to an area of approximately 30 foot widths from the edge of all roadways where right-of-way is available or to the back of the required drainage channel to ensure proper drainage. Spot treatment is allowable beyond this area.

12. Treat pavement edges, paved medians, riprap areas and areas around delineators, guardrails and signs with appropriate herbicide. Treat designated areas of roadsides with appropriate herbicide two weeks prior to mowing cycle to eliminate noxious grasses and weeds. Some areas may need hand trimming because of herbicide restrictions. Prior to treating rights-of-way on federally owned lands, obtain the proper authorization from the federal agency having jurisdiction and make herbicide applications in accordance with their guidelines. Do not spray herbicides in designated or native stands of wildflowers unless absolutely necessary to control weed infestation. When treating unwanted vegetation in wildflower areas, every effort should be made to spot treat the unwanted vegetation.

13. When practical, every attempt should be made to blend the highway right-of-way with the adjacent land uses. For example, forest lands should extend into the right-of-way, subject to clear zone requirements, and rights-of-way adjacent to crop and pasture lands should remain relatively open.

B. Urban (Highway Systems). Urban shall mean within the recognized limits of small towns, villages and municipalities as well as incorporated areas of cities.

1. Maintain all rights-of way by using a minimum cutting height of 5 inches. A maximum height of 8 inches will be allowed prior to mowing.

2. Remove all dead ornamental plants and replace during the proper planting season with appropriate type of plant.

3. Wildflowers may be planted in large interchange areas and shall not be mowed until the mature seed has set. Utilize the 5-inch minimum mowing height up to the limits of the wildflower planting area. Wildflowers which will attain a height of 24 inches or more will not be permitted in narrow medians, or in sight triangles where they will interfere with adequate sight distances. General Conditions, §303.A.3 outlines other facts concerning wildflower plantings.

4. Transition mowing standards between urban and rural categories with a long, smooth, flowing line. This transition should occur over a distance of approximately 2,000 feet.

C. Rural

1. Interstate

a. Begin mowing operations, except wildflower areas once vegetation has reached approximately 12 inches in height. Maintain right-of-way using a 5-inch cutting height.

b. Mow all mowable areas, except wildflower areas a minimum of three times each year. Medians are to be mowed in their entirety each mowing cycle except where wildflowers, shrubs or trees are present. Weather permitting, these mowings should occur in May, August and in late October or November.

c. Wildflowers will be permitted as in §303.A.3 under urban systems. Maintain the 18-inch maximum vegetation height up to the limits of the wildflower planting area. Wildflower areas are allowed to naturally reseed within 15 feet of travel lane.

d. Mow wildflower areas after they have gone to seed. For spring blooming varieties this should normally occur in May and fall blooming plants should be mowed in late October or November. The roadside development district coordinator should be consulted to determine appropriate timing for mowing wildflower areas.

e. Remove all dead ornamental plants as in §303.B, Urban Systems and replace during the proper planting season with appropriate type of plant.

f. Herbicide applications are to be made in accordance with General Conditions, §303.A.11 and 12.

g. Maintain frontage roads in the same manner as primary system.

h. Weight enforcement scale areas are to be mowed in their entirety each mowing cycle using a 5-inch mowing height. Rest areas are to be mowed in accordance with EDSM No. IV.3.1.2.

2. Primary Multi-Lane and Two Lane

a. Begin mowing operations once vegetation has reached approximately 12 inches in 0 height, unless herbicides have established desirable vegetation and rendered mowing unnecessary. Mowing heights are to be 5 inches.

b. Mow a 30-foot strip from the edge of the roadway surface to the top of the backslope to facilitate drainage, or to the right-of-way on multi-lane and two-lane roadways. Medians less than 80 feet in width are to be mowed in their entirety each mowing cycle. In medians which have been allowed to revegetate naturally, mow a 30-foot strip from the edge of the roadway surface or to the back edge of the ditch. Mowing should be accomplished a minimum of three times per year.

c. Wildflowers will be permitted as in §303.A.3, Urban Systems.

d. Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seed has set. In areas which have been allowed to revegetate naturally, annually mow a 40-foot strip to eliminate woody growth.

e. Mow interchange areas to same standards as roadways.

f. Herbicide applications are to be made in accordance with General Conditions, §303.A.11 and 12.

g. Maintain frontage roads in the same manner as primary system.

3. Secondary and Farm-to-Market System

a. Begin mowing operations once vegetation has reached a 12-inch height. Mowing heights are to be 4-6 inches.

b. Mow a 15-foot strip from the edges of the roadway surface or to the back side of the ditch to facilitate drainage.

c. Herbicide applications are to be made in accordance with General Conditions, §303.A and 11 and 12 or as determined by district personnel based on existing conditions.

d. Annually mow entire mowable area in the fall, normally in late October or November after wildflowers have bloomed and the seed has set to prevent excessive woody growth.

D. Intersections (All Systems)

1. Right-of-way permitting, mow to the sight distance transition limits specified herein.

2. Mow all flare areas at junctions for sight distance.

E. Mowing Exceptions

1. Areas where individuals or businesses mow right-of-way along their property.

2. Areas where appropriate herbicide treatment can keep vegetation within the standards.

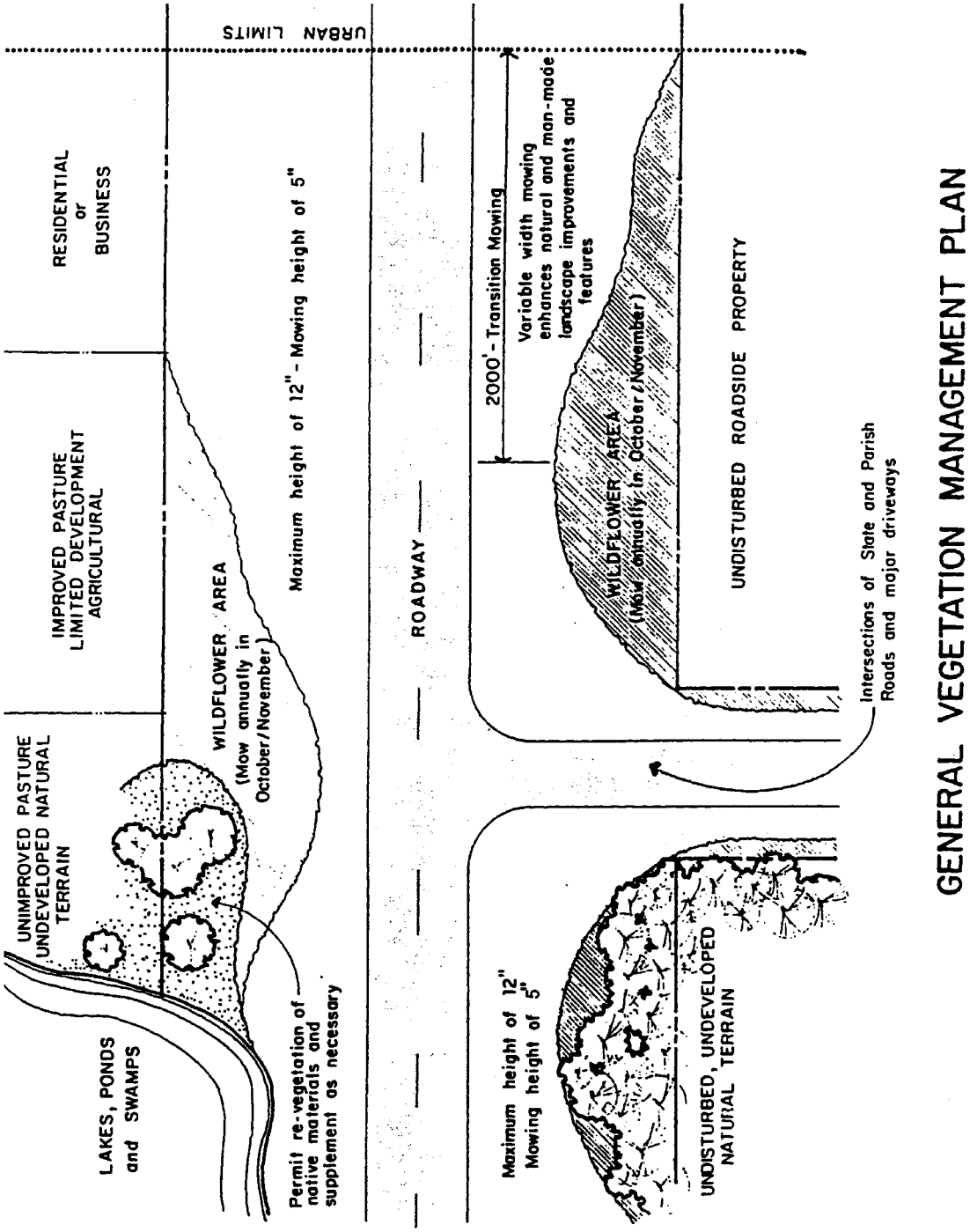
3. Areas that are not applicable, i.e., wildflower areas.

4. Areas where seedlings are planted and/or permitted to grow.

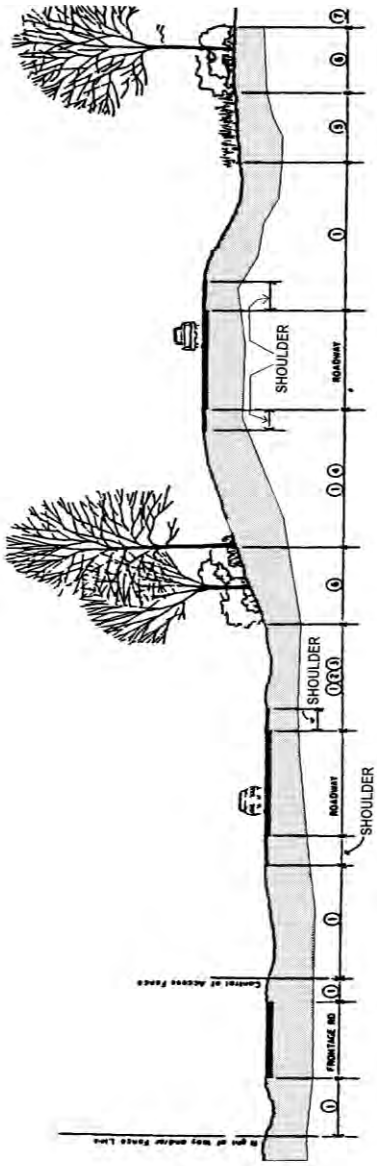
5. Rest areas and tourist information centers, on the interstate system, are to be maintained by the caretakers in a lawn-type condition.

6. Unmowable areas within defined mowing limits.

F. General Vegetation Management Plan



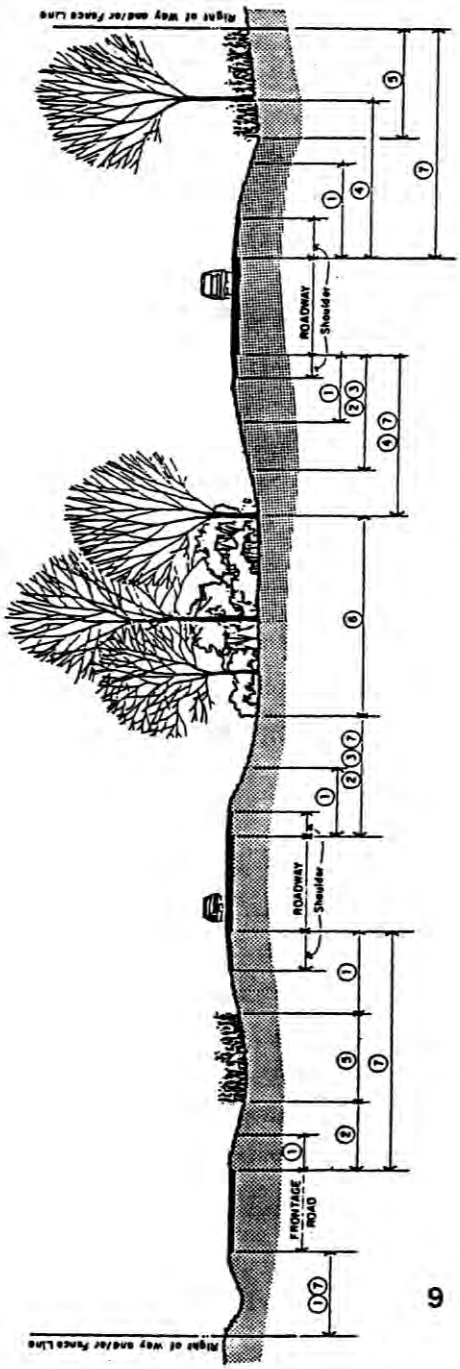
G. Typical Vegetation Management Section—Rural, Interstate



1. When vegetation reaches a height of 12" mow all mowable areas of the right-of-way(tree line to tree line or fence line to fence line). Mowing height should be 5". Medians are to be mowed in their entirely each mowing cycle except when wildflowers or native shrub and or trees are present.
2. General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
3. Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
4. Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 50' from the edge of the roadway.
5. Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
6. Area of natural revegetation - Do not mow in this area.
7. Mow a 7'-0" wide strip along the right-of-way line or fence line where feasible.

TYPICAL VEGETATION MANAGEMENT SECTION
RURAL, INTERSTATE

H. Typical Vegetation Management Section—Rural, Primary Multi-Lane



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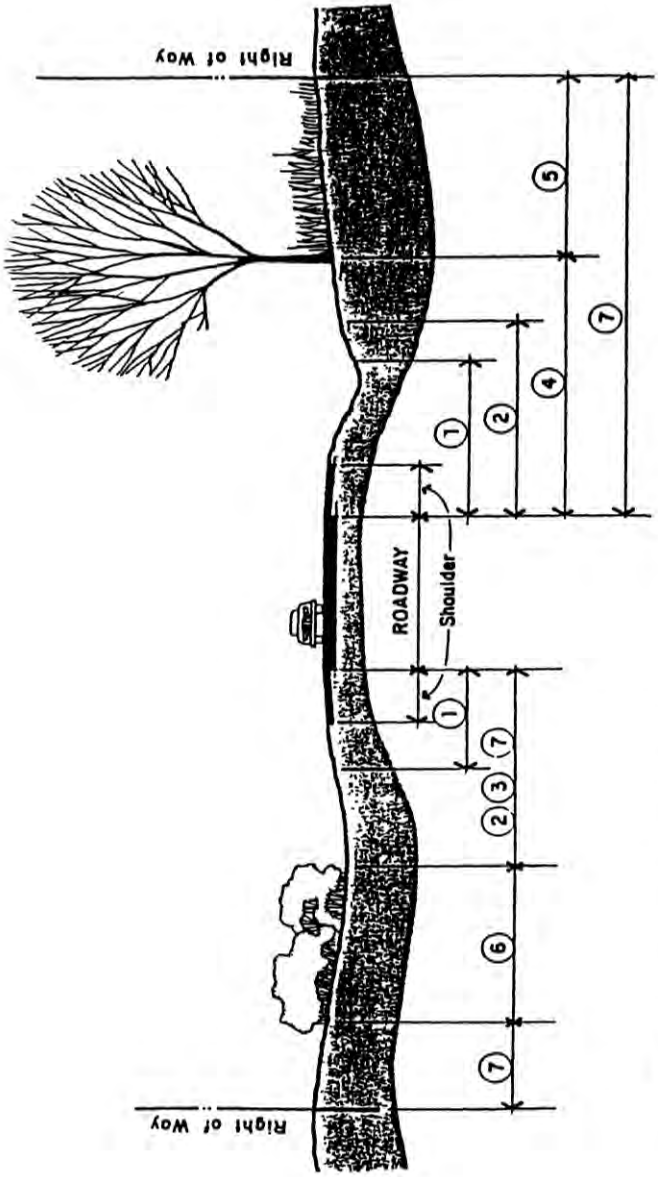
1. When vegetation reaches a height of 12", mow a 30' strip from the edge of the roadway surface or to the top of the backslope to facilitate drainage. Mowing height should be 5". Medians less than 80' wide are to be mowed in their entirety each mowing cycle unless wildflowers are present. If wildflowers are present, mow around them. Delay mowing the wildflower area until after they have gone to seed. Along frontage roads, mow a 7' wide strip from the edges of the roadway surface or to the back side of the ditch to facilitate drainage.
2. General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition I-12 and herbicide chapter for additional information.
3. Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
4. Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.
5. Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
6. Area of natural revegetation - Do not mow in this area.
7. Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set. In areas which have been allowed to revegetate naturally, mow a 40' wide strip, or to the limits of shrubs and trees.

TYPICAL VEGETATION MANAGEMENT SECTION
RURAL, PRIMARY MULTI-LANE

I. Typical Vegetation Management Section—Rural, Primary Two Lane



(1) When vegetation reaches a height of 12", mow a 30' wide strip from the edge of the roadway surface or to the top of the backslope to facilitate drainage. Mowing height should be 5". If wildflowers are present, mow around them. Delay mowing the wildflower areas until after they have gone to seed.

(2) General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.

(3) Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.

(4) Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.

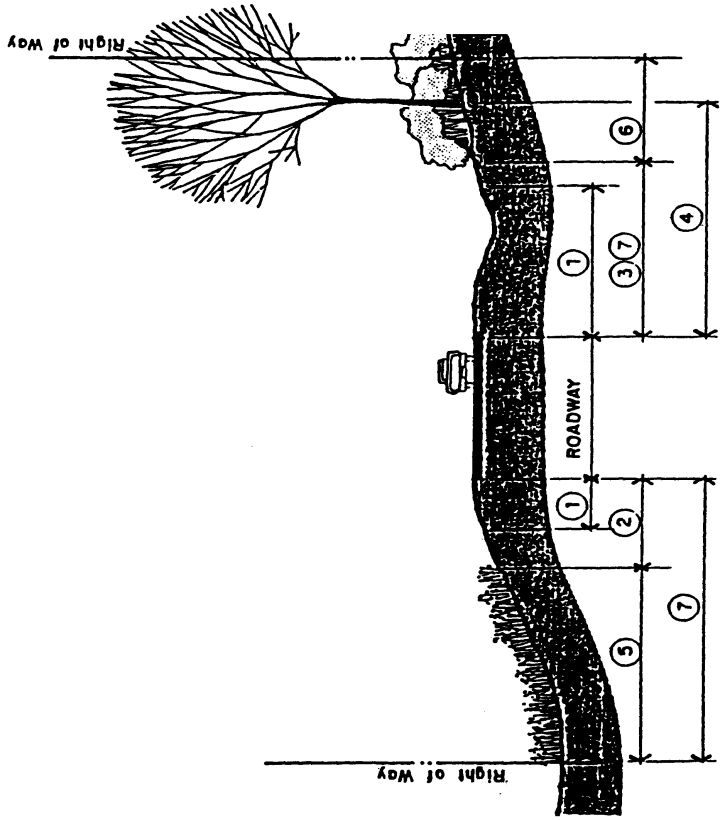
(5) Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.

(6) Area of natural revegetation - Do not mow in this area.

(7) Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set. In areas which have been allowed to revegetate naturally, mow a 40' wide strip or to the limits of shrubs and trees.

TYPICAL VEGETATION MANAGEMENT SECTION
RURAL, PRIMARY TWO LANE

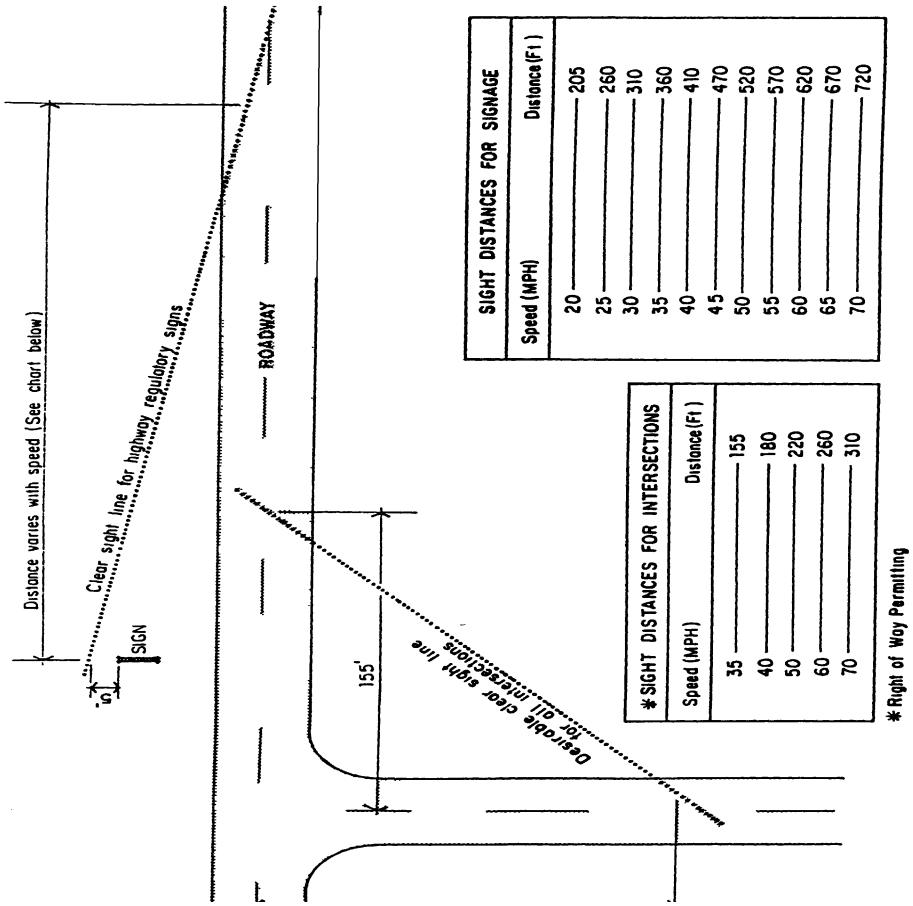
J. Typical Vegetation Management Section—Rural, Secondary and Farm to Market



1. When vegetation reaches a height of 12", mow a 15' strip from the edge of the roadway surface or to the back edge of the ditch to facilitate drainage. Mowing height should be 5".
2. General herbicide treatment is to be confined to an area of approximately 30 feet in width from the edge of all roadways, where right-of-way is available, or to the back of the required drainage channel to insure proper drainage. Spot treatment is allowable beyond this area to eliminate weed species. Avoid spraying wildflowers and other desirable vegetation. Refer to general condition 1-12 and herbicide chapter for additional information.
3. Native shrubs may be allowed to revegetate to a distance of 30' from the edge of the roadway.
4. Native trees, which will attain a trunk diameter of 4" or greater, may be allowed to revegetate to a distance of 40' from the edge of the roadway.
5. Wildflower areas - Do not mow until wildflowers have gone to seed. Refer to wildflower chapter for additional information.
6. Area of natural revegetation - Do not mow in this area.
7. Mow entire mowable area of the right-of-way annually in late October and November after the wildflowers have bloomed and the seeds have set.

TYPICAL VEGETATION MANAGEMENT SECTION
RURAL, SECONDARY and FARM to MARKET

K. Sight Distances for Signs and Intersections



AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:204 (February 1991), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:1652 (August 2000).

§305. Herbicides

A. Laws and Regulations. The Federal Insecticide and Rodenticide Act as amended in 1972 (FIFRA) requires individuals who apply restricted use pesticides to be certified applicators. National standards for the certification of applicators are found in Title 40, Part 171 of the Code of Federal Regulations. State standards for certification of applicators are found in the Louisiana Pesticide Law, Chapter 21 of Title 3 of the Louisiana Revised Statues, rules and regulations promulgated under the authority of the Louisiana Pesticide Law have been published in the *Louisiana Register* further delineating the requirements for certification and recertification. The Louisiana Department of Agriculture has been designated by the U.S. Environmental Protection Agency as the agency responsible for the enforcement of FIFRA within the state of Louisiana. The department is also responsible for the enforcement of the Louisiana Pesticide Law. The Louisiana Cooperative Extension Service, by cooperative agreement, is responsible for the training necessary to become a certified applicator.

B. General

1. Herbicides have played an important part in the management of the roadside right-of-way the past several years, particularly the selective spraying program. This program is used predominately to control Johnson grass and other weeds while favoring the growth of Bermuda grass which requires little mowing.

2. Herbicides have also been used successfully on hard surfaced shoulders, cracks in paved traffic islands and revetments under guardrails, at bridge ends, ditches and other areas which are impossible to mow. Since chemicals that are used as herbicides require that safety precautions are observed, the roadside development coordinator in the district should be in complete charge of their use. The operators on the spray trucks are required to be licensed by the Department of Agriculture. The roadside development coordinator is familiar with brand names, different types of chemicals, calibration of the rig, pumps, etc., has been licensed and should be consulted in detail for chemical herbicide work.

3. In order to realize the maximum output from both mowing and spraying operations, it is important that the parish maintenance superintendent and roadside development coordinator manage these operations together.

Correct timing will result in good results and a savings of funds. Two mowings per season and two sprayings per season are generally enough for most roadsides if they are coordinated.

4. Department of Transportation and Development has been using herbicides for approximately 20 years. The main reason for using herbicides is because it is a safe economical means of controlling vegetation resulting in cost savings for the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:204 (February 1991), amended LR 26:1653 (August 2000).

§309. Factors of Herbicide Application

A. Herbicide Types

1. Soil-active (residual) herbicides are active in the soil and stop plant growth of germinated seeds and roots in the following manner. Soil-active herbicides are moved into the root zone by water. The herbicide is absorbed by the root system and translocated throughout the plant affecting plant growth processes. Visual effects should begin to appear in several days. The swiftness of the herbicide action is dependent on soil type, rainfall, plant species and rate of herbicide application. Soil-active herbicides can be applied to the soil in the winter prior to or shortly after the emergence of vegetation in spring. Vegetation must be present; never apply herbicide to already bare ground.

2. Contact herbicides halt visible plant growth at least for a short time in the following manner. Contact herbicides are absorbed by the foliage and transported throughout the plant, affecting plant growth processes. Several days are usually required for the effects to appear. Some of these herbicides may also have a short period of activity in the soil. Vegetative diversity may require a combination of chemicals to be used if broad-spectrum control is desired.

B. Desired Vegetation Control

1. Bare Ground or Complete Vegetation Control. Soil-active herbicide at the proper rate and time will normally provide complete vegetation control. Bare ground vegetation management may be desirable in areas where it can be economically maintained or where plant growth creates fire or other safety hazard or decreases maintenance efficiency. To maintain a bare ground condition after the first year application, spot-treatment may be necessary. Application of an excessive quantity of chemical is not economical and may result in damage to desirable vegetation. This type of treatment should only be used in storage yards.

2. Selective Weeding. Selective weeding is the use of a herbicide or a combination of herbicides for the control of selected species and does not permanently harm desired vegetation. Herbicides used for this type of control may be applied either as a per-emergence (before plants emerge from seed) or a post-emergence (after plants emerge from seeds) application.

3. Chemical Mowing. This is the practice of using herbicide to control undesirable vegetation in close proximity to valuable plants. This procedure can be used to control vegetation under fences and guardrails, along drainage ditches and in landscaped areas when near desirable vegetation.

C. Type and Species of Plants to be Controlled

1. Proper selection of herbicides and their application rates are dependent on the type and species of vegetation to be controlled as well as the condition of the plant. Some plant species are resistant to certain herbicides. The condition of a plant may be either active growth or dormancy. It may be a seedling or a mature plant or it may be budding, leafing, flowering or fruiting. All of these conditions should be considered when deciding where and when to use or not to use herbicides. For example, the best condition to apply a contact herbicide to many plants is when they are about to produce a seed head or fruit (e.g., the "boot" stage of Johnson grass). In general, seedling plants are easier to control than older more established plants. Plants are categorized as either annual, biennial or perennial.

2. Annual and Biennial Plants. These plants originate from seed. Annuals complete their life cycle in one year (seed to seed); biennials require two years to complete their life cycle. A contact treatment is generally sufficient in controlling seedlings. Annual weeds around signs and other appurtenances can be controlled with contact treatment or in combination with a pre-emergence herbicide.

3. Perennial Plants. These plants have an extensive root system and live from year to year. Perennials also produce seeds to ensure survival of their species. Specific herbicides, whether contact or soil active, are usually required for their control.

D. Soil Type. Depending on soil type, the proper application rate yields good vegetation control. Soil-active herbicides are more active in soils that are low in clay or organic matter because of the reduced absorbency of these soils. Therefore, the application rate may be reduced. In soils that are high in clay or organic matter, herbicide adheres to the soil particles and is not available to the roots of the plant. Consequently, the rate of herbicide application may need to be increased. The acidic/alkaline nature of the soil can also affect the performance of a herbicide. For example, in relatively acidic soils, oust decomposes at a faster rate than it does in more alkaline soils. In loose or sandy soils a soil-active herbicide may move off target easily carried, by either water or wind.

E. Wind Velocity

1. Wind will disturb the spray pattern and blow the chemical away from the target area; high winds can blow it several feet away. The wider the pattern the greater the effects of wind distortion. It is best to spray before wind velocity rises. The proper drift control agent will help reduce drift. If wind velocity rises too high, and the pattern cannot be kept on target, then spraying should be discontinued.

2. For purposes of deciding whether to spray and for record-keeping, carry a wind gauge in the spray unit to determine wind speed. Highest winds permissible will be 10 miles per hour.

F. Humidity. Relative humidity is the percentage of moisture in the atmosphere relative to the maximum amount which the atmosphere could hold. Generally, the higher the humidity at the time of application, the more rapid the uptake of contact applied herbicides. However, when humidity is at or approaching 100 percent, rainfall will most likely occur and the herbicide will be washed from the leaf surface. Consequently, herbicides should not be applied when rainfall is imminent. Conversely, if the humidity is approximately 60 percent or lower, the longer it may take the herbicide to become active.

G. Rainfall

1. Rainfall affects chemical control of vegetation. It is a vehicle for movement of soil-active herbicides into the root zone of plants. Soil-active chemicals must be in solution before they can enter the root system of plants. Excessive water may reach the soil-active herbicide below the root zone of the plant resulting in poor control. Moisture from rainfall, thawing cycles and snow on the ground may prevent the herbicide from entering the soil in sufficient quantities to achieve the desired degree of control. Moreover, excessive rainfall may lead to serious herbicide damage to areas outside of the target area.

2. Do not spray contact herbicides during rainfall or if rainfall is likely to occur within six hours after application. Rain will wash the herbicides off the leaves before it can be absorbed by the plant. After a rain, dust on the leaves will have been washed off and contact herbicides are more easily absorbed by the plant. Allow the foliage time to dry after a rain before spraying since wet foliage may yield poor results.

H. Temperature. Temperature affects the results of vegetation control with herbicides. Do not use herbicides when the soil is frozen, when rain or snow is falling, or when there is snow on the ground. High temperatures during the summer months may cause many plants to become semi-dormant. When this occurs the plants will not absorb the herbicide adequately.

I. Water Quality. Use good clean water to mix herbicides, as impurities in the water may deactivate the herbicide. Another reason for using clean water is that sand or clay particles may damage the pump, solenoids and nozzles of the spray rig.

J. Mixing, Timing and Application

1. Mixing and application are to be in conformance with the manufacturers' recommendations. All precautions issued by the manufacturer are to be taken into account and followed.

2. Timing for spraying of herbicides will be coordinated and determined by the roadside development district coordinator and the parish maintenance superintendent.

3. A spraying report is to be filled out by the herbicide applicator when applying herbicides to the roadsides.

4. Following is a chart of herbicides, application rates, times to spray and pertinent comments concerning their uses.

K. Herbicide Rate Chart

Herbicide Rate Chart								
Product Name	**Rate per Acre**	**500 Gallon Tank Mix**	**1,000 Gallon Tank Mix**	**Nov. & Dec.**	**Jan. & Feb.**	**March & April**	**May to Oct.**	**Comments**
Oust	1 oz. 1\2 oz. 2 oz.	16 oz. 24.oz. 32 oz.	32 oz. 48 oz. 64 oz.	 X	X X			2 ounce Oust to be used where Oust is 1 ounce required to be used in Nov. & Dec., 2 ounce to be used in Jan. & Feb. In areas where there is heavy concentration of Johnson Grass, 1 1/2 ounce per acre should be used. On moderate stands of Johnson Grass, 1 ounce should be used after Johnson Grass has almost been eliminated. Oust should not be used where Bahia is predominant.
2-4-D Roundup	2 qt. 1 pt.	8 gal. 2 gal.	16 gal. 4 gal.			X	X X	Combination of 2-4-D and Roundup should be used only in southern part of state where 2-4-D is not restricted, and when temperature reaches 75°F or above. Can be used around signs and guardrails at rate of 2 quart 2-4-D and 1 quart Roundup per acre. DO NOT SPRAY THIS RATE ON SLOPES.
Garlon 3A Roundup Pro	1 qt. 1 pt.	4 gal. 2 gal.	8 gal. 4 gal.			X	X	Only to be used in northern part of state where 2-4-D is restricted and when temperature reaches 75°F or above. Can be used around guardrails and signs at the rate of 1 quart Garlon and 1 quart Roundup.
M.S.M.A. 2-4-D	2 qt. 2 qt.	8 gal. 8 gal.	16 gal. 16 gal.			X	X	Only to be used in southern part of state where 2-4-D is not restricted, and on very rare occasions where Roundup will not do as good a job, and where there is a very thin stand of Bermuda grass.
M.S.M.A. Garlon 3A	2 qt. 2 qt.	8 gal. 4 gal.	16 gal. 8 gal.			X	X	Only be used in southern part of the state where 2-4-D is restricted, and on very rare occasions where Roundup will not do as good a job, and where there is a very thin stand of Bermuda grass.
Campaign	48 oz.	6 gal.	12 gal.			X	X	Can be used in southern section of state in lieu of 2-4-D and Roundup mixture. When heavy concentration of vines and woody plants, add 1 pint of 2-4-D.
Escort	1/2 ounce	8 oz.	16 oz.			X	X	Can be used where 2-4-D is restricted.
Rodeo	1 pt. 1 qt.	2 gal. 4 gal.	4 gal. 8 gal.			X	X	To be used on slopes and in water where Bermuda grass should not be destroyed. To be used under bridges and in water for complete control of vegetation.
Roundup Pro	2 qt.	8 gal.	16 gal.			X	X	To be used on shoulders, around Guardrails and signs when temperature reaches 70°F or above. Can be used close to trees.
Hyvar XL	10 gal.	120 gal.	320 gal.	X	X			Only to be used in storage yards and in places where complete soil sterilization is required. Can not be sprayed close to trees where there is danger of runoff.
Surfactant	8 oz.	1 gal.	2 gal.					To be used in all tank mixes except Oust alone, Hyvar XL, or Roundup Pro.
Poly Vinyl	2 oz.	1 qt.	2 qt.					To be used in all tank mixes where fixed booms are used.
Recommended Speed and Pressure on Cibolo sprayers, Guide to Calibration Pressure: 28 pounds - 10 mph Rate Tank Mix Gallon Per Acre: 31.25 Acres: 500 gallon Tank mix - 16 Acres Acres: 1000 gallon Tank mix - 32 Acres								

L. Daily Herbicide Spraying Report

DAILY HERBICIDE SPRAYING REPORT
DISTRICT 05

_____
DATE

Parish_____**Route No.**_____**Control Section**_____**%Complete**_____
Location_____

Certified Applicator:
_____
License No._____
Others Worked:
_____
_____
Hours Worked:_____
Truck No._____
Spray Equipment #_____
Pressure_____
GPA_____

Type of Spraying: (check)
Contact _____
Absorbed _____
Selective _____
Root Absorbed Plus Contact _____

Weather:
Sunny _____
Partly Cloudy _____
Overcast _____
Rain _____
Temperature _____

Wind:

	Wind Speed	Wind Direction
Shot 1	_____	_____
Shot 2	_____	_____
Shot 3	_____	_____
Shot 4	_____	_____

Soil Moisture:
Wet _____
Med. _____
Dry _____

MATERIALS	EPA REGISTRATION NO.	RATE/ACRE	TOTAL USED AT END OF DAY
ARSENAL	242-346		
CAMPAIGN	534-351		
ESCORT	352-439		
FUSILADE DX	10182-367		
GARLON 3A	62719-37		
GARLON 4	62719-40		
HYVAR XL	352-346		
KRENITE S	352-395		
MSMA	19713-42		
OUST	352-401		
RODEO	524-445		
ROUNDUP PRO	524-475		
2,4-D AMINE (RUP)	9779-263		
DRIFT CONTROL			
SURFACTANT			
WATER			
ACRES SPRAYED			

Unusual Observations Along Route:
_____
_____
_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:204 (February 1991), amended LR 26:1658 (August 2000).

§311. Wildflowers

A. General

1. Louisiana and the Department of Transportation and Development are embarking on a statewide plan for the planting and preservation of wildflowers along its rights-of-way. The Department of Transportation and Development and Louisiana Project Wildflower are working very closely evaluating equipment, planting methods and herbicide operations to produce maximum stands of wildflowers.

2. It shall be the policy of the department to encourage the growth, planting and preservation of wildflowers in order to provide a natural setting for the traveling public. Mowing and spraying operations shall be coordinated and timed to enhance the wildflower population and provide a naturally appealing roadside appearance.

B. Establishment of Wildflower Areas

1. One of the best methods of establishing wildflower areas is by observing and documenting native stands in order that they may be preserved for future generations. To this end, a form has been developed in order for the traveling public to report and document any sightings of wildflowers along the state's rights-of-way. These forms will be available in all district offices of the Department of Transportation and Development and Louisiana Project Wildflower will distribute these forms at all of their meetings.

2. Another method would be to stockpile topsoil which has wildflower seed present and transport this soil to desired locations. This method allows some seed to remain in place and allows the establishment of new stands in other locations.

3. Other means of collecting wildflower seed is by cutting the wildflowers with a sickle mower and gathering the cut flowers laden with seed. These cuttings can then be transported to another location and spread, thus establishing a new stand of wildflowers.

4. The method which is being practiced more frequently is by direct planting. Wildflower seeds are being commercially grown and although expensive, they are producing desired results with less effort than other means.

5. Commercial seed suppliers are able to supply individuals with a mix of several species of seeds or in lots of individual species of seed. Once a selection of types of seed has been determined, it is necessary to establish a planting rate based on the amount of Pure Live Seed (PLS). PLS is the amount of purity multiplied by the percent of germination. The PLS in a lot of seed can be obtained from the supplier. In wildflower planting a rate of 36 to 45 seeds per square yard is normally adequate. Areas that are to be experienced by pedestrians should be planted at a rate possibly 1.5 greater than this. These rates are broad guidelines and should be adjusted to obtain the desired effect. A partial listing of commercial wildflower seed sources is contained herein for informational purposes.

6. Planting times will vary according to the conditions the seeds are being planted. Generally wildflower seeds are planted between late fall and spring, although some can be planted during the summer providing supplemental irrigations is available.

7. There is a certain amount of risk associated with planting the seed in late fall. Rain and warm temperatures could cause the seed to germinate prematurely and be killed by a freeze.

8. Site selection is one of the most important factors in establishing new stands of wildflowers. Be sure to establish the site conditions required to grow certain species. Some may require full sun, others partial shade, still others may require constantly moist soil and others well drained soil. Sites that are relatively weed free with existing stands of shorter grass works best. On sloping sites consideration should be given to seeding grass along with the wildflowers. In some cases, it may be necessary to use a fiber mat to hold the soil and seed in place until germination.

9. Wildflowers have a wide tolerance of soils and PH (Acid/Alkaline) conditions. Wildflowers do best in soils of low fertility. High nitrogen soils only encourage the growth of weeds thus causing competition for growth and slowing of the wildflowers. If a site is void of nutrients, it may be wise to consider the use of a low nitrogen fertilizer such as 5-10-10.

10. Soil preparation is not absolutely necessary since most wildflower seeds can be broadcast over undisturbed ground. If this method is followed, you can expect some delay in germination and some of the seed can be displaced by the elements or eaten by birds and rodents. The key element in planting wildflower seeds is to have good soil to seed contact.

11. One method of insuring soil, seed contact is by mowing the area to be planted as close as possible and remove grass clippings and weeds by raking the entire area. Then lightly till the site with a flail motor, roto tiller, harrow, discs or a weighted section of chain link fence pulled behind a tractor. It is important not to till the ground too deep since this will encourage the growth of any weed seed which may be present in the topsoil. A maximum depth of 1/2 inch is sufficient. In areas which have a strong weed population, it is necessary to treat the unwanted vegetation with a herbicide and removing the dead plants prior to disturbing the ground surface.

12. The size of the area to be seeded will determine the type of equipment best suited. On small areas hand sowing or a small mechanical device should be sufficient. In large areas mechanical seeders properly calibrated should produce desired results more efficiently and effectively. When planting fine seed, it may be necessary to mix an inert carrier with the seed to obtain better distribution. Recommended inert carriers are sand or vermiculite. The recommended ratio for these carriers is 2:1 sand to seed.

13. Once the seed has been planted, it must be covered to maximum depth of 1/8 to 1/4 of an inch. This can be accomplished by lightly raking the seed in with a hand rake for small areas, or by using a drag mat behind a tractor for larger areas. If a drill seeder is used, firm the soil after drilling with a cultipacker to insure proper seed/soil contact.

14. Wildflower seeds need moisture for germination and growth. Supplemental watering may be necessary if there is not adequate rainfall. As the planting becomes established, watering may be reduced. While it is important for the wildflowers to receive water it is equally important to provide adequate drainage for certain species. Germination will vary from species to species and from seed to seed within the same species. Time periods for germination will also vary from as little as several days to as slow as several years.

15. Once the wildflowers have finished blooming and set seed, the entire area should be mowed. Mowing the area will help to scatter the seed for the following years' growth. Wildflower areas should be mowed to a height of 4-6 inches and should be accomplished in October and November. Waiting longer than this to mow generally results in very wet conditions which could cause more harm than good when attempting to mow.

16. If a strong weed or invasive grass population has established itself in the wildflower areas, it may be necessary to treat with a contact herbicide or translocated herbicide to kill the root system in order to give an advantage to the following years stand of wildflowers.

C. Louisiana DOTD Wildflower Inventory

LOUISIANA DOTD WILDFLOWER INVENTORY

DOTD DISTRICT:	* CONTROL SECTION:
PARISH:	HWY. ROUTE NO.:
MILEPOST FROM: TO:	ACRES:
PLANTED:	DATE PLANTED:
NATURAL:	DATE REPORTED:
FLOWER TYPES (COMMON AND SCIENTIFIC)	
LOCATION DESCRIPTION (USE ANY LANDMARKS AND INCLUDE WHICH SIDE OF THE HIGHWAY HAS THE WILDFLOWERS)	
SKETCH AVAILABLE (YES/NO):	
SPONSOR	REPORTED BY
NAME:	NAME:
ADDRESS:	ADDRESS:
CITY, ZIP:	CITY, ZIP:
PHONE:	PHONE:

* INFORMATION MAY BE OBTAINED FROM RESPECTIVE DISTRICT OFFICES

PLEASE RETURN COMPLETE FORMS TO: DOTD MAINT. ENGINEERING ADMINISTRATOR
LA. DEPT. OF TRANSPORTATION & DEVELOPMENT
P.O. BOX 94245
BATON ROUGE, LA. 70804-9245

M15-I

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:204 (February 1991), LR 26:1661 (August 2000).

§313. Landscaping

A. General

1. Highway landscape design should begin with an analysis and the inventory of the landscape features in order to identify, evaluate and locate the features to be conserved, further developed and/or incorporated in the highway corridor.

2. Careful and proper landscaping of the right-of-way should result in the conservation, enhancement and effective display of the urban and rural countryside through which the highway passes. A properly landscaped highway will conserve the historical features and natural landscape assets while improving the aesthetic and functional quality of the highway.

3. There are two general classes of vegetation along highways: turf, such as grasses and legumes, and taller growing types consisting primarily of woody plants which are shrubs and trees. This Section is devoted to the planning and design of the taller growing plants as seen against the foundation of turf. Woody plants create a three-dimensional effect in the landscape and require special design considerations. Natural growth that exists may provide part or all of the desired planting effects in rural areas. Where possible, the retention of desirable natural existing growth is extremely important and requires consideration early in design. Planting is important along highways on new location and many times it may be more important along reconstructed highways on existing location because of restricted right-of-way and adjacent development.

4. The motorist should be able to view complete vistas and changing scenes in scale with the travel speed. Widely spaced plantings of individual trees or shrubs create a spotty and disturbing effect. Massed plantings are the form and texture of the landscape viewed at highway speeds. Tree plantings should be set back from the traveled lanes, not only for safety but also to insure spatial continuity and the strong visual effect of a wide turf area between pavement and plantings. Generous sight distance must be maintained at all times. The plants used must be capable of growing relatively well with minimum maintenance to serve their purpose under the highway conditions they may encounter.

5. Design and choice of plant materials vary considerably from region to region. Rural locations may only require supplementing existing growth with small sized new plants and planting for special functions while the urban and suburban highway may require extensive plantings with larger sized plants.

6. Planting designs should be created in accordance with the requirements of the highway and serve a justifiable purpose. They should be planned objectively on a broad scale before consideration is given to the actual selection of plants to be used. Their composition should be pleasing and coordinated with the total highway environment with safety being the most important consideration.

7. Planting plans should be clear, concise, easily understood and presented on drawings separate from the highway construction plans. The plans should indicate type of adjacent land use, topographic features, such as slope limits and utility installations in addition to the location of plants and their area of occupancy at maturity. A plant list should also be included in the plans. This will provide information concerning the species, size, condition, fertilizing requirements and other pertinent general notes which may apply. The latest and best planting techniques should be used along with top quality plants. Specifications for nursery stock, planting and other types of landscape construction should be clear, concise and describe the quality of work desired.

B. Functions of Highway Planting Design

1. In design form follows function. Some functions of highway planting design are as follows.

a. Planting for Highway Safety

i. Screening Headlight Glare. Plantings can be very effective in screening headlight glare from oncoming vehicles. Blinding vision due to headlight glare can be a cause of accidents. In addition to curved median areas, headlight glare can also be a problem between interchange loops and from frontage roads, service roads and parking areas. Shrub plantings may help prevent head-on collisions in these conditions.

ii. Delineation. Plants may be used to delineate changes in highway alignment. Headlight glare reduction plantings may serve a dual purpose in this regard. Shrubs or trees on the outside of curves may aid in directing a motorist, particularly in fog or rain storms and during night driving. Plants may also be used to aid a motorist in seeing directional signs by framing or forming a background.

iii. Psychological Design Considerations. Existing and new plantings may help to alleviate driver fatigue brought about by long stretches of riding surface that call for no change of eye focus which may even lull the driver to sleep. Emphasis may be given to directional changes by delineation plantings which aid in a driver's decision by making it easier to discern the outline of a curved roadway. These plantings may be in the median or on the outside of curves. This may be of particular importance at night when the plants are illuminated by headlights. Plantings placed beyond the junction of a "T" intersection may aid in informing a motorist of a change in direction. High headed trees may be placed within an interchange to make it conspicuous in the landscape for approaching roadways. The steepness of a cut slope may be accentuated by using vertical plant forms, or minimized by using horizontal plant forms and patterns.

iv. No vegetation shall be planted that will hide or obscure visibility of any official highway sign.

b. Planting for Environmental Mitigation

i. Traffic Noise. Traffic noise is a serious environmental problem to people living adjacent to major highways carrying large volumes of traffic. Plants absorb and scatter sound waves to a small degree. The effectiveness of plants as noise barriers is very limited because of the considerable width, height and density required. The principle noise reduction effect of plantings is psychological. When it is possible or feasible to use barriers or other actual means of attenuation, plantings may reduce human annoyance and awareness of the problem by screening the noise source from view. Evergreens are best suited for this purpose; however, they mat be used in combination with dense deciduous plants. Planting should be an integral part of noise barrier design due to their length and height. Plants can visually soften their effect and reduce the perceived massiveness of the barriers. In addition to trees and shrubs, vines are very effective for this purpose.

ii. Wildlife Habitat. Roadside plantings can provide food in the form of berries, browse and forage. Nesting cover is also provided for birds and other mammals. Preservation of existing trees and shrubs is important and the regeneration of native growth can be hastened by the establishment of mowing limits.

iii. Revegetation. Where climatic and soil conditions permit, all exposed soil surfaces should be revegetated. This may be in the form of turf, herbaceous or woody vegetation. Through the establishment of mowing limits, regeneration of native growth from adjacent seed sources will be encouraged and a natural blending with surrounding areas will occur. This form of naturalization may be hastened and supplemented by the planting of young trees and shrubs and proper maintenance activities. When reconstruction of a highway occurs, tree and shrub restoration should be included in the landscape plans to serve plant functions wherever this is feasible. This is important where existing roadside buffers must be destroyed for roadway construction.

c. Planting for Aesthetics

i. Visual Quality. Planting is one of the several methods used to improve visual quality in transportation facilities. Through the application of landscape design principles, the functional and aesthetic can blend to produce safe and pleasant highways. The highway should reflect the character of attractive communities. Trees and shrubs can provide a green buffer between the traveled way and adjacent development. Plants of larger size may be necessary

in urban areas to give an immediate effect. The selection of suitable species is important in urban areas and should be based on experience in similar areas. Street tree plantings can significantly improve the visual quality of communities. Flowering trees and shrubs and wildflowers enhance the highway environment and offer pleasant and changing scenes for the motorist and adjacent property owners.

ii. Screening Undesirable Views and Objects. Screening undesirable views seen from and toward the highway can be performed with plants, earth berms, fences and combinations thereof. Space permitting, plantings offer a variety of forms and combinations which can be arranged to obtain the desired results. Although effective screening with plants may take several years to achieve, this should not deter or discourage the use of this method. Sight lines from and toward the highway, of the object to be screened, should be studied and a determination of the type of screening to be used should be made. Where a year-round effect is desired, evergreen plants should dominate and deciduous should be added for seasonal and textural interest. Whenever possible, consideration should be given to the removal of the objectionable object.

d. Setback Distances for Trees

i. These guidelines may be applied to new plantings of trees whose trunk diameter at maturity will be 4 inches or greater. Setback distances or vehicle recovery areas are related to type of slope, slope ratio, traffic volumes and design speed of the highway. The setback is from the traveled way, which is the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes. Minimum horizontal and vertical clearance setbacks for all roads will be governed by the Louisiana Department of Transportation Design Standards.

ii. Given distances will not always be practical. Variations in site-specific conditions need to be considered and may warrant special treatment. Existing historic, aesthetic or environmentally important trees may be retained within the recovery area if they are protected or are not in a target position, such as the outside of horizontal curves. Shrubs and ground cover may be planted within the recovery area for safety and aesthetic purposes.

iii. The above guidelines should be used unless one of the following reasons will allow for a lesser distance or require a greater distance: For central business districts and local streets with barrier curbs, a minimum distance of 1.5 feet should be provided beyond the face of the curb to the anticipated outside diameter of the tree trunk when mature. On urban arterials and collectors with similar curbs and usually higher speeds, the offset distances should be increased.

iv. Where limited right-of-way or the necessity for planting would result in less clearance, all factors in the area should be weighted to decide if a special exception is warranted. Special exceptions or conditions may include:

(a). where exceptional or unique trees because of size, species or historic value exist;

(b). on designated scenic roads or low-speed roads, as well as low-speed urban roads;

(c). where the absence or removal of trees would adversely affect rare/endangered/threatened species (plant or animal), wetlands, water quality or result in serious erosion/sedimentation effects;

(d). locations where the cumulative loss of trees would result in a significant adverse change in character of the roadside landscape;

(e). landscape, park, recreation, horticultural, residential or similar areas where trees and other forms of vegetation provide significant functional and/or aesthetic value.

v. Trees should not be placed or remain where they are particularly vulnerable to vehicle contact or where significant incidences of run-off road accidents occur.

C. Criteria for Landscaping Interstate and Major Primary Routes

1. The clear distance from the edge of the traveled way to the face of the tree line shall be a minimum of 50 feet on the mainline and 30 feet for ramps. The setback is measured from the traveled way, which is the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes. These distances apply to trees with trunk diameter of 4 inches or greater at maturity.

2. Trees may be planted or remain within the 50-foot clear distance or the 30-foot clear ramp area when they are protected by guardrail on nontraversable backslopes or other protected areas. Setback distances behind guardrails are as follows.

a. The minimum distance behind guardrail depends on the deflection of the guardrail as described in the AASHTO reference cited. Examples of this setback distance are 11 feet for cable guardrail, 3 feet for W-Beam guardrail and no distance for concrete barriers.

b. Although there is no minimum distance behind rigid barriers, consideration should be given to tree branching and maintenance in determining setbacks.

3. The clear distance from the edge of the travel lane to the shrubbery line shall be determined by Sheet 1 of 4 of the design standards.

4. Exit gore areas shall be free for a distance of 350 feet of trees and shrubbery which will attain a height greater than 2.5 feet. Shrubbery which will not attain a height of 2.5 feet will be permitted in the gore area. In rural areas, exit gores shall be free of trees for a distance of 600 feet along the mainline and 500 feet along the ramp.

5. Entrance ramps shall require a minimum of 350 feet along the ramp (sight triangle to the main roadway) free of trees and shrubbery. In the case of loop ramps, a point 350 feet from the gore area, intersecting the main travel lane and extended to the nose of the off ramp preceding the loop or 600 feet (whichever is longer) shall be clear of trees and shrubbery, with the exception of shrubs

which will not attain a height greater than 2.5 feet. In the case of large rural diamond interchanges, there will be no planting over 2.5 feet in height along a line of sight from a point 500 feet from the gore area intersecting the mainline and a point 600 feet along the mainline from the gore area.

6. The clear distance from the edge of ramps to the shrubbery line shall be a minimum distance of 15 feet.

7. The clear distance from the edge of entrance and exit ramps to the tree line shall be a minimum of 50 feet. No trees will be permitted within 50 feet of the inside and outside edge of a loop ramp. Shrubbery may be planted in front of any group of trees planted outside the 50-foot line. Shrubbery planted within the 30-foot line on the inside of loop ramps shall not attain a height greater than 2.5 feet in order to provide adequate stopping sight distance around the loop.

8. Ramp terminals at the cross roads shall have an unobstructed view of the crossroad for a minimum of 150 feet in all directions. The view back beyond the structure from the exit ramp intersection with the cross road shall be kept unobstructed within the limits set by the columns or embankment.

9. No trees shall be planted within utility rights-of-way or in areas which may interfere with power lines once the trees mature.

10. Refer to the figures below for graphic illustrations of these criteria.

11. Design guidelines may be loosened so as to permit maintenance-intensive designs which might not otherwise be permitted on the state highway system. Examples might include fountains, statuary and/or planting schemes which require a high level of consistent maintenance in order to assure success.

D. Criteria for Landscaping Arterial Roads, Collector Roads, Local Roads and Streets

1. The normal set-back distance for trees (See Design Standards for Urban UA-1, UA-2) whose trunk diameter at maturity will exceed 4 inches shall not be closer than 40 feet from the travel edge of the roadway except under special conditions:

a. on the high or cut side of the roadway not in the likely path of an uncontrolled vehicle;

b. on the low or fill side if protected by a guardrail or not likely to be hazardous to an out-of-control vehicle;

c. if important historically or aesthetically and, protected by a guardrail;

d. on routes in cities and towns with speed limits 35 mph or less, a minimum of 10 feet behind a barrier curb to the face of the tree. Trees of this size will only be allowed in medians which are 30 feet or greater in width and protected by a barrier curb.

2. Small trees, with trunks normally less than 4 inches, such as crape myrtle, wax myrtle, etc., will be allowed in medians, on routes with speed limits up to 45 mph, under the following conditions:

a. minimum setback determined by design standards behind a barrier curb. Not more than 4 feet of the tree spread will be allowed to overhang the roadway;

b. a minimum setback of 30 feet beyond the edge of the travel way, for uncurbed roadways and medians, providing they do not interfere with the drainage pattern.

3. The clear distance from the right edge of the travel way to the shrubbery line shall be a minimum of 25 feet. When protected by a barrier curb, the minimum will be determined by design standards.

4. On curves, adequate sight distance for the design speed of the highway must be maintained, in accordance with design standards.

5. For safety reasons, control of landscaping at intersections is critical. Sight triangles at intersections are determined by the design speeds of the intersecting roadways. Any object within the sight triangle high enough above the elevation of the adjacent roadways to constitute a sight obstruction will not be allowed. No trees shall be planted in sight triangles. Shrubbery and ground cover will be allowed in the sight triangle providing their height does not exceed 2.5 feet above the roadway surface. Minimum sight distance requirements for intersections are illustrated in "Sight Distance Requirements at Typical Intersection."

6. Refer to the figures below for illustrations of these criteria.

7. Design guidelines may be loosened so as to permit maintenance-intensive designs which might not otherwise be permitted on system. Examples might include fountains, statuary, art and/or planting schemes which would require a high level of consistent maintenance in order to assure success.

8. A plant list outlining various species that have been used for highway planting is included in this manual (See §313.E). This should not be the only plant material considered for highway landscaping.

9. The landscape unit of DOTD will provide technical assistance, standard plans and suggestions for construction methods along highway rights-of-way to local governing bodies. The local governing body should address the request to the Secretary of the Department of Transportation and Development in order to obtain assistance. Upon completion of the planning and design phase of a project, the governing body which requested the project will obtain a permit from the department's permit unit. This permit will stipulate that the governing body will construct and maintain the project at no cost to the Department of Transportation and Development.

E. Planting List

1. The following is a listing of plants which have been used on landscaping projects with success. This list is only intended as a guide and is not considered to be all inclusive:

a. shrubs and ground covers (30" maximum height):

i. Liriope (Liriope Muscari or Liriope Spicata);

ii. Monkey Grass (Ophiopogon Japonicum);

iii. Asian Jasmine (Trachelosperum Asiaticum;

iv. Daylilly (Hemerocalis Spp.);

v. Indian Hawthorne "Clara" (Raphiolepis Indica);

vi. "Blue Rug" Juniper (Juniperus Horizontalis "Wiltonii");

vii. "Blue Pacific" Juniper (Juniperus Conferta "Blue Pacific");

viii. Parson's Juniper (Juniperus Parsoni);

b. small shrubs (4' maximum height):

i. Dwarf Yaupon (Ilex Vomitoria Nana);

ii. Dwarf Chinese Holly (Ilex Cornuta Rotunda);

iii. Indian Hawthorne "Peggy" and "Clara" (Raphiolepis Indica);

iv. Compacta Juniper (Juniperus Chinensis Pfitzeriana Compacta);

v. Dwarf Oleander "Petite Pink" or "Petite Salmon" (Nerium Oleander)*;

vi. Fountain Grass (Pennisetum Setaceum);

vii. Maiden Grass (Miscanthus Sinensis);

*These plants should be used in only the southern most areas of the state due to their susceptibility to freezing.

c. large shrubs:

i. Pampas Grass (Cortaderia Argentea);

ii. Eleagnus (Eleagnus Angustafolia);

iii. *Pittosporum (Pittosporum Tobira);

iv. *Oleander (Nerium Oleander);

v. Spiraea (Spiraea Reevesiana);

vi. *Primrose Jasmine (Jasminum Primulinum);

vii. Ligustrum (Ligustrum Japonica);

viii. *Viburnum (Viburnum Odoratissimum);

ix. Photinia (Photinia Fraseri);

x. Pineapple Guava (Feijoa Sellowiana);

xi. *Sago Palm (Cycas Revoluta);

*These plants should be used only in the southern half of the state due to their susceptibility to freezing.

d. small trees (25' maximum height.):

i. Crape Myrtle (Lagerstroemia Indica or Lagerstroemia Indica x Fauriel);

ii. Wax Myrtle (Myrica Cerifera);

iii. Leggy Yaupon (Ilex Vomitoria);

iv. Tree Hollies (many varieties) (Ilex);

v. Leggy Ligustrum (Ligustrum Japonica);

vi. Leggy Photinia (Photinia Fraseri);

vii. Leggy Pineapple Guava (Feijoa Sellowiana);

viii. *Leggy Viburnum (Viburnum Odoratissimum);

ix. **Crab Apple (Malus Spp.);

x. *Vitex (Vitex Agnus Castus);

xi. Japanese Magnolia (Magnolia Soulangeana);

xii. Purple Plum (Prunus Cerasifera);

xiii. *Windmill Palm (Trachycarpus Fortunei);

xiv. *Palms (Many Varieties);

*These plants should be used only in the southern portions of the state due to their susceptibility to freezing.

**These plants should be used only in the northern portions of the state.

e. medium trees:

i. Drake's Elm (Ulmus Parvifolia Sempervirens "Drake");

ii. Pistachio (Pistachia Chinensis);

iii. Bradford Pear (Pyrus Calleryana "Bradford");

iv. *Golden Rain Tree (Koelreuteria Bipinnata);

v. *Cabbage Palm (Sabal Palmetto);

vi. *Palms (Many Varieties);

*These plants should be used only in the southern portions of the state due to their susceptibility to freezing.

f. large trees:

i. Live Oak (Quercus Virginiana);

ii. Sawtooth Oak (Quercus Acutissima);

iii. Water Oak (Quercus Nigra);

iv. Shumard Oak (Quercus Shumardii);

v. Red Maple (Acer Rubrum Drummondii);

vi. Silver Maple (Acer Saccharinum);

vii. Tulip Poplar (Liriodendron Tulipifera);

viii. American Elm (Ulmus American);

ix. Cedar Elm (Ulmus Crassifolia);

x. Winged Elm (Ulmus Alata);

xi. Sweet Gum (Liquidambar Styraciflua);

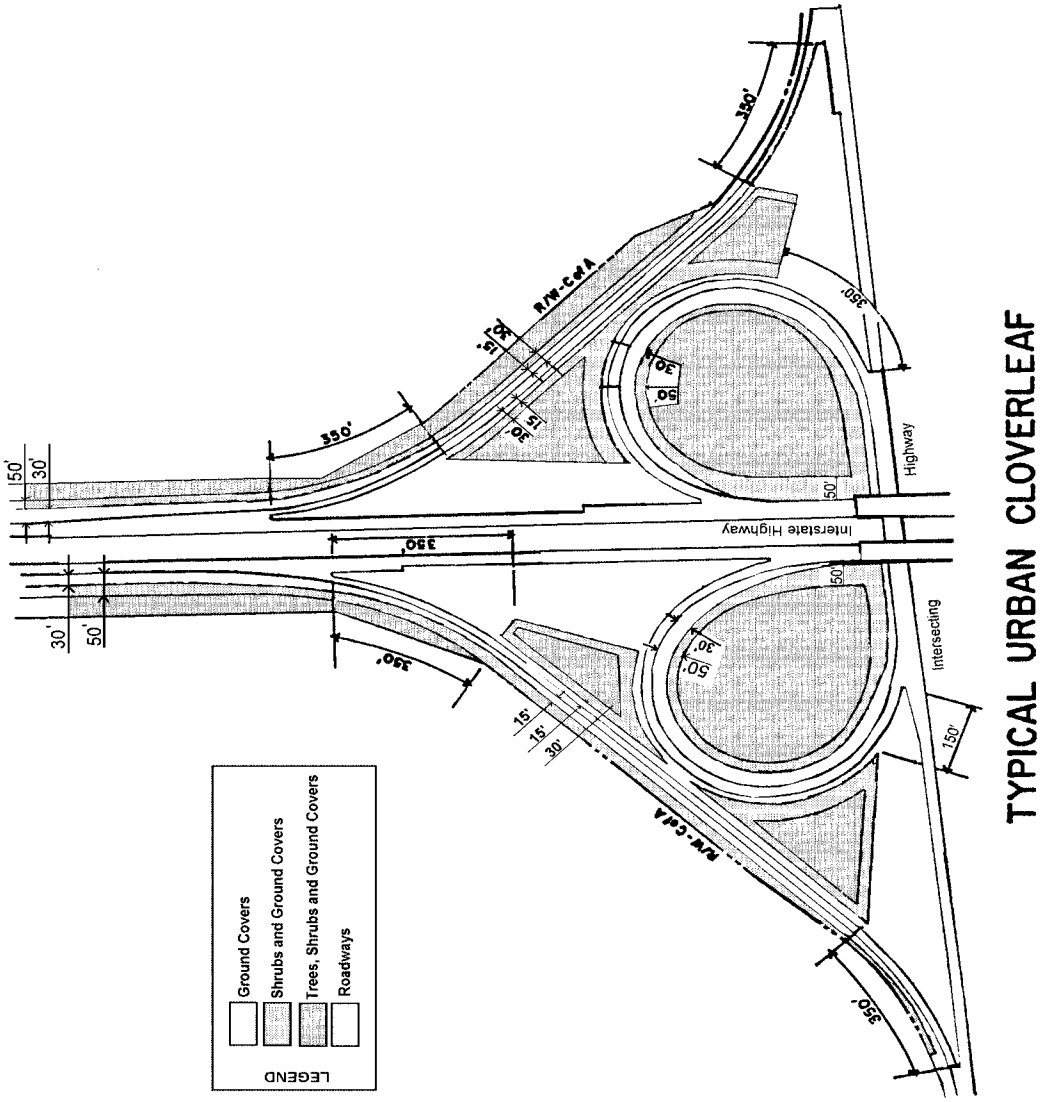
xii. Cypress (Taxodium Distichum);

xiii. Southern Magnolia (Magnolia Grandiflora);

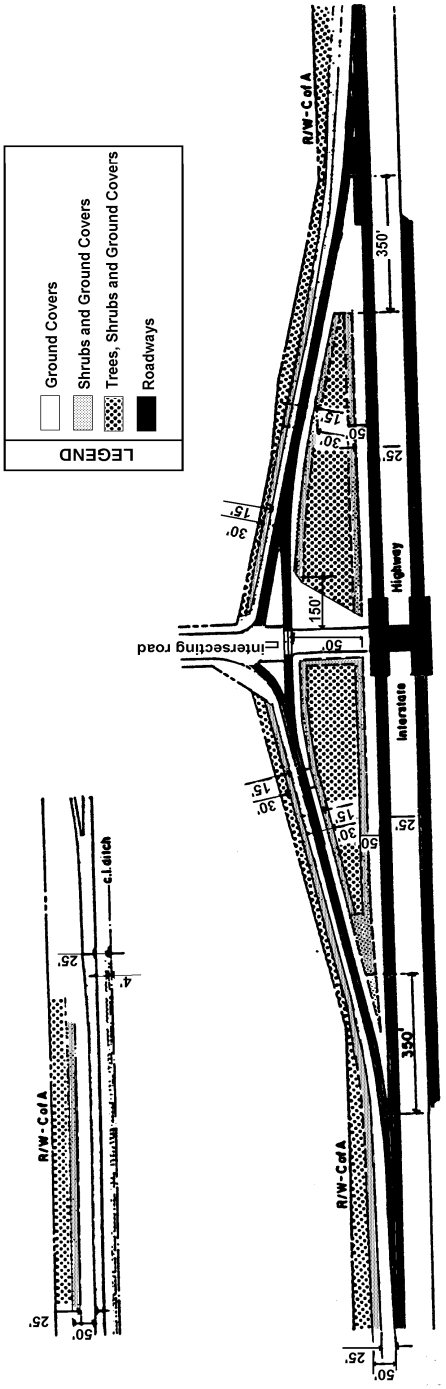
xiv. Weeping Willow (Salix Babylonica);

xv. Pines (most varieties) (Pinus).

F. Typical Urban Cloverleaf

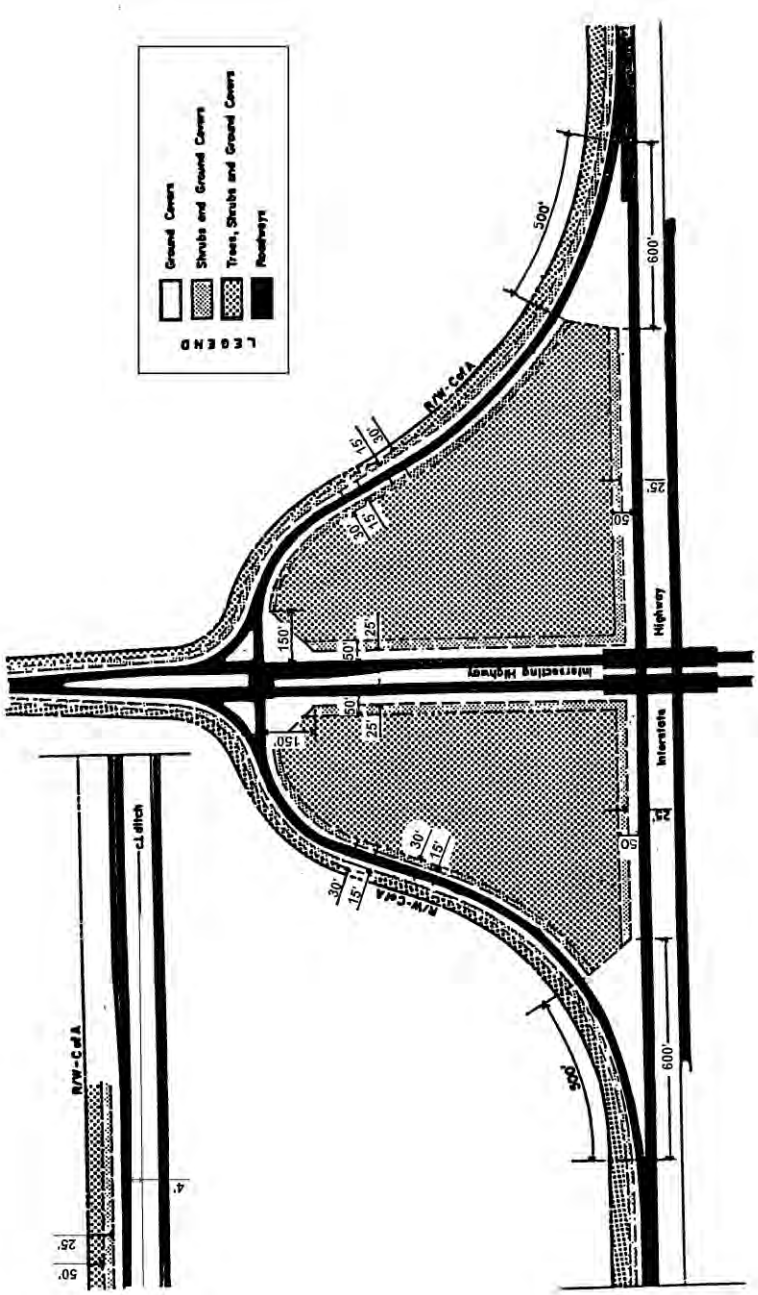


G. Typical Urban Diamond



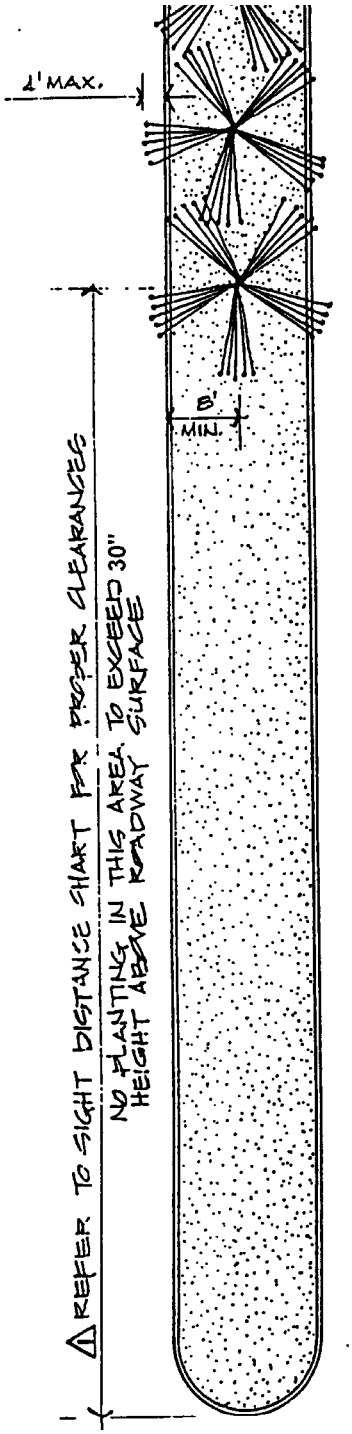
TYPICAL URBAN DIAMOND

H. Typical Rural Interchange



TYPICAL RURAL INTERCHANGE

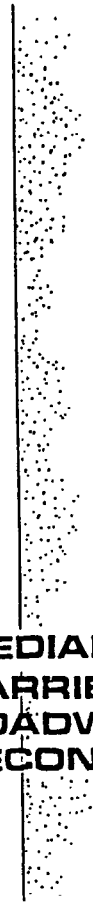
I. Median Planting for Barrier Curbed Roadways



NOTE:

MATURE SPREAD OF TREE CANOPY SHOULD NOT OVERHANG ROADWAY BY MORE THAN 4 FEET AND NOT INTERFERE WITH TRAFFIC.

LARGE TREES SHOULD NOT BE PLANTED IN MEDIANS LESS THAN 40' WIDE WITHOUT CURBS. IN MEDIANS OF LESS THAN 40' WIDTH, EXAMPLES OF ACCEPTABLE TREES ARE CRAPE MYRTLE, WAX MYRTLE, CRAB APPLE, LEGGY LIGUSTRUM, ETC. ALONG WITH ALL SHRUBS.

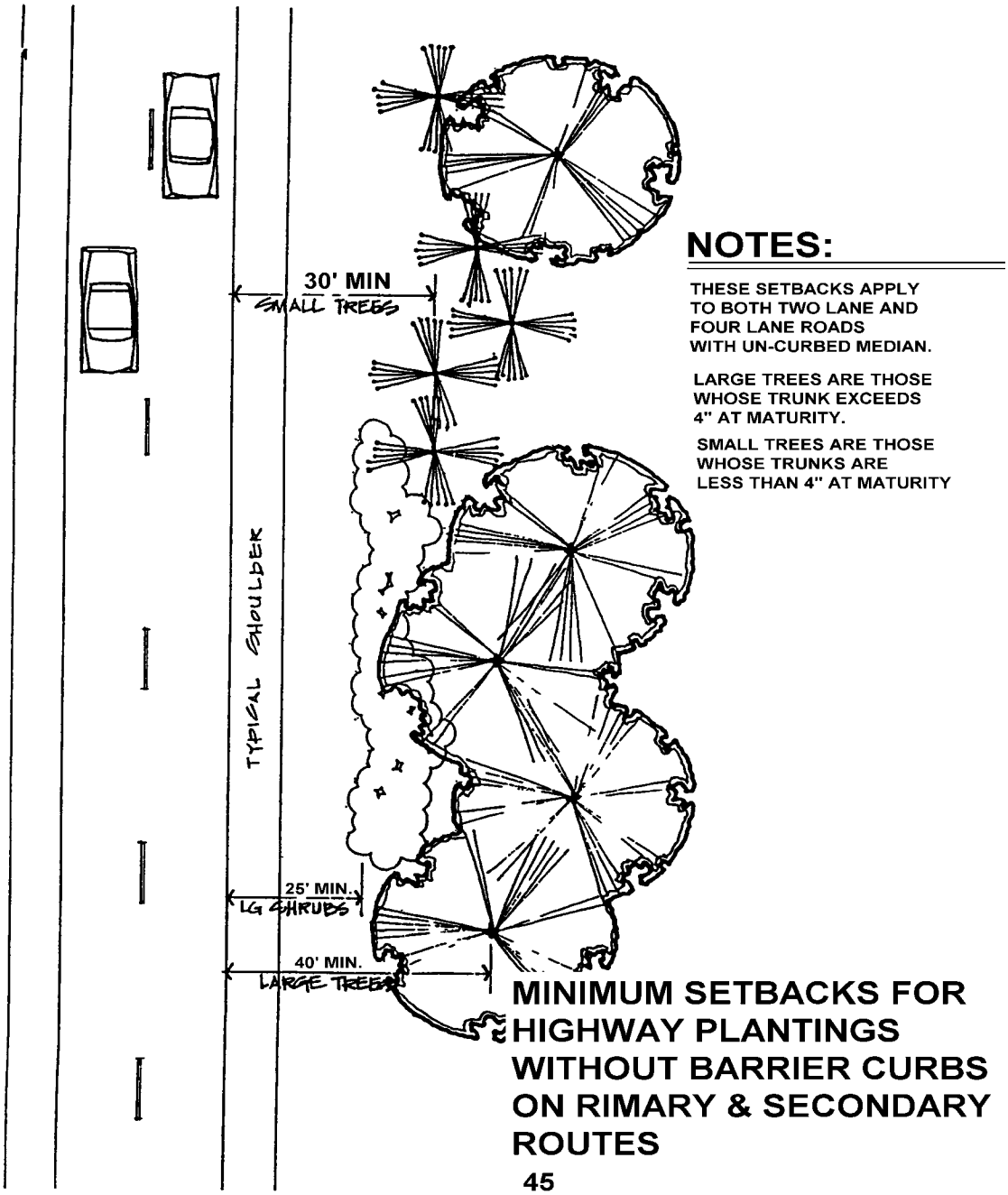


MEDIAN PLANTING FOR BARRIER CURBED ROADWAYS - PRIMARY & SECONDARY ROUTES

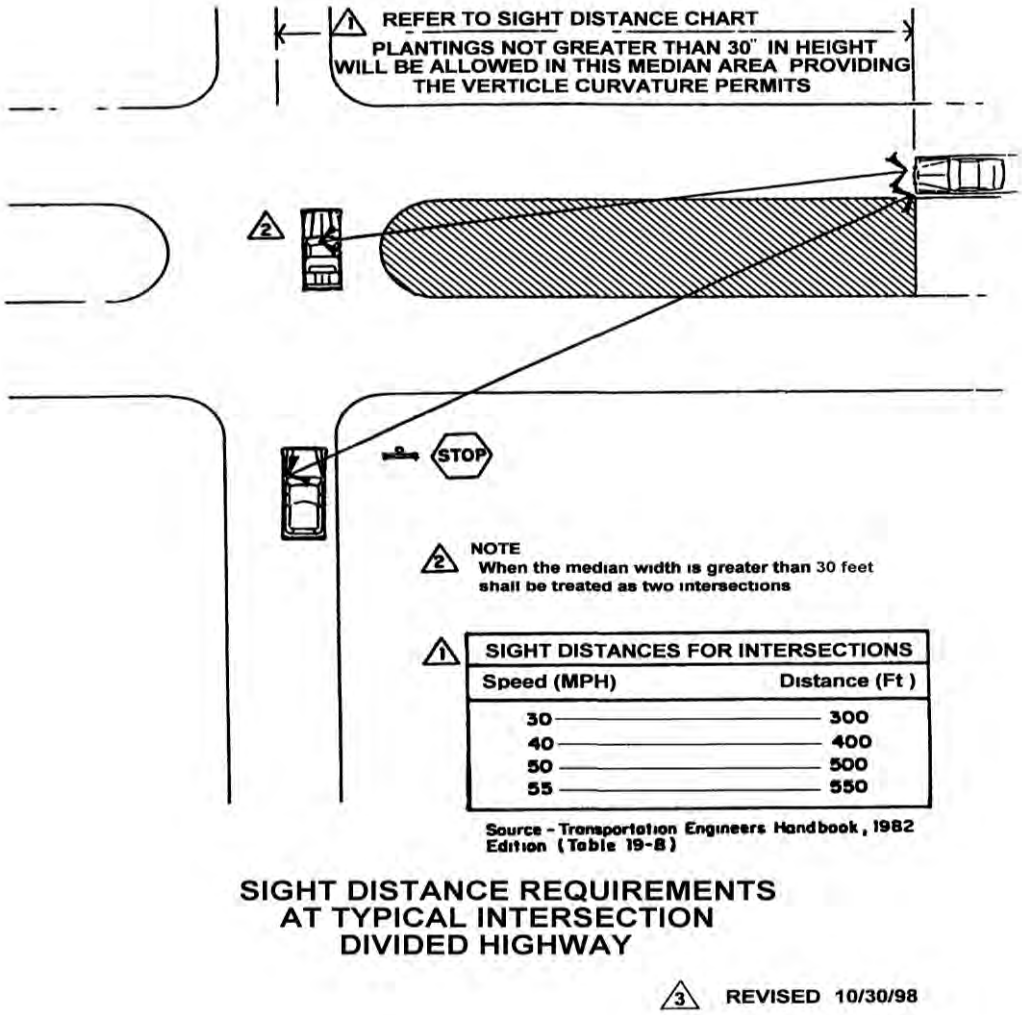
1 Revised: 3/22/91

2 Revised: 10/30/98

J. Minimum Setbacks for Highway Plantings without Barrier Curbs



K. Sight Distance Requirements



AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development LR 17:204 (February 1991), amended LR 26:1670 (August 2000).

§315. Guidelines for Vegetation Visibility Permits

A. General. The Department of Transportation and Development recognizes that the presence of vegetation on highway rights-of-way has a positive value for Louisiana. Trees benefit the state by mitigating the impact of the highway system, increasing soil stabilization, providing wildlife habitat, and moderating microclimate extremes. The Department of Transportation and Development endorses the preservation of existing vegetation along transportation corridors. It may become necessary to remove vegetation when maintenance and safety concerns warrant such action. The Department of Transportation and Development may consider trimming and removal of vegetation that visually impacts legally permitted outdoor advertising displays and adjacent businesses. However, not every permit request will be granted. Factors such as land use, visual screening of and from the roadway, tree species types and conditions, and public opinion will be considered before a final determination is made. All permits granted for vegetation removal will require mitigation in the form of replacement plantings. Maintenance of these planting areas will become the responsibility of the permittee. Permits will only be issued between October 15, and April 15 to promote optimum survival of replacement vegetation.

B. Procedure. Requests for trimming or removal of vegetation for visibility of off-premise or on-premise advertising displays or for trimming or removal of vegetation for visibility will be made using the Vegetation Enhancement Permit Form, copies of which will be maintained in each district office. The application for a permit shall include the following:

1. state or federal highway number;

2. location or distance from nearest state highway intersection to the proposed location;

3. number, name of species, approximate diameter and height of existing trees which are projected for removal;

4. where trees are in groups, the diameters and heights may be shown for each group as a whole; i.e., 10 oaks and pines 8" to 12" diameter, 30' to 50' high;

5. approximate number and names of shrubs and vines or, if the number cannot be estimated, the distance and location along the highway from point-to-point must be shown;

6. kind of work to be done—trimming, removal and replacement (replacement at a rate of two replacements to one removal, where space permits, will be required in all instances where removal of vegetation is requested). No topping of trees will be allowed;

7. 8" x 10" color photographs (printed digital photographs are acceptable) taken from required locations (see Diagrams 1 and 2) clearly marked to show limits of work:

a. as part of his review, the traffic operations engineer will verify the location of the display and will forward the request to the Headquarters Permits Unit with information about the display's legal status. Legal status will include available and pertinent information that should be considered, including but not limited to the following:

i. Is this display under active citation?

ii. Is this display subject to imminent removal?

iii. Is this display illegally placed?

iv. Is this display nonconforming to state beautification criteria?

b. where replacement of trees is required, a plan (designed by a licensed landscape architect, at no cost to the department) will be submitted to the department for review, comments and/or approval;

c. trimming and removal of trees must be performed by a bonafide bonded tree care service at no cost to the department. A licensed landscape contractor shall perform replacement to trees at no cost to the department. The permit shall contain a warranty clause wherein the permittee agrees to maintain, remove and replace any trimmed or replacement tree or vegetation not living or seriously damaged for the life of the permit;

d. the value of the trees removed shall be determined by a forester and that value shall be remitted to the department as required by Act 308 of the 2004 Regular Session of the Louisiana Legislature (R.S. 48:282);

e. visibility improvement will not be undertaken in any of the following instances:

i. the clearing or trimming is requested to provide visibility for outdoor advertising prior to, or during display placement, or where the display has been in place less than five calendar years;

ii. the display is illegally placed;

iii. the display is currently under contract with the state to be removed or it will be removed within one year;

iv. the display is on state property;

v. a right-of-way taking is imminent within one year;

vi. vegetation work is planned by the department or other parties where construction on a proposed highway project is imminent within two years;

vii. the trees or other vegetation to be trimmed, selectively removed or removed and replaced are a distance greater than 500 feet, measured along the highway from the display;

viii. the clearing or trimming is requested to provide visual access to a site before the proposed development has begun;

ix. the clearing or trimming requested to provide visual access to a site would expose an objectionable view and would not be in the best interest of the traveling public (i.e., maintenance area, loading dock, etc.);

x. the clearing or trimming requested to provide visual access to a site would expose the traveling public to oncoming headlights from an existing or proposed road; or

xi. clearing and reforestation work is planned by the department;

f. access to the work area shall be from private property or frontage road side and not from the main roadway or ramps. Where this is not practical the permittee shall conduct his operation in accordance with DOTD Maintenance Standards, including appropriate traffic control devices. The area shall be restored to original condition upon completion of the work;

g. drainage shall not be impeded;

h. work will be performed only during regular daylight hours, during which the Department of Transportation and Development is open, Monday through Friday excluding legal holidays. When a lane closure on a state highway is necessary, the department shall ensure, whenever feasible, that such landscaping or maintenance work is not performed between the hours of 7 a.m. and 9 a.m. nor between the hours of 3 p.m. and 6 p.m.;

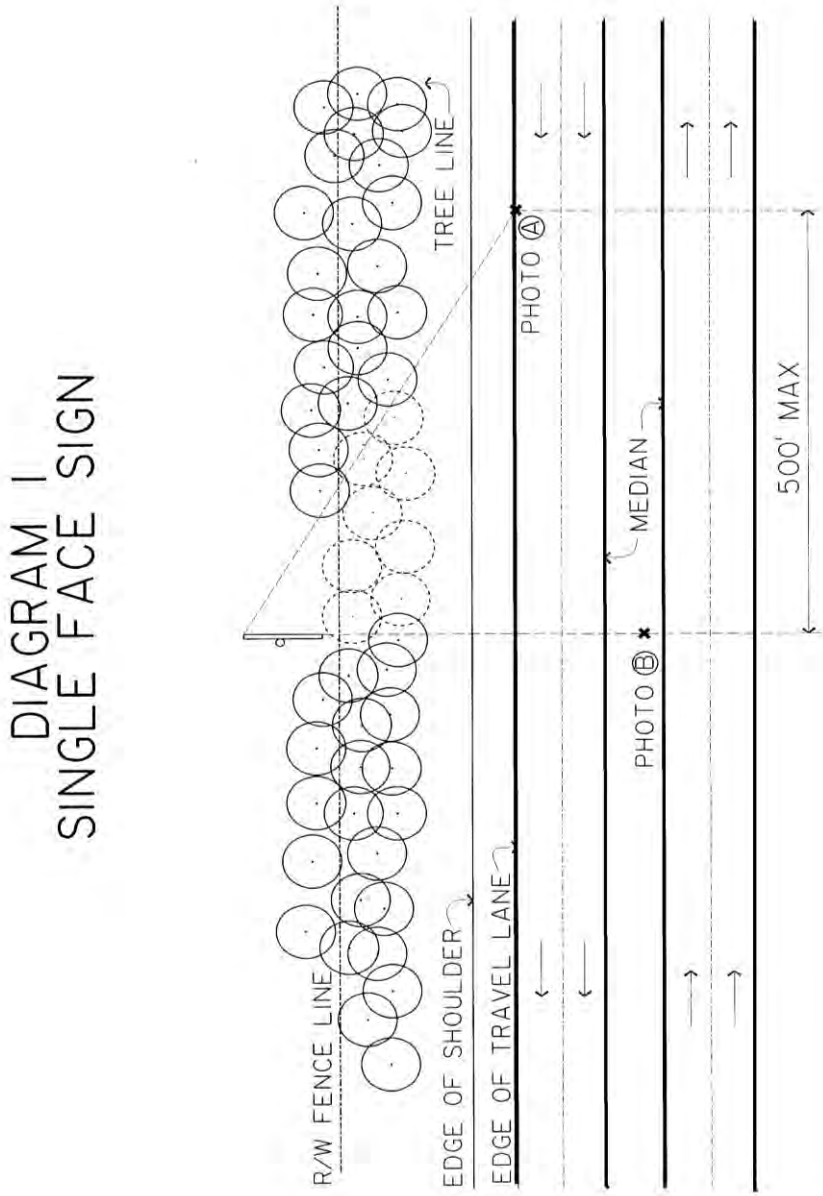
i. vegetation which has been cut will not be left overnight within 30 feet of the travel land or within the highway right-of-way, whichever is less. No more vegetation will be cut down than can be cleaned up and removed by the end of the work the following day. No debris will be left over a weekend or holiday. No burning will be permitted on the highway right-of-way. Stumps shall be cut or ground flush with the ground and treated with an EPA and department-approved herbicide immediately after the stump is cut;

j. work shall not interfere with traffic on the roadway or shoulder at anytime. Parking of vehicles or roadway or shoulder shall not be permitted. All loading, hauling, or other work associated with the permit will be conducted across adjacent property. Appropriate warning signs shall be placed by the permittee in advance of the work area in accordance with the current edition of Part VI of the Manual on Uniform Traffic Control Devices (MUTCD)—Standards and Guides for Traffic Controls for Streets and Highway Construction, Maintenance, Utility and Incidental Maintenance Operations;

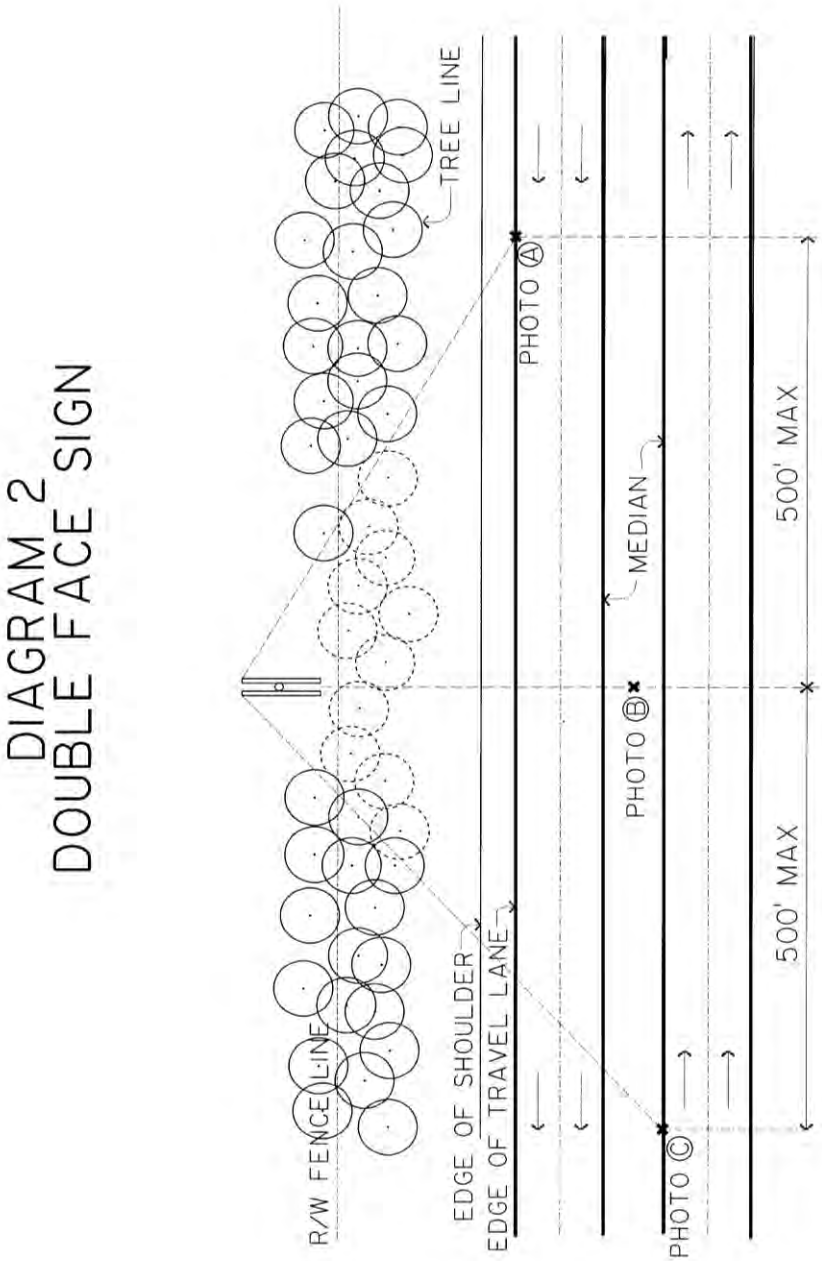
k. the vegetation control area will not extend more that 500 feet along the highway from the viewable face(s) of the advertising device and cleared to and along the line of sight; and

l. where operations are conducted in an unsatisfactory manner or for any other cause, the department may revoke the permit and any future permitting will be withheld until the unsatisfactory condition has been corrected.

C. Single Face Sign



D. Double Face Sign



AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:204 (February 1991), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 26:1674 (August 2000), LR 31:104 (January 2005).

§317. General Policy Governing the Treatment of Existing Significant Trees within the Highway Right-of-Way, Zone of Construction or Operational Influence

A. Purpose. The purpose of this directive is to establish a general policy governing the treatment of significant trees by the department within the highway right-of-way, zone of construction or operational influence.

B. Definitions

Historic Tree—a tree that stands at a place where an event of historic significance occurred that had local, regional, or national importance. A tree may also be considered historic if it has assumed a legendary stature in the community; is mentioned in literature or documents of historic value; is considered unusual due to size or age; or has landmark status.

Significant Tree—one of the following: Live Oak, Red Oak, White Oak, Magnolia, or Cypress that is considered aesthetically important, is 18" or greater in diameter at breast height (4' - 6" above the ground), and has a form that separates it from the surrounding vegetation or is considered historic. Significant trees must be in good health and not in a declining condition.

C. Design Considerations. The landscape architectural staff and district roadside development coordinators shall be consulted during the scoping and/or environmental phase. The landscape architectural staff shall identify significant trees during the scoping and/or environmental phase. The design section shall indicate significant trees on the plans and implement a context sensitive design (i.e., preservation, specified limited impact, or special treatment) to accommodate these trees where practical.

D. Construction Considerations. The project engineer shall ensure that the contractor's operations are sensitive to the treatment indicated in the plans.

1. Construction considerations may include the following:

a. temporary fencing to protect trees from construction equipment;

b. avoidance of root zones;

c. care of overhanging branches, etc.

2. Significant tree issues arising on construction projects shall be managed by the district roadside development coordinators, who shall seek the guidance of the landscape architectural staff when questions arise.

E. Considerations for Utility Companies. Utility operators shall not prune trees identified as significant by the department. Alternate construction methods, such as changing the alignment, will be required to avoid impacting the significant tree(s). Removal of significant trees may be necessary when electrical utility lines cannot be aligned to avoid removal. Consideration will be given to boring to place utilities under significant Live Oaks or trees of historical significance where all other means of avoiding the trees have failed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:267 - 268 and R.S. 47:820.6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR. 17:204 (February 1991), amended LR. 26:1675 (August 2000), LR 29:48 (January 2003).

Chapter 5. Recycling of Highway Construction and Maintenance Material

§501. Purpose

A. In compliance with the provisions of R.S. 30:2415, the Louisiana Department of Transportation and Development hereby specifies its policy for maximizing the recycling of highway construction and maintenance materials. The department currently purchases all items, except road and bridge materials which are the subject of this rule, through the Office of State Purchasing. Therefore, all items purchased, other than road and bridge materials, are subject to any and all rules on the subject of recycling which have been promulgated by the Office of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2415.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:973 (September 1992).

§503. Tracking

A. It shall be the responsibility of the construction and maintenance engineer or his designee to compile an annual report showing the number or amount of materials recycled each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2415.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:973 (September 1992).

§505. Construction Materials

A. Methods of Recycling

1. Salvage pipe culverts to relay on same project or deliver to maintenance unit for reuse.

2. Salvage treated timber and deliver to maintenance unit for reuse.

3. Salvage steel beams and deliver to maintenance unit for reuse.

4. Reclaim asphalt pavement to use in new mix, blend into base course, use as aggregate surface course on shoulders and ramps or deliver to maintenance unit for reuse.

5. Salvage concrete pavement to use in asphaltic concrete or as riprap.

6. Salvage guardrail and deliver to maintenance unit for reuse.

7. Experiment with use of shredded tires in asphalt concrete.

8. Recycle portland cement/concrete for hot mix and for coarse aggregate in portland cement/concrete for base course and for shoulders. Crush the portland cement/concrete, remove steel to use as coarse aggregate.

9. Buy or specify in contracts recycled calcium sulfate as an alternate for base course, embankment and shoulder materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2415.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 17:973 (September 1992).

§507. Maintenance Materials

A. Methods of Recycling

1. Use materials salvaged from construction projects and delivered to maintenance units for reuse.

2. Salvage old signs and strip sheeting from aluminum to reuse to make signs.

3. Sell scrap aluminum, steel and copper wire to salvage companies for recycling.

4. Salvage signal parts to refurbish and use over again or sell to salvage companies.

5. Reclaim zylene from stripper cleaning operation.

6. Save used oil and antifreeze for reclaiming. Sell unusable waste oil to highest bidder who is also a disposer certified by Department of Environmental Quality.

7. Recap tires when feasible. Sell used tires to highest bidder who is also a disposer certified by Department of Environmental Quality.

8. Sell batteries to highest bidder who is also a disposer certified by Department of Environmental Quality.

9. Use recycled glass beads for pavement striping.

10. In connection with the disposal of unusable tires and batteries, the Department of Transportation and Development works with Division of Administration toward a plan under which these items are turned in to vendor upon purchase of new tires or batteries on a "one for one" basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2415.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:974 (September 1992).

Chapter 9. Debarment Hearings for Contractors, Subcontractors, Consultants and Subconsultants

§901. Debarment Committee

A. The Debarment Committee, as defined in R.S. 48:295.1, consists of the chief engineer of the department, or his designee, the deputy secretary of the department or his designee, and the general counsel of the department or his designee.

B. The following persons shall act as designees.

1. The chief of Project Development Division shall be the designee of the deputy secretary for any consideration of debarment or suspension of a consultant under R.S. 48:285.

2. The chief of Construction Division shall be designee of the deputy secretary for any consideration of debarment or suspension of a contractor under R.S. 48:251 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1489 (July 2004).

§903. Causes for Debarment of Contractors

A. The causes for debarment are enumerated in R.S. 48:295.2(C).

B. In addition to the statutory causes for debarment, the department shall follow the following guidelines.

1. A history of failure to perform or history of unsatisfactory performance may include, but is not limited to the following:

a. during one calendar year, two or more formal demands by the department to the contractor that the surety for the contractor complete a job, or

b. determination of disqualification five or more times in a calendar year, or three times during each of two consecutive calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR. 30:1489 (July 2004).

§905. Causes for Debarment of Consultants

A. The causes for debarment are enumerated in R.S. 48:295.2(C).

B. In addition to the statutory causes for debarment, the department shall follow the following guidelines.

1. A history of failure to perform or history of unsatisfactory performance may include, but is not limited to the following:

a. an unsatisfactory rating two or more times in a calendar year, or

b. formal termination for cause two or more times in a calendar year, or three times during each of two consecutive year, or

c. failure to satisfy final judgments rendered against the entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR. 30:1489 (July 2004).

§907. Imputed Conduct

A. The fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with a contractor/consultant may be imputed to the contractor/consultant when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor/consultant, or with the contractor/consultant's knowledge, approval or acquiescence. The contractor/consultant's acceptance of the benefits derived from the conduct shall be evidence of the contractor/consultant's knowledge, approval or acquiescence.

B. The fraudulent, criminal or other seriously improper conduct of a contractor/consultant may be imputed to any officer, director, shareholder, partner, employee or other individual associated with the contractor/consultant who participated in, knew of or had reason to know of the contractor/consultant's conduct.

C. The fraudulent, criminal or other seriously improper conduct of one contractor/consultant participating in a joint venture or similar arrangement may be imputed to other participating contractors/consultants if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval or acquiescence of those contractors/consultants. Acceptance of the benefits derived from the conduct shall be evidence of the contractor/consultant's knowledge, approval or acquiescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1489 (July 2004).

§909. Provisions for the Hearing and Decision

A. Provisions for the hearing and decision are set forth in R.S. 48:295.2(D), (E) and (F).

B. In addition to those provisions:

1. the department debarment hearing shall be as informal as practicable, consistent with fundamental due process of law principles. The debarment committee shall permit contractor/consultants to submit information and arguments in opposition to the proposed debarment. The department may require that a contractor/consultant's opposition be submitted in writing or may permit an oral presentation in person or through a representative;

2. if debarment is imposed, the department shall, within 14 days, notify the contractor/consultant and any affiliates involved by certified mail return receipt requested. The notice shall contain the following:

a. reference to the notice of proposed debarment that initiated the action;

b. reasons for debarment; and

c. period of debarment, specifying the effective date;

3. if debarment is not imposed, the department shall give notice within 14 days from the date of the hearing of that fact to the contractor/consultant involved by certified mail return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1489 (July 2004).

§911. Period of Debarment

A. Debarments shall be for a period commensurate with the seriousness of the cause or causes for debarment. Generally, debarment shall not exceed three years. If suspension precedes debarment, the suspension period shall be considered in determining the debarment period.

B. The department may extend the debarment for an additional period if the department determines that an extension is necessary to protect the public interest. However, an extension may not be based solely on the facts and circumstances upon which the initial debarment was based.

C. The department may terminate a debarment or may reduce the period or extent of a debarment, upon the contractor/consultant's request, for reasons considered appropriate by the department such as:

1. newly discovered relevant evidence;

2. reversal of the conviction or judgment upon which the debarment was based;

3. a bona fide change in ownership or management of the contractor/consultant; or

4. elimination of the cause or causes for which debarment was imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1490 (July 2004).

§913. Appeals

A. Appeals shall be made in accordance with the provisions of R.S. 48:295.3 and shall be submitted to the department in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1490 (July 2004).

§915. Application by the Contractor or Consultant for Requalification

A. Applications for requalification following debarment shall be submitted in writing to the chief engineer of the department.

B. The Debarment Committee shall conduct a hearing and consider the arguments of the applicant for requalification. The applicant may appear in person.

C. The Debarment Committee may terminate a debarment or may reduce the period or extent of a debarment upon application of the contractor/consultant for reasons considered appropriate by the committee, such as:

1. newly discovered relevant evidence;

2. reversal of the conviction or judgment upon which debarment was based;

3. a bona fide change in ownership or management of the contractor/consultant; or

4. elimination of the cause or causes for which debarment was imposed.

D. The Debarment Committee shall render a decision concerning requalification within 14 days of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:295 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:1490 (July 2004).

Chapter 11. Traffic Impact Policy for New Access Requests Affecting Traffic on State Highways

§1101. Traffic Impact

A. Purpose

1. The Louisiana Department of Transportation and Development (LADOTD) has a responsibility to design, operate and maintain highway facilities that are reasonably safe and efficient for prudent drivers using the highway system. At the same time DOTD must allow all property owners reasonable access to the highway system.

2. In an effort to balance these often conflicting needs, this Section was developed to ensure that new or expansion of existing developments generating significant traffic on state highways are evaluated in a consistent manner by using objective data to facilitate decision-making.

3. The department shall review the effectiveness, applicability and efficiency of this rule annually. Changes to this Section shall be promulgated as applicable. Recommendations for change shall be forwarded to the DOTD traffic impact engineer.

B. Applicability

1. This Section applies to new or expanding developments, typically generating 100 hourly trips in the peak direction on state highways.

2. This Section also applies to developments on local public or private streets, with an access point within 0.25 of a mile of a state highway.

3. These developments include, but are not limited to:

a. new businesses;

b. new subdivisions;

c. new apartment complexes;

d. additions to existing subdivisions;

e. additions to existing apartment complexes;

f. new streets and/or traffic control devices;

g. new schools;

h. minor developments in traffic networks that are already congested;

i. hospitals; and

j. large commercial or industrial complexes.

4. Additional requirements (such as analysis of nearby major intersections as determined by DOTD) may be necessary for large commercial centers and regional shopping malls.

5. This Section, in certain situations, may apply to new, smaller developments located on congested highway corridors, as determined by the district traffic operations engineer. Congested highways are discussed in the traffic impact policy referenced in Paragraph E.1.

6. The district traffic operations engineer may, in his discretion, waive the requirement for a traffic impact study for developments marginally meeting minimum traffic thresholds.

C. This Section does not apply to the following:

1. access to interstate and other controlled-access facilities;

2. individuals requesting single-family residential access; or

3. access to local public and private streets for developments which are greater than 0.25 of a mile from the state system.

D. Pre-Application Procedure

1. Prior to any permit requests, land developers shall meet with the DOTD district traffic operations engineer and the district permit specialist for a pre-application meeting during preliminary site planning for the development. The purpose of this meeting is to discuss the proposed development and determine if a traffic impact study is warranted.

2. The developer shall be notified within seven calendar days after the pre-application meeting whether or not a traffic impact study is required. The decision will be based on the preliminary site plan layout and anticipated additional traffic.

3. The DOTD will coordinate with the appropriate local authorities for developments not abutting the state highway system.

E. Traffic Impact Study

1. When a traffic impact study is required by DOTD, it shall be prepared and sealed by a professional engineer licensed by LAPELS, before an application for access is submitted. The study will include all information as outlined in the DOTD traffic impact policy, a detailed guidance document which includes forms, roadway classification, traffic volume criteria and mitigation strategies. This document may be obtained from the district office, or the department's website, or from DOTD headquarters in the office of the traffic impacts engineer. The purpose of the traffic impact study is to:

a. determine existing traffic conditions on the network surrounding the proposed development;

b. estimate the traffic likely to be generated by the proposed development which is within the sole purview of the Department of Transportation and Development;

c. assess the impact of additional traffic on the existing and future road network system at full build out and the anticipated construction phasing; and

d. identify effective roadway improvements and/or changes in the site plan of the proposed development that will minimize impact to the state highway system.

F. Responsibilities of the Developer

1. The developer is responsible for mitigating traffic caused by the development.

2. All road improvements constructed by the developer shall comply with the latest DOTD standards and specifications.

G. Letters of Compliance

1. No permit applications will be accepted until DOTD provides the developer with a letter of compliance indicating the approval of the traffic impact study and the traffic mitigation required.

2. The letter shall be attached to any permit application.

H. Traffic Mitigation

1. Traffic Mitigation is a roadway improvement or improvements designed to minimize congestion and improve the safety of the highway system.

2. The required mitigation shall be constructed prior to completion of the new development.

3. Types of mitigation include, but are not limited to:

a. turn lanes;

b. traffic signal upgrades;

c. traffic control devices;

d. signal phasing/timing/interconnect;

e. raised medians;

f. roadway widening;

g. restricted turning movements;

h. right-of-way donation; and

i. roadway resurfacing.

I. Approval Process

1. The office of the DOTD district traffic operations engineer and the DOTD Headquarters (HQ) traffic impact engineer, if requested for a joint review, will review the traffic impact study. The department shall take one of the following actions.

a. Approve the traffic impact study submitted by the developer and recommend mitigation to minimize traffic impacts. The DOTD HQ traffic impact engineer will provide the developer with a letter of compliance to indicate approved traffic impact study and mitigation. The developer may apply for access, driveway, project, or traffic signal permits.

b. Recommend alternative mitigation procedures to minimize traffic impacts.

c. Deny the traffic impact study and/or the recommended mitigation. If it is denied, no further reviews will be made. The developer may request a new review based on revisions to the traffic impact study and recommended mitigation for the proposed development, or the developer may appeal the decision.

J. First Level Appeals Process

1. Following are provisions for a first level appeal of the traffic impact review process for developers which disagree with the DOTD decision on traffic mitigation.

2. The traffic impact review committee shall be composed of representatives of the following divisions within the DOTD. Each member may appoint a substitute if he or she is unable to attend a meeting:

a. maintenance (access management engineer or his designee) (nonvoting);

b. legal;

c. traffic engineering (two or more personnel/designees); and

d. district traffic operations engineer or his designee from the particular district in which the development is located (nonvoting).

3. The traffic impact review committee, pursuant to a majority vote, may arbitrate and resolve disputes which arise during the review process and grant or deny relief to appealing parties.

4. The appealing party must bring his/her complaint before the traffic impact review committee no later than 30 calendar days after notification of the decision of DOTD.

5. Upon receipt of the appeal, the traffic impact review committee will schedule a meeting to review the appeal. The meeting will be scheduled not earlier than 14 calendar days and not more than 39 calendar days after receipt of the appeal. The traffic impact review committee shall give due notice of the meeting time and place to those

filing the appeal and shall render a decision on its action within 14 calendar days of its meeting. The maintenance division shall also be notified of the pending requirements for permit purposes.

6. The party appealing the decision shall submit the written reason for the appeal, together with any supporting documents deemed applicable by the developer, to the Department of Transportation and Development, Traffic Engineering Development Section, 1201 Capitol Access Road, Baton Rouge, LA 70802. Such submittal must be received at least 14 calendar days before the Traffic Impact Review Committee meeting.

7. The submittal will be checked by the department within 14 calendar days of its receipt. If the information deemed necessary for a proper review is not complete, the appealing party will be notified and the appeal will then be postponed at least one month.

8. The party submitting the appeal may appear before the traffic impact review committee to offer a brief explanation of the complaint.

9. Failure to submit an appeal in a timely manner shall constitute a denial of the traffic impact appeal.

K. Second Level Appeals Process

1. Should the appeal of the developer be rejected by the traffic impact review committee, the developer may appeal the decision in writing within 30 calendar days from receipt of the initial decision to the Department of Transportation and Development, Attn: Deputy Secretary, 1201 Capitol Access Road, Baton Rouge, LA 70802.

2. The second traffic impact review committee shall be composed of the following:

a. the chief engineer or his designee;

b. the deputy secretary or his designee; and

c. the general counsel or his designee.

3. A decision will be based upon a majority vote and shall be made within 14 calendar days from the date that the appeal was received. It shall be served on the appealing party by registered or certified mail.

4. The second level appeal shall include any correspondence from the first level traffic impact review committee.

L. Third Level Appeals Process—the Secretary

1. The secretary or his designee shall have the authority to review any appeal by an aggrieved party from a determination pursuant to the foregoing appeals processes.

2. Such review may be made pursuant to an appeal filed by the developer within 30 calendar days from his receipt of the second level decision or it may be made on the secretary's own motion.

3. A decision shall be made within 14 calendar days from the day that the appeal was received and shall be served on the appealing party by registered or certified mail.

4. This appeal shall include any correspondence from the first and second level traffic impact review committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, and R.S. 48:344 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Transportation and Development, Office of Highways/Engineering, LR 33:533 (March 2007).

Chapter 13. Design Guidelines for Freeways, Arterial, Collector, and Local Highways under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System

§1301. Minimum Design Guidelines for Rural Arterial Roads

Item No.	Item	Rural		
		RA-1	RA-2	RA-3
1	Design Speed (mph)	50[1]	60[2]	70
2	Number of Lanes (minimum)[3]	2	2	4
3	Width of Travel Lanes (ft)	11–12[4]	12	12
4	Width of Shoulders (minimum)(ft)			
	(a) Two Lane	8[5]	8[5]	N/A
	(b) Divided facilities			
	(1) Inside[8]	4	4	4[6]
	(2) Outside	8[5]	8[5]	8–10[7]
5	Shoulder Type	Aggregate (2' min paved)	Aggregate (2' min paved)	Paved Aggregate[8] (2' min paved)
6	Parking Lane Width (ft)	N/A	N/A	N/A
7	Width of Median on Divided Facilities (ft)			
	(a) Depressed	42–60	42-60	60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
8	Fore slope (vertical–horizontal)	1:6	1:6	1:6
9	Back slope (vertical–horizontal)	1:4	1:4	1:4
10	Pavement Cross-slope (%)	2.5	2.5	2.5
11	Minimum Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%)[9]	10	10	10
13	Minimum Radius (ft)[10] (with full superelevation)	700	1,100	1,700
14	Maximum Grade (%)[11]	4	3	3
15	Minimum Vertical Clearance (ft)[12]	16	16	16
16	Minimum Clear Zone(ft)(from edge of through travel lane)	20	30[13]	34
17	Bridge Design Live Load[14]	AASHTO	AASHTO	AASHTO
18	Width of Bridges (min) (face to face of bridge rail at gutter line) (ft)	Roadway width	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:806 (April 2004), repromulgated LR 30:2332 (October 2004), amended LR 35:2840 (December 2009).

§1303. Footnotes for Rural Arterial Design Standards

A. Footnote for Item 1, RA-1 Classification. The design speed may not be less than the current posted speed of the overall route.

B. Footnote for Item 1, RA-2 Classification. Consider using RA-3 criteria (except Item No. 2) for roadways that will be widened in the future.

C. Footnote for Item 2. Consider increasing to a 4-lane facility if design volume is greater than 6,000 vehicles per day and six lanes if design volume is greater than 25,000 vehicles per day. If more than two lanes are to be provided, outside shoulders should be paved.

D. Footnote for Item 3, RA-1 Classification. Twelve feet required when design ADT is 1,500 or greater.

E. Footnote for Items 4(a) and 4(b)(2), RA-1 and RA-2 Classifications. Six foot shoulders are allowed if design volume is between 400 to 2,000 vehicles per day. Four foot shoulders are allowed if design volume is less than 400 vehicles per day.

F. Footnote for Item 4(b)(1), RA-3 Classification. Eight to ten feet to be provided on six lane facilities.

G. Footnote for Item 4(b)(2), RA-3 Classification. Consider using 10 foot outside shoulders where trucks are greater than 10 percent or if large agricultural vehicles use the roadway.

H. Footnote for Item 4(b)(1) and for Item 5, RA-3 Classification. For ADT 5,000 or greater, the full shoulder width shall be paved.

I. Footnote for Item 12. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10 percent table.

J. Footnote for Item 13. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Footnote for Item 14. Grades 1 percent higher are permissible in rolling terrain.

L. Footnote for Item 15. An additional 6 inches should be added for additional future surfacing.

M. Footnote for Item 16, RA-2 Classification. On multilane facilities, use 32 feet.

N. Footnote for Item 17. LRFD for bridge design.

O. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:35(C).

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§1305. Minimum Design Guidelines for Freeways

Item No.	Item	Urban		Rural
		F-1	F-2	F-3[1]
1	Design Speed (mph)	50	60	70
2	Level of Service	C[3]	C[3]	B 2
3	Number of Lanes (minimum)	4	4	4
4	Width of Travel Lanes (ft)	12	12	12
5	Width of Shoulders (ft)			
	(a) Inside[4]	6	6	6
	(b) Outside[5]	10	10	10
6	Shoulder Type	Paved	Paved	Paved
7	Width of Median (minimum) (ft)			
	(a) Depressed	50	68 (min)–100 (des)	72 (min)–100 (des)
	(b) Continuous barrier (4 lane)[6]	15	15	15
	Continuous barrier (6 lane)[6]	27	27	27
8	Fore Slope (vertical – horizontal)	1:4 to 1:6	1:6	1:6
9	Back Slope (vertical – horizontal)	1:4	1:4	1:4
10	Pavement Cross Slope (%)	2.5	2.5	2.5
11	Minimum Stopping Sight Distance (ft)	425	570	730
12	Maximum Superelevation (%)[7]	10	10	10
13	Minimum Radius (ft)[8] (with 10% superelevation)	700	1,100	1,700
14	Maximum Grade (%)[9]	4	3	3
15	Minimum Vertical Clearance (ft)[10]	16	16	16
16	Width of Right-of-Way (ft)			
	(a) Depressed median	As Needed	As Needed	Varies[11]
	(b) Median barrier	As Needed	As Needed	As Needed
	(c) Minimum from edge of bridge structure[12]	15–20	15–20	15-20
17	Bridge Design Live Load[13]	AASHTO	AASHTO	AASHTO
18	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	Roadway Width	Roadway Width	Roadway Width
19	Minimum Clear Zone(from edge of through travel lane)(ft)			
	(a) 1:4 Fore slope	30	N/A	N/A
	(b) 1:6 Fore slope	22	32	34

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1307. Footnotes for Freeway Design Standards

A. Footnote for F-3 Classification. These guidelines may be used in urban areas.

B. Footnote for Item 2, F-3 Classification. Level of Service C can be used in urban areas.

C. Footnote for Item 2, F-1 and F-2 Classifications. Level of Service D can be used in heavily developed urban areas.

D. Footnote for Item 5(a). Four feet to be paved, 10 feet to be paved on 6 lane facilities, 12 feet to be paved on 6 lane facilities with truck DDHV greater than 250.

E. Footnote for Item 5(b). Twelve feet paved when truck DDHV is greater than 250.

F. Footnote for Item 7(b). For larger medians two barriers may be required. The maximum offset of 15 feet from barrier to edge of travel lane shall not be exceeded.

G. Footnote for Item 12. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10% table.

H. Footnote for Item 13. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

I. Footnote for Item 14. Grades 1 percent higher may be used in urban areas.

J. Footnote for Item 15. An additional 6 inches should be added for additional future surfacing. Seventeen feet is required for trusses and pedestrian overpasses.

K. Footnote for Item 16(a), F-3 Classification. As needed for urban projects: 300 feet to 330 feet for rural projects depending on median width.

L. Footnote for Item 16(c). Twenty-five feet shall generally be provided in accordance with EDSM II.1.1.1.

M. Footnote for Item 17. LRFD for bridge design.

N. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1309. Minimum Design Guidelines for Local Roads and Streets

Item No.	Item	Rural			Urban	
		RL-1	RL-2	RL-3	UL-1	UL-2
1	Design Speed (mph)[1]	30	40	50	20	30
2	Average Daily Traffic	0–250	250–400	Over 400	N/A	N/A
3	Typical Number of Lanes	2	2	2	2	2
4	Minimum Width of Travel Lanes (ft)	9	9	11–12[2]	10–11[3]	10–11[3]
5	Minimum Width of Shoulders (ft)[4]	2	2	5–8[5]	When used[6]	When used[6]
6	Shoulder Type	Aggregate	Aggregate	Aggregate	Paved	Paved
7	Minimum Width of Parking Lanes (where used) (ft)	N/A	N/A	N/A	7—Residential 8—Industrial	7—Residential 8—Industrial
8	Minimum Width of Sidewalk (where used) (ft)					
	(a) When offset from curb	N/A	N/A	N/A	4	4
	(b) When adjacent to curb	N/A	N/A	N/A	6	6
9	Fore Slope (vertical–horizontal)	1:3[7]	1:3[7]	1:4	1:3	1:3
10	Back Slope (vertical–horizontal)	1:2	1:2	1:3	1:2	1:2
11	Pavement Cross Slope (%)	2.5	2.5	2.5	2.5	2.5
12	Minimum Stopping Sight Distance (ft)	200	305	425	115	200
13	Maximum Superelevation (%)	10[8]	10[8]	10[8]	4	4
14	Minimum Radius (ft)[9, 10]					
	(a) With normal crown (-2.5% cross slope)	7,585	11,625	16,700	100	325
	(b) With 2.5% superelevation	1,930	3,250	5,000	85	250
	(c) With full superelevation	250	450	700	80	235
15	Maximum Grade (%)[11]	7	7	6	10	9
16	Minimum Vertical Clearance (ft)	15	15	15	15	15
17	Minimum Clear Zone(ft)					
	(a) From edge of through travel lane	10[7]	10[7]	Varies[12]	7—Shoulder facilities	10—Shoulder facilities
	(b) From back of curb (when curb is used)	N/A	N/A	N/A	1 (min)–6 (des)	1 (min)–6 (des)
18	Bridge Design Live Load[13]	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
19	Minimum Width of Bridges (face to face of bridge rail at gutter line)	Traveled way plus 4'	Traveled way plus 4'	Traveled[14] way plus 6'	Traveled[15, 16] way plus 8'	Traveled[15, 16,] way plus 8'
20	Bridge End Treatment	Yes	Yes	Yes	[16]	[16]

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering,

LR 30:808 (April 2004), repromulgated LR 30:2334 (October 2004), amended LR 35:2843 (December 2009).

§1311. Footnotes for Local Road and Street Design Guidelines

A. Footnote for Item 1. The design speed may not be less than the current posted speed of the overall route.

B. Footnote for Item 4, RL-3 Classification. For ADT greater than 2,000, use 12-foot lane widths.

C. Footnote for Item 4, UL-1 and UL-2 Classifications. Lane widths in residential areas may be reduced to 9 feet if necessary. Twelve foot lane widths are preferred in industrial areas.

D. Footnote for Item 5. Where bicycle activity is prevalent, a paved 4-foot shoulder should be provided.

E. Footnote for Item 5, RL-3 Classification. For ADT less than 1,500, the minimum shoulder width may be reduced to 4 feet if necessary. For ADT 1,500 to 2,000, use 6-foot shoulders. For ADT over 2,000, use 8-foot shoulders.

F. Footnote for Item 5, UL-1 and UL-2 Classifications. Select the shoulder width that corresponds to the ADT shown in the rural local road guidelines.

G. Footnote for Items 9 and 17(a), RL-1 and RL-2 Classifications. The value shown should be provided on new roadways. A lesser value may be used on existing roads depending on soil stability, right-of-way constraints, the safety record of the road, and the size vehicles using the road. Guidance is available in the publication entitled "AASHTO Standards for Geometric Design of Very Low Volume Local Roads (ADT < 400)".

H. Footnote for Item 13, RL-1, RL-2 and RL-3 Classifications. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10% table.

I. Footnote for Item 14. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

J. Footnote for Item 14. On roadways with an ADT < 400, a sharper radius may be used on fully superelevated roadways if necessary. For specific values refer to the publication entitled 'AASHTO guidelines for Geometric Design of Very Low Volume Local Roads (ADT < 400)'. Different radii apply at divisional islands.

K. Footnote for Item 15. Grades 2 percent higher may be used in rural rolling terrain.

L. Footnote for Item 17(a), RL-3 Classification. Varies from 14 feet to 28 feet. Refer to the Roadside Design Guide for the applicable value. For spot replacement projects refer to the applicable part of footnote G for Items 9 and 17(a).

M. Footnote for Item 18. LRFD for bridge design.

N. Footnote for Item 19, RL-3 Classification. For ADT greater than 2,000, use roadway width.

O. Footnote for Item 19, UL-1 and UL-2 Classifications. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

P. Footnote for Items 19 and 20, UL-1 and UL-2 Classifications. When shoulders are provided, the minimum bridge width shall be the larger of that shown or the roadway width.

Q. General Note. These guidelines shall not apply to:

1. dead end roads (open at one end only);

2. roads that are dependent on dead end roads for access.

R. Urban guidelines may be applied to any street for which curb is to be used and the posted speed is less than 50 mph, or any street for which a posted speed of 30 mph or less would be appropriate.

S. General Note. On spot replacement projects the existing geometry and superelevation may remain providing there are no safety problems.

T. General Note. The appropriate local governing body is authorized to make design exceptions for specific items listed in these guidelines, with proper engineering justification.

U. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1313. Minimum Design Guidelins for Rural Collector Roads

Item No.	Item	Rural		
		RC-1	RC-2	RC-3
1	Average Daily Traffic 1	Under 400	400-2000	Over 2000
2	Design Speed (mph)	40–60[2]	50–60[2]	60
3	Number of Lanes	2	2	2–4[3]
4	Width of Travel Lanes (ft)	11	11–12[4]	12
5	Width of Shoulders (ft)			
	(a) Inside on multilane facilities	N/A	N/A	4
	(b) Outside	2[5]	4–5[6]	8

Item No.	Item	Rural		
		RC-1	RC-2	RC-3
6	Shoulder Type	Paved	Aggregate (2' min paved)	Aggregate (2' min paved)[7]
7	Width of Parking Lanes (ft)	N/A	N/A	N/A
8	Width of Median on multilane facilities (ft)			
	(a) Depressed	N/A	N/A	42-60
	(b) Raised	N/A	N/A	N/A
	(c) Two way left turn lane	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (ft)			
	(a) Offset from curb	N/A	N/A	N/A
	(b) Adjacent to curb	N/A	N/A	N/A
10	Fore Slope (vertical-horizontal)	1:4	1:4	1:6
11	Back Slope (vertical-horizontal)	1:4[8]	1:4	1:4
12	Pavement Cross Slope (%) 8	2.5	2.5	2.5
13	Stopping Sight Distance (ft)	305 (40 mph) 425 (50 mph) 570 (60 mph)	425 (50 mph) 570 (60 mph)	570
14	Maximum Superelevation (%)[9]	10	10	10
15	Minimum Radius (ft) 10 (with full superelevation)	450[11]	700[12]	1,100
16	Maximum Grade (%)	7 (40 mph) 6 (50 mph) 5 (60 mph)	6 (50 mph) 5 (60 mph)	5
17	Minimum Vertical Clearance (ft)[13]	15	15	15
18	Minimum Clear Zone (ft) (from edge of through travel lane)	10, 14, 24[14]	26 (50 mph) 32 (60 mph)	30
19	Bridge Design Live Load[15]	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line) (ft)	30	Roadway width	Roadway width

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:809 (April 2004), repromulgated LR 30:2335 (October 2004), amended LR 35:2844 (December 2009).

§1315. Footnotes for Rural Collector Design Standards

A. Footnote for Item 1. Current traffic may be used to determine the appropriate classification.

B. Footnote for Item 2, RC-1 and RC-2 Classifications. The design speed may not be less than the current posted speed of the overall route.

C. Footnote for Item 3, RC-3 Classification. For rolling terrain, limited passing sight distance and high percentage of trucks, further analysis should be made to determine if additional lanes are required when ADT is above 7,000.

D. Footnote for Item 4, RC-2 Classification. For design speeds greater than 50 mph and ADT greater than 1,500 use 12-foot lanes.

E. Footnote for Item 5(b), RC-1 Classification. Where bicycle activity is observed, a 4-foot shoulder should be provided.

F. Footnote for Item 5(b), RC-2 Classification. For ADT greater than 1,500 use 6 foot shoulders.

G. Footnote for Item 6, RC-3 Classification. For ADT of 5,000 or greater, a minimum of 4 foot must be paved.

H. Footnote for Item 11, RC-1 Classification. 1:3 back slopes are allowed where right-of-way restrictions dictate.

I. Footnote for Item 14. In Districts 04 and 05, where ice is more frequent, superelevation should not exceed 8 percent from the emax = 10% table.

J. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

K. Footnote for Item 15, RC-1 Classification. Radius based on 40 mph. Radii for 50 mph and 60 mph are shown under the RC-2 and RC-3 classifications respectively.

L. Footnote for Item 15, RC-2 Classification. Radius based on 50 mph. The radius for 60 mph is shown under the RC-3 classification.

M. Footnote for Item 17. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. Footnote for Item 18, RC-1 Classification. The lower value is based on a 40 mph design speed, the middle value for 50 mph and the upper value for 60 mph.

O. Footnote for Item 19. LRFD for bridge design.

P. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1317. Minimum Design Guidelines for Suburban Arterial Roads and Streets

Item No.	Item	Suburban[1]	
		SA-1	SA-2
1	Design Speed (mph)	50	55
2	Level of Service	C	C
3	Number of Lanes	2 (min)-4 (typ)	2 (min)-4 (typ)
4	Width of Travel Lanes(ft)	12	12
5	Width of Shoulders (minimum) (ft)[2]		
	(a) Inside on multilane facilities	4	4
	(b) Outside	8	8
6	Shoulder Type	Paved	Paved
7	Parking Lane Width (ft)	N/A	N/A
8	Width of Median on Multilane Facilities (ft)		
	(a) Depressed	30–42	42
	(b) Raised	30	30
	(c) Two way left turn lane	N/A	N/A
9	Width of Sidewalk (minimum) (where used) (ft)[3]		
	(a) When offset from curb	4	4
	(b) When adjacent to curb	N/A	N/A
10	Fore slope (vertical – horizontal)	1:4 to 1:6	1:6
11	Back slope (vertical – horizontal)	1:3	1:4
12	Pavement Cross-slope (%)	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	425	495
14	Maximum Superelevation (%)	4	6
15	Minimum Radius (ft)[4, 5]		
	(a) With normal crown (-2.5% cross-slope)	16,700	19,700
	(b) With 2.5% superelevation	3,500	5,250
	(c) With full superelevation	1,000	1,100
16	Maximum Grade (%)	4[6]	4
17	Minimum Vertical Clearance (ft)[7]	16	16
18	Minimum Clear Zone(ft)		
	(a) From edge of through travel lane	20 – 28[8]	24
	(b) Outside from back of curb (when curb is used)	10 (1:6) 18 (1:4)	14
	(c) Median from back of curb (when curb is used)	12	18
19	Bridge Design Live Load[9]	AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line)[10]		
	(a) Curbed facilities (without sidewalks)	Roadway width	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1319. Footnotes for Suburban Arterial Design Guidelines

A. Footnote for SA-1 and SA-2 Classifications. These guidelines may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The classification selected should be based on the posted speed.

B. Footnote for Item 5. If curb is used, it shall be placed at the edge of shoulder on two lane facilities and 1 foot beyond the edge of the shoulders on multilane facilities. However, see EDSM II.2.1.7. Curb will not be placed in front of guardrail.

C. Footnote for Item 9. Sidewalks must be separated from the shoulder and should be placed as near the right of way line as possible. They should desirably be placed outside the minimum clear zone shown in item 18.

D. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

E. Footnote for Item 15. Different radii apply at divisional islands. See Footnote G for "Minimum Design Guidelines for Urban Arterial Roads and Streets."

F. Footnote for Item 16, SA-1 Classification. Grades 1 percent higher are permissible in rolling terrain.

G. Footnote for Item 17. An additional 6 inches should be added for additional future surfacing.

H. Footnote for Item 18(a), SA-1 Classification. Use the larger value when 1:4 fore slopes are used.

I. Footnote for Item 19. LRFD for bridge design.

J. Footnote for Item 20. For roadways with shoulders and curbs, consider widening each bridge 8 feet to allow for a future lane and 4 foot offsets to bridge rail.

K. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1321. Minimum Design Guidelines for Urban and Suburban Collector Roads and Streets

Item No.	Item	Urban		Suburban[1]		
		UC-1	UC-2	SC-1	SC-2	SC-3
1	Average Daily Traffic	N/A	N/A	N/A	N/A	N/A
2	Design Speed (mph)	30–40	45	40	45	50
3	Number of Lanes (minimum)	2–4	2–4	2–4	2–4	2–4
4	Width of Travel Lanes (ft)	11–12	12[2]	11	11	11–12[2]
5	Width of Shoulders (ft)					
	(a) Inside on multilane facilities	N/A	N/A	N/A	N/A	4[3]
	(b) Outside	8[2, 4]	8[2,4]	4–5[4]	4–5[4]	6, 8[5]
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Width of Parking Lanes (where used) (ft)	7–10[6]	11	7–10[6]	11	N/A
8	Width of Median on multilane facilities (ft)					
	(a) Depressed	N/A	N/A	N/A	N/A	30
	(b) Raised	4 (min)–30 (des)	4 (min) –30 (des)	4 (min)–30 (des)	4 (min)–30 (des)	26
	(c) Two way left turn lane	11–14 typ.[7]	11–14 typ.[7]	11–14 typ.[7]	11–14 typ.[7]	N/A
9	Width of Sidewalk (minimum) (where used) (ft)[8]					
	(a) When offset from curb	4	4	4	4	4
	(b) When adjacent to curb	6	6	6	6	N/A
10	Fore Slope (vertical – horizontal)	1:3–1:4[9]	1:3–1:4[9]	1:4	1:4	1:4
11	Back Slope (vertical – horizontal)	1:3[10]	1:3	1:3	1:3	1:3
12	Pavement Cross Slope (%)	2.5	2.5	2.5	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	200 (30mph) 305 (40mph)	360	305	360	425
14	Maximum Superelevation (%)	4	4	4	4	6
15	Minimum Radius (ft)[11, 12]					
	(a) With normal crown (-2.5% cross slope)	325(30mph) 700(40mph)	1,000	700	1,000	16,700
	(b) With 2.5% superelevation	250(30mph) 550(40mph)	750	550	750	4,400
	(c) With full superelevation	235(30mph) 500(40mph)	700	500	700	900
16	Maximum Grade (%)	9	8	7	6	6
17	Minimum Vertical Clearance (ft)[13]	15	15	15	15	15
18	Minimum Clear Zone(ft)					
	(a) From edge of through travel lane	10	10	10	10	26 – 28[14]
	(b) Outside from back of curb (when curb is used)	1 (min)—6 (des)	6 (min)—8 (des)	1 (min)—6 (des)	6 (min)—8 (des)	17 – 19[15]
	(c) Median from back of curb (when curb is used)	1 (min)—6 (des)	1 (min)—8 des)	1 (min) – 6 (des)	1 (min)—8(des)	13
19	Bridge Design Live Load[16]	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Minimum Width of Bridges (face to face of bridge rail at gutter line)					
	(a) Curbed facilities (without sidewalks)	Traveled[17] way plus 8'	Traveled[17] way plus 8'	Traveled[17] way plus 8'	Traveled[17] way plus 8'	Roadway width
	(b) Shoulder facilities	Roadway width	Roadway width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	[17]	[17]	[17]	[17]	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

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§1323. Footnotes for Urban and Suburban Collector Design Guidelines

A. Footnote for SC-1, SC-2 and SC-3 Classifications. These guidelines may be used only on a rural roadway section that adjoins a roadway section currently classified as urban. The classification selected should be based on the posted speed.

B. Footnote for Item 4, UC-2 and SC-3 Classifications and for Item 5(b), UC-1 and UC-2 Classifications. For ADT less than 2,000 refer to Exhibit 6-5 on page 425 in the "2004 AASHTO Policy on Geometric Design of Highways and Streets."

C. Footnote for Item 5(a), SC-3 Classification. Applicable to depressed medians only.

D. Footnote for Item 5(b), UC-1, UC-2, SC-1 and SC-2 Classifications. Curb may be used instead of shoulder. Where bicycle activity is observed, a bike lane should be considered.

E. Footnote for Item 5(b), SC-3 Classification. If curb will not be used, shoulder widths may be reduced, see Footnote B (for Item 4). When curb is used on multilane facilities, it shall be placed at the edge of shoulder. When curb is used on 2-lane facilities, 8 foot shoulders will be required if a future center turn lane will be added. Curb will not be placed in front of guardrail.

F. Footnote for Item 7, UC-1 and SC-1 Classifications. Seven and 8-foot widths are limited to residential areas for 30 and 40 mph respectively.

G. Footnote for Item 8(c), UC-1, UC-2, SC-1 and SC-2 Classifications. Cannot be used on multilane roadways (with four or more through lanes) without Chief Engineer's approval.

H. Footnote for Item 9. If shoulders are used, sidewalks should be separated from shoulder.

I. Footnote for Item 10, UC-1 and UC-2 Classifications. Where shoulders are used, 1:4 minimum fore slopes are required through the limits of minimum clear zone.

J. Footnote for Item 11, UC-1 Classification. 1:2 back slopes are allowed where right of way restrictions dictate.

K. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

L. Footnote for Item 15. Different radii apply at divisional islands. See Footnote G for "Minimum Design Guidelines for Urban Arterial Roads and Streets."

M. Footnote for Item 17. Where the roadway dips to pass under a structure, a higher vertical clearance may be necessary. An additional 6 inches should be added for additional future surfacing.

N. Footnote for Item 18(a), SC-3 Classification. The higher value is applicable to roadways with an ADT greater than 6,000.

O. Footnote for Item 18(b), SC-3 Classification. These values apply to roadways with 8-foot shoulders. For outside shoulders less than 8 feet, further increase should be proportional to the reduced shoulder width.

P. Footnote for Item 19. LRFD for bridge design.

Q. Footnote for Items 20(a) and 21, UC-1, UC-2, SC-1 and SC-2 Classifications. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

R. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 30:812 (April 2004), repromulgated LR 30:2338 (October 2004), amended LR 35:2847 (December 2009).

§1325. Minimum Design Guidelines for Urban Arterial Roads and Streets

Item No.	Item	Urban				
		UA-1	UA-2	UA-3	UA-4	UA-5
1	Design Speed (mph)	40	45	50	55	60
2	Level of Service[1]	C	C	C	C	C
3	Number of Lanes	2 (min)– 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)	2 (min) – 4 (typ)
4	Width of Travel Lanes(ft)	11	11–12	12	12	12
5	Width of Shoulders (minimum) (ft)[2]					
	(a) Inside on multilane facilities	N/A	N/A	4	4	4
	(b) Outside	8	8	8	8	8
6	Shoulder Type	Paved	Paved	Paved	Paved	Paved
7	Parking Lane Width (ft)	10–12	10–12	N/A	N/A	N/A
8	Width of Median on Multilane Facilities (ft)					
	(a) Depressed	N/A	N/A	30	34–42	42
	(b) Raised	6[3]–30	6[3]–30	30	30	30
	(c) Two way left turn lane	11–14 typ.[4]	11 – 14 typ.[4]	N/A	N/A	N/A
9	Width of Sidewalk (minimum) (where used) (ft)[5]					
	(a) When offset from curb	4	4	4	4	4
	(b) When adjacent to curb	6	6	N/A	N/A	N/A
10	Fore slope (vertical – horizontal)	1:3 (min) 1:4 (des)	1:3 (min) 1:4 (des)	1:4	1:6	1:6
11	Back slope (vertical–horizontal)	1:3	1:3	1:3	1:4	1:4
12	Pavement Cross-slope (%)	2.5	2.5	2.5	2.5	2.5
13	Minimum Stopping Sight Distance (ft)	305	360	425	495	570
14	Maximum Superelevation (%)	4	4	4	6	6

Item No.	Item	Urban				
		UA-1	UA-2	UA-3	UA-4	UA-5
15	Minimum Radius (ft)[6, 7]					
	(a) With normal crown (-2.5% cross-slope)	700	1,000	16,700	19,700	22,880
	(b) With 2.5% superelevation	550	750	3,500	5,250	6,280
	(c) With full superelevation	500	700	1,000	1,100	1,400
16	Maximum Grade (%)	7	6	6	5	5
17	Minimum Vertical Clearance (ft)[8]	16	16	16	16	16
18	Minimum Clear Zone (ft)					
	(a) From edge of through travel lane	18[9]	24[9]	28[10]	22	30
	(b) Outside from back of curb (when curb is used)	6 (min)–16 (des)[11]	6 (min)–22 (des)[11]	19[10]	13	21
	(c) Median from back of curb12 (when curb is used)	4 (min)–12 (des)	4 (min)–18 (des)	8 (min)–17 (des)	8 (min)–17 (des)	8 (min)–25 (des)
19	Bridge Design Live Load[13]	AASHTO	AASHTO	AASHTO	AASHTO	AASHTO
20	Width of Bridges (minimum) (face to face of bridge rail at gutter line)					
	(a) Curbed facilities (without sidewalks)	Traveled[14] way plus 8'	Traveled[14] way plus 8'	Roadway width	Roadway width	Roadway width
	(b) Shoulder facilities	Roadway Width	Roadway Width	Roadway width	Roadway width	Roadway width
21	Guardrail Required at Bridge Ends	14	14	Yes	Yes	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 35:2848 (December 2009).

§1327. Footnotes for Urban Arterial Design Guidelines

A. Footnote for Item 2. Level of service D allowable in heavily developed urban areas.

B. Footnote for Item 5. Curb may be used in place of shoulders on UA-1 and UA-2 facilities. If used on UA-3, UA-4 or UA-5 facilities, curb should be placed at the edge of shoulder. For design speeds greater than 45 mph, curb will not be placed in front of guardrail.

C. Footnote for Item 8(b), UA-1 and UA-2 Classifications. With Chief Engineer's approval, curb offsets may be eliminated and the minimum median width can be reduced to 4 feet. On principal arterials, particularly at intersections, the upper limit should be considered.

D. Footnote for Item 8(c), UA-1 and UA-2 Classifications. Cannot be used on multilane roadways (with four or more through lanes) without the Chief Engineer's approval.

E. Footnote for Item 9. Sidewalks must be separated from the shoulder and should be placed as near the right of way line as possible. On high speed facilities, they should preferably be placed outside the minimum clear zone shown in Item 18.

F. Footnote for Item 15. It may be necessary to increase the radius of the curve and/or increase the shoulder width (maximum of 12 feet) to provide adequate stopping sight distance on structure.

G. Footnote for Item 15. The following radii apply at divisional islands. The radius selected must match the design speed of the road. These radii also apply to the other guidelines where divisional islands are mentioned.

Design Speed	Radius (Rounded)	Degree of Curve
20	1,450'	4°
25	1,650'	3° 30'
30	1,950'	3°
35	2,300'	2° 30'
40	2,900'	2°
45	3,850'	1° 30'
50	5,750'	1°
55 and 60	11,500'	0° 30'

H. Footnote for Item 17. An additional 6 inches should be added for additional future surfacing.

I. Footnote for Item 18(a), UA-1 and UA-2 Classifications. Applies to facilities with shoulders. Refer to the Roadside Design Guide when 1:3 fore slopes are used or for slopes flatter than 1:4.

J. Footnote for Items 18(a) and 18(b), UA-3 Classification. The distance may be reduced by 6 feet if 1:6 slopes are used. For outside shoulders wider than 8 feet, further reduction should be proportional to the added shoulder width.

K. Footnote for Item 18(b), UA-1 and UA-2 Classifications. If outside shoulders and curb are used, refer to the Roadside Design Guide.

L. Footnote for Item 18(c). Where left turn lanes are provided or where the median is less than 6 feet in width, the minimum clearance will be 1.5 feet from back of curb. For median slopes steeper than 1:6, refer to the Roadside Design Guide for the desirable clear zone.

M. Footnote for Item 19. LRFD for bridge design.

N. Footnote for Items 20(a) and 21, UA-1 and UA-2 Classifications. Refer to EDSM II.3.1.4 when sidewalks will be provided and for guardrail requirements.

O. General Note. DOTD pavement preservation minimum design guidelines or 3R minimum design guidelines (separate sheets) shall be applicable to those

projects for which the primary purpose is to improve the riding surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering LR 35:2849 (December 2009).

Chapter 15. Access Connection Permits

§1501. Introduction

A. The Louisiana Department of Transportation and Development (DOTD) recognizes that landowners have certain rights of access. The DOTD also recognizes that access connections are a major contributor to traffic congestion, increase the degradation of transportation facility operations, can result in decreased highway capacity, cause driver and pedestrian confusion, and can increase safety hazards.

B. Most roadside interference can be attributed directly to vehicular traffic entering, exiting, and parking adjacent to accesses for residential developments, business establishments, and commercial roadside developments.

C. Incumbent with this is the obligation to protect the investment of the state in the highway system. Access connections granted by the DOTD can be restrictive.

D. The Louisiana Department of Transportation and Development (DOTD) has the authority to require permits for access connections as set forth in R.S. 48:344. Access connection permits are required in order to achieve the following:

1. to ensure safe and orderly movement for vehicular traffic entering and leaving the highway;

2. to prevent hazardous and indiscriminate parking on, along, or adjacent to the roadway surface;

3. to preserve adequate sight distances at intersections (including streets and driveways);

4. to encourage beautification of property frontage;

5. to ensure uniform design and construction of access on highway right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:347 (January 2011).

§1503. Definitions

Access Connection Permits—shall be defined and required as follows:

1. single-family residential access connections:

a. single family residential—1 to 5 homes on a single access connection (Six or more residences on a single shared access or a single property subdivided for multiple homes must apply as a multi-family residential access.);

b. residential sporting and recreation camps (Full-time or part-time residential camps used for hunting, fishing, etc.);

2. non-commercial agricultural operations:

a. unimproved land (farm, pasture, or wooded; passenger vehicle or farm equipment access and use only);

3. traffic generator access connections:

a. place of business (e.g., retail outlets, banks, restaurants, etc.);

b. medical facilities (e.g., doctors' offices, hospitals, urgent care facilities, assisted living homes, etc.);

c. religious facilities (e.g., churches, synagogues, etc.);

d. multi-family residential developments (e.g., subdivisions, condominiums, apartment complexes, trailer parks, etc.);

e. educational facilities (e.g., schools, colleges, daycares, after-school daycares, etc.);

f. lodging facilities (e.g., hotels, vacation rentals, motels, RV parks, etc.);

g. recreational facilities (e.g., sports fields, public swimming pool, parks, golf courses, bowling alleys, theme parks, etc.);

h. private clubs (e.g. country clubs, golf clubs, yacht clubs, etc.);

i. emergency services (e.g., fire station, ems stations, police stations, etc.);

j. mixed-use developments (any combination of above-listed uses);

k. public facilities (libraries, court houses, city halls, jails, conference/convention centers, etc.);

l. commercial agricultural operations (processing and/or wholesale operations; cotton gin, rice mill, sugar mill, etc.);

m. oil, natural gas, logging, and other natural resource harvesting operations;

n. utility company access;

o. any other connections that do not fit a category listed above;

4. temporary permits:

a. short-term oil, natural gas, logging, or other natural resource harvesting operations;

b. short-term haul road;

c. short-term construction access to a building site until an access connection is approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:347 (January 2011).

§1505. Public Road/Street Connections

A. Public road or street connections shall follow the normal project development process and shall only be requested by the local authority within the jurisdiction over the roadway.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:348 (January 2011).

§1507. Facilities Requiring Access Connection

A. Facilities requiring access connection permits may be either new facilities or existing facilities which are remodeled, undergo a change of use, or any other change(s) to the operations of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:348 (January 2011).

§1509. Personal Injury/Property Damage

A. The applicant agrees to hold harmless the DOTD and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of a permit, whether or not the same may have been caused by the negligence of the DOTD, its agents, or its employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:348 (January 2011).

§1511 Requirements

A. The location, design, and construction of the access shall be in accordance with the rules and regulations stated in the Section of this Chapter entitled Access Connection Requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:348 (January 2011).

§1513. Process for Acquiring an Access Permit

A. The access connection permit application process shall be initiated by the applicant during the preliminary planning and development stages of a project. Applicant shall coordinate the initial requests with the Louisiana DOTD district permit specialist where the subject property is located.

B. The process for acquiring an access connection permit shall be defined in DOTD policies.

C. At the direction of the DOTD district office, a request for an access connection permit may require the submission of any required supporting documentation to the DOTD district office. Actual work on an access connection shall not begin until the application has been approved by the DOTD. Required permit application supporting documentation may include some or all of the following:

1. detailed property location, including but not limited to:

a. location address;

b. legal property description (with professional land surveyor stamp);

c. property frontage dimensions;

d. relative locations of all access connections, intersecting streets, signals, railways, and crossovers within a specified distance from the property lines. This distance shall be specified by the DOTD district engineering administrator (DA) and/or DTOE;

e. information on any nearby or adjacent properties owned and/or controlled by the applicant(s), including anticipated future land use(s);

f. posted speed limit of adjacent roadways;

2. right-of-way information, including but not limited to:

a. measured rights-of-way for the subject property;

b. easements (utility, drainage, etc.) and locations of same;

c. known existing access restrictions;

d. property lines;

e. right-of-way widths for all adjacent roadways (state, parish, local, private, etc.);

3. proposed site plan drawing, fully dimensioned to-scale on 11” x 17” or 24” x 36” paper, showing all, but not limited to, the following:

a. existing roadway alignment for all adjacent roadways;

b. requested access connection location;

c. distance from requested access connection to nearest property line(s) and nearest intersecting roadways (in all directions along the roadway from the subject property);

d. distance from right-of-way to all buildings, structures, gas pumps, etc. on the proposed site;

e. plan for internal parking, drives, traffic flow patterns, traffic control devices, markings, truck/service vehicle routing, emergency access, etc. Autoturn or similar analysis must be shown for adequate design vehicle(s);

f. detailed geometry of proposed access connection (width, radii, lane use, etc.) must conform to DOTD standard plans. Autoturn or similar analysis must be shown for adequate design vehicle(s);

g. detailed pavement design of proposed access connection (base type and thickness, pavement thickness, curb treatment, etc.);

h. sidewalk and ADA ramps, where required;

i. proposed treatment of right-of-way area between and adjacent to proposed and existing access connection(s);

j. sight distance triangles for proposed access connection;

4. temporary traffic control plan for work within the right-of-way (see Section entitled Construction Requirements);

5. railroad crossing permit (see Section entitled Railroad Crossings);

6. copies of permits obtained for access and building rights from local authorities;

7. permanent signing and pavement marking plans which conform to DOTD standards and the most current edition of the manual on uniform traffic control devices;

8. detailed plans of required or proposed mitigation (turn lanes, etc.);

9. additional information, drawings, or documents as required by the district engineer administrator or his/her designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:348 (January 2011), amended by the Office of Engineering, LR 40:1011 (May 2014).

§1515. Permit Conditions

A. The applicant must be the owner of the property or his/her legally designated representative.

B. Any access connection or approach constructed under this permit shall be for the bona fide purpose of securing access to the subject property.

C. The entire highway right-of-way affected by this work shall be restored to at least the same condition that existed prior to the beginning of the work.

D. The applicant may be required to post a bond in order to secure an access connection permit. If required, this bond shall be posted in accordance with DOTD policy, and shall be an amount as identified by the DOTD district office as sufficient to cover the expenses of all work or improvements required within the DOTD right-of-way as a condition of an access connection permit. The cost of restoration shall be borne by the applicant.

E. All access connections, approaches, or other improvements on the right-of-way shall comply with DOTD standards and be subject to the approval of the district engineer administrator or his/her designee.

F. All access connections in the DOTD right-of-way shall at all times be subject to inspection by the DOTD.

G. After having been constructed, access connection(s) shall at all times be subject to inspection with the right reserved to require changes, additions, repairs, and relocations at any time considered necessary to permit the location and/or to provide proper and safe protection to life and property on or adjacent to the highway. The cost of making such mandated changes, additions, repairs, and relocations shall be borne by the applicant.

H. The relocations or alterations of any access, approach, or other improvement constructed on the right-of-way shall require a re-evaluation of the access connection(s).

I. If the applicant is unable to commence construction within 12 months of the permit issue date, the applicant may request a six month extension from the DOTD. No more than two six-month extensions may be granted under any circumstances. If the access connection is not constructed within 24 months from the permit issue date, the permit shall be considered expired. Any person wishing to reestablish an access connection permit that has expired shall begin again with the application procedures.

J. When the adjacent highway is under construction, a letter of no objection shall be obtained from the highway contractor before the application can be approved and the permit can be issued. A copy of this letter shall be attached to the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:349 (January 2011), amended by the Office of Engineering, LR 40:1011 (May 2014).

§1517. Application Requirements

A. The applicant shall submit a design that conforms with all requirements included herein. Design(s) shall also conform with all DOTD standards, where applicable.

B. The applicant shall make any and all changes or additions necessary to make the proposed access satisfactory to the DOTD.

C. Three copies of the completed application package, including all supplemental documentation, are required with each application. One copy is to be retained by the district office, and two copies are to be forwarded to DOTD Headquarters Permits Section. The application package shall include all supporting documentation as required by the district engineer administrator or his/her designee and as described in the Section entitled Process for Acquiring an Access Permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:349 (January 2011).

§1519. Permit Reapplication and Modifications to Existing Commercial Access Connections

A. The provisions of this Section do not apply to single-family residential access connection permits, as described in the definitions Section of this Chapter.

B. If the property is reconstructed/remodeled /redeveloped, the owner shall submit a request for a re-evaluation of the access connection(s). The re-evaluation shall contain all necessary information and documentation as

required by DOTD in accordance with its policies, as well as a copy of the old access connection permit.

C. If the property owner reconstructs the access connection, a request for re-evaluation shall be submitted. The DOTD reserves the right to make changes to the original permit during this process in order to improve safety and operations.

D. If DOTD road maintenance and/or construction operations affect the condition or necessitate the reconstruction, improvement, modification, or removal of an existing access connection, a re-evaluation of the access connection geometrics, location, etc. may be performed by the district traffic operations engineer. The access connection permit may be re-issued according to the most current DOTD standards, and DOTD reconstruction efforts shall follow these standards. The cost to reconstruct the access connection to the right-of-way shall be borne by the DOTD. Any additional costs to improve on-site conditions may be borne by the property owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:349 (January 2011), amended by the Office of Engineering, LR 40:1012 (May 2014).

§1521. Access Connection Requirements

A. Location of Access Connections

1. The frontage of any parcel of property adjacent to a public highway shall be considered to be confined within lines drawn from the intersection of the property lines with the right-of-way lines of the highway to the roadway surface, and perpendicular to the axis of the highway; or if the axis is a curve, to the center of curvature; or a combination of the two. Those lines shall be known as boundaries.

2. In addition, the following constraints shall apply.

a. Full access should not be granted within the functional influence area of the intersection. The influence area shall be required by DOTD in accordance with its policies. For purposes of this Chapter, the functional influence area of an intersection shall be defined as the area beyond the physical intersection of two roadways and/or access connection points that:

i. comprises decision and maneuvering distances;

ii. comprises any required vehicle storage lengths, either determined by length of existing storage lanes, observed queue lengths, or anticipated post-development queue lengths, all as determined by the district traffic operations engineer;

iii. includes the length of road upstream from an oncoming intersection needed by motorists to perceive the intersection and begin maneuvers to negotiate it.

3. Access connections located near or within storage limits of existing or proposed right- or left-turn lanes with no alternate locations shall be located as far as possible from the intersection and may be granted right-in/right-out only access connection conditions.

4. If the subject property is located at the intersection of two routes, an access connection may be permitted on both routes however, one must be limited to right-in/right-out access. The determination of the access connection locations and restrictions on each shall be at the discretion of the DOTD according to this rule and other applicable DOTD policies.

5. The applicant shall provide sufficient on-site circulation to ensure the safe ingress and egress of vehicles on the site. This on-site circulation shall be contained within the owner's property boundaries and shall not encroach upon the right-of-way in any way. Adequate on-site vehicle storage shall be provided in order to prevent any overflow of queued/waiting traffic in the travel lane(s) of the adjacent roadway(s).

6. Access connections shall be designed and constructed so that a driver can maneuver entering, parking, and exiting without backing onto the adjacent roadway.

B. The granting of access shall adhere to the following decision hierarchy.

1. Each property or group of adjacent properties with a single owner or development plan should be granted no more than one access point, unless Paragraphs 4 and 5 of this Section are completed and approved. The DOTD reserves the right to limit access to adjacent properties to those access connections which already exist. All properties shall receive adequate access, but that may be accomplished through required access sharing with a neighboring property.

2. The owner shall be required to gain access through the appropriate governmental local authorities for access on a non-state route.

3. If shared access is required by the DOTD, a copy of the shared access agreement shall be submitted to the DOTD as part of the driveway permit and shall be signed by all involved property owners.

C. The construction of parking within the limits of the state right-of-way is specifically prohibited. Facilities which require parking shall provide such within the limitations of the facility and shall not encroach upon the right-of-way.

D. Access connections which extend or travel parallel to the roadway shall not be permitted. This includes access near gasoline pumps or other structures requiring vehicular access. Any such pumps or structures shall be located a minimum distance of 15 feet from the right-of-way line in order that all on-site access lanes shall be located outside of the right-of-way.

E. Gates, fences, signage, landscaping, or other decorative or access-control features (i.e. gated subdivision) shall not be located within the right-of-way. Any such access-control feature shall be located so that a minimum storage of two vehicles (50' storage length minimum unless greater distances are required by DOTD) is provided outside

of the limits of the right-of-way. Gated access shall not be permitted as an approach to a traffic signal.

F. Display of merchandise for sale within the limits of right-of-way (including, but not limited to, automobiles, farm equipment, agricultural produce, fireworks, tents, etc.) or the storage of farm implements within the limits of right-of-way is strictly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:350 (January 2011), amended by the Office of Engineering, LR 40:1012 (May 2014).

§1523. Limited Access Highways

A. On those highways which have been designated as limited access highways, or along which service roads have been constructed, access shall be permitted to connect only to the service roads and not to the main traveled highways.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:351 (January 2011).

§1525. Access Connections—Spacing and Sharing

A. Every effort shall be made by the district traffic operations engineer and/or district engineer administrator to designate approved locations of access connections within existing property limits so that the spacing between adjacent access connections is maximized.

B. A minimum spacing as defined in DOTD policy should be maintained between access connections. If frontage is not available to maintain minimum spacing of access connections, the DOTD reserves the right to require adjacent property owners to share a single access connection.

C. When necessary to maintain the corridor and preserve mobility, adjacent property owners may be required by the DOTD to share an access connection (new or existing). This provision applies to both residential and commercial applicants. Under this provision, a residential applicant shall only be required to share use with other residential applicants. A commercial applicant shall only be required to share an access connection with other commercial applicants.

D. The DOTD may require adjacent commercial applicants to share access connections and/or provide connectivity between properties and parking lots in an effort to limit the number of access connections along the right-of-way.

E. When access connection sharing and/or property connectivity is required by the DOTD of independent property owners, it shall be the responsibility of the property owners to develop maintenance and cost agreements. The signed agreement shall be submitted to the DOTD as part of this application.

F. Any costs resulting from the requirement to share access connections or provide property connectivity shall be borne by the involved property owners and shall not be the responsibility of the DOTD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:351 (January 2011), amended by the Office of Engineering, LR 40:1013 (May 2014).

§1527. Access Connection Operational Restrictions

A. DOTD reserves the right to restrict operations at an access connection.

B. Such restrictions may include, but are not limited to:

1. turn restrictions (e.g., right-in/right-out only);
2. truck only or no trucks;
3. entrance-only or exit-only.

C. Restricted movements cannot be limited to certain times of day or days of week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:351 (January 2011).

§1529. Access Connections on Roadways with Medians

A. On roadways with center medians of any type, access connections should not be permitted to align with median cuts or crossovers, and should be located as far from these cuts and crossovers as possible within property limit constraints.

B. DOTD reserves the right to require the applicant to modify, relocate, or construct crossovers to facilitate the movement of additional traffic expected to be generated by the proposed facility.

C. All access on roadways with medians may be restricted to right-in/right-out movements only, and, if required, shall be constructed in such a way as to prevent any other movements. This shall apply to both residential and commercial access.

D. Median opening spacing, locations, and operations with regard to access connections shall be as defined in DOTD policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:351 (January 2011), amended by the Office of Engineering, LR 40:1013 (May 2014).

§1531. Design Requirements

A. There are multiple standard plans for access connection types. The DOTD district engineer administrator or his/her designee will aid in determining the appropriate type for each application at the initial access connection permit meeting. These standard access connection types must be applied in their entirety without modification, unless otherwise recommended or approved by the district traffic operations engineer. The permissible design of access connection returns shall be governed by the type of access

connection to be constructed and shall be as shown in the appropriate detail of the standard plans for access connections.

B. All traffic generator access connections shall be constructed with permanent hard surface type materials (i.e. asphalt or concrete) for a distance as required by DOTD in accordance with its policies. Aggregate access connections shall not be permitted within the right-of-way for these types of connections.

C. All entrances and exits shall be located so that drivers approaching or using them will have adequate sight distance in all directions along the highway in order to maneuver safely and without interfering with traffic. Minimum required sight distance shall be calculated using the methods required by DOTD in accordance with its policies.

D. All access connections shall be designed and constructed in accordance with all DOTD plans and specifications regarding drainage requirements. Culvert sizes, proposed elevations and proposed slopes shall be approved by the DOTD prior to issuance of an access connection permit. The DOTD may require a drainage study to be performed at the expense of the applicant.

E. Access connections shall be constructed according to DOTD standard plans and other applicable policies and provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:351 (January 2011), amended by the Office of Engineering, LR 40:1013 (May 2014).

§1533. Construction Requirements

A. During construction in the right-of-way, appropriate temporary traffic control devices shall be used to maintain traffic on the roadway in a safe manner. All temporary traffic control devices and the placement of same shall conform to the most current DOTD standards.

B. All public notices shall be handled by the DOTD district office personnel. Closure plans and times shall be submitted to the district traffic operations engineer for review according to the following:

1. 5 working days before construction if traffic control plan has been approved or is contained in the plans that were approved;

2. 10 working days before construction if traffic control plan must be submitted for lane closures not addressed in the plans.

C. The allowable times, days, and duration of lane closures shall be as determined by the district traffic operations engineer. All lane closures should be scheduled in a way that minimizes the impact to roadway traffic.

D. Nighttime closures may be required.

E. The services of an independent DOTD-approved inspector may be required to inspect the construction of all DOTD-required improvements in the DOTD right-of-way. The inspection process shall be in accordance with current DOTD policy. The DOTD district office may elect to perform independent inspections of work. Satisfactory completion and acceptance of the improvements by DOTD will be based upon the reports received from the inspector(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:352 (January 2011), amended by the Office of Engineering, LR 40:1013 (May 2014).

§1535. Improvements to the Adjacent Transportation System

A. The DOTD may require mitigation on the adjacent roadway network and facilities due to the effects of the proposed development and access connection location(s). Expense for such requirements shall be borne by the applicant.

B. Mitigation, which may be required by the DOTD, may be determined through a complete traffic impact study and/or traffic signal study review process. Required mitigation shall be reviewed by the district engineer administrator. Any required mitigation shall be noted on the permit(s), as required by DOTD in accordance with its policies, and bond amounts shall be appropriate for such mitigation, if required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:352 (January 2011), amended by the Office of Engineering, LR 40:1013 (May 2014).

§1537. Coordination with Local Authorities

A. Additional permits may be required by other local governing authorities.

B. It is the responsibility of the applicant to determine the need for additional permits from local authorities, and to obtain these permits.

C. Access connection permits shall not be granted based on the possession of other required state or local permit(s). The issuance of a DOTD access connection permit does not guarantee the issuance of other required state or local permit(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:352 (January 2011).

§1539. Temporary Access Connection Permits

A. Temporary access connection permits may be granted for a period of time as specified on the permit. This time period shall be specified on the permit prior to issuance.

B. Temporary access connection permits shall not be issued for a period of time to exceed one year.

C. A temporary access connection permit may be extended or reissued as approved by the district engineer administrator.

D. Applications for temporary access connection permits shall be accompanied by a bond per DOTD policies.

E. All temporary access connections installed under a temporary access connection permit shall be constructed using non-permanent materials (i.e. aggregate). Concrete or asphalt should not be used for temporary access connections.

F. The property owner shall be responsible for removal of any materials tracked onto the roadway by property operations on a daily and continual basis until such time that the temporary access connection is removed.

G. Temporary access connection permits may be issued where access from a state highway is needed on a short-term basis. Such instances may include, but are not limited to:

1. access during construction for a site where the future permanent access will be located on another roadway not within the state highway right-of-way;

2. use of an existing access connection during the permit application process for a change in land use.

H. Temporary access connection permits to controlled access facilities shall not be allowed under any circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:352 (January 2011).

§1541. Appeals Process

A. Any decision rendered by the DOTD district office may be appealed by the applicant to the DOTD headquarters staff.

B. Appeals shall be filed in accordance with the DOTD appeals policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:352 (January 2011), amended by the Office of Engineering, LR 40:1013 (May 2014).

§1543. Utility Company Access Connections

A. Permits requested by utility companies for access connections within the DOTD right-of-way shall be limited to 15 feet in width.

B. Permit requests for access wider than 15 feet will require proof of necessity before approval. Such requests shall be approved by the district traffic operations engineer.

C. Prior to permit approval, a DOTD permit for placement of a cable closure box or maintenance cabinet on DOTD right-of-way must have been granted.

D. The following special condition must be noted on utility company permits when the applicant does not have control of the frontage (abutting) property:

> "This permit is issued subject to permittee obtaining prior approval for any access(s) and producing written permission from abutting property owner(s). Otherwise, said access(s) shall be completely removed from the highway right-of-way. Access(s) is(are) to be used for the maintenance of utilities only and is(are) not to be used for any other purposes."

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:353 (January 2011).

§1545. Bus Stop Shelters

A. Permits for bus stop shelters within the highway right-of-way shall only be granted to public bodies (e.g. municipality, police jury, etc.).

B. Applications for such permits must include the following information:

1. name of the agency requesting the permit;

2. type and size of shelter or bench, including diagram of such (to scale with dimensions);

3. exact proposed location with respect to the highway and to the right-of-way limits;

4. drainage requirements;

5. access requirements;

6. signed statement that approaches will be maintained by the agency in an acceptable state of repair.

C. Such structures shall not be permitted when they do not comply with these regulations or when they are proposed at a location that will interfere with needed highway operations or maintenance (e.g., sight distance, shoulders, drainage, etc.).

D. The DOTD is to maintain full control and regulatory authority over any such structure and may require removal at any time.

E. If a bus stop shelter or bench is no longer in use or service, it shall be removed at the expense of the public body to which the permit for such was granted. The roadway shall be returned to a condition which matches the adjacent area, including replacement of regular curb and gutter, pavement, shoulders, etc. as directed by the DOTD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:353 (January 2011).

§1547. Railroad Crossings

A. Railroad tracks crossing highways shall conform to the permit supplement titled Rules and Regulations Governing the Construction of Railroad Grade Crossings on State Highways.

B. It is the responsibility of the applicant to contact the appropriate railroad agency, submit any required documentation, and pay any required fees in order to obtain a permit from the railroad agency.

C. DOTD shall not issue an access connection permit until the appropriate railroad permit(s) has (have) been secured by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:353 (January 2011).

§1549. Failure to Comply

A. Unlawful access connections shall be:

1. any driveway, street, or other connection which violates the provisions of this Chapter;

2. any driveway, street, or other connection which violates the provisions of the permit issued; or

3. any driveway, street, or other connection which is constructed without an access connection permit.

B. The DOTD shall give 30 days notice by certified mail to the owner of such connection to remove same if it is a prohibited connection or cause it to conform to regulations if it is not an authorized connection.

C. At the time of owner notification, the DOTD shall place barricades across the unlawful access connection. The barricades shall be marked with an approved sticker as "ILLEGAL."

D. If the owner is unknown or cannot be found, a written notice shall be affixed to the barricade stating that the access connection is unlawful and shall be removed within 30 days from the date specified on the sticker.

E. Failure to remove within the specified period serves as forfeiture of all rights thereto and the department shall remove the unlawful access connection. The owner and/or any other person responsible therefore remains liable for any damage to public property or expenditure of highway funds resulting from the installation or removal of the unlawful access connection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:353 (January 2011).

Title 70
TRANSPORTATION
Part II. Utilities

Chapter 1. Communication Cable Installation on Highway Structures

§101. General

A. Communication Cable Installation on Highway Structures EDSM Number IV.2.1.8

1. Purpose. To establish policy and procedure for the installation of cable for communication systems on highway structures.

2. Background. Louisiana R.S. 36:504(B)(1)(d) allows the Department of Transportation and Development to permit installation of cables for communications systems on the department's bridges.

3. Policy. Communication cables may be attached to highway structures, provided that such attachments do not overstress structural members, damage the structure, obstruct the clear roadway or waterway, interfere with structure maintenance, or create a hazard to the traveling public. Where it is feasible and reasonable to locate communication lines elsewhere, attachments to highway structures will be avoided. Communication system owners shall be charged a one-time lump sum fee prior to installation, which will be nonrefundable, and an annual rental for the installation.

4. Procedure. The right-of-way permits engineer will be responsible for the implementation and coordination of these procedures.

a. Any request for the attachment of a communication cable to a highway structure will be made using the supplement and application for Project Permit Form DOTD 03-41-0593 (See LAC 70:III.121.B), copies of which will be maintained in each district office.

b. The application for permit shall be reviewed and approved at the district office then sent to the right-of-way permits unit in Baton Rouge for further handling.

c. The owners shall be charged an annual rental for the privilege, but not as a payment for a property right or use and occupancy of the highway structure. A schedule shall be maintained by the right-of-way permits engineer of reasonable annual rental rates to be charged owners.

d. A guarantee deposit to insure the satisfactory completion of the work shall accompany the application for permit. No inspection fee is charged and the guarantee deposit will be refunded promptly upon the receipt of notice from the district administrator that the work has been satisfactorily completed.

e. Plans will be submitted to the bridge design engineer and the structures and facilities maintenance engineer for approval.

f. The request must be accompanied by plans of the proposed method of attachment and shall be in accordance with Subsection B, "Regulations for Installation of Cables for Communication Systems on Structures" supplement.

5. Other Issuances Affected. All directive, memoranda or instructions issued heretofore in conflict with this directive are hereby rescinded.

6. Effective Date. This directive will become effective immediately upon receipt.

Supplement to DOTD Form 03-41-0593	This Supplement is part of Permit Number _____

B. Regulations for Installation of Cables for Communication Systems on Highway Structures

1. Where it is feasible and reasonable to locate communication lines elsewhere, attachments to highway structures will be avoided.

2. Attachments to a structure shall not materially affect the structural characteristics, the safe operation of traffic, the efficiency of maintenance, and the appearance of the structure.

3. The owner shall submit five prints of plans of method of attaching, showing size and weight of communication cable, and support and attachment details.

4. It is preferred that the installation occupy a location beneath the structure floor or deck, between the outer girder or beams, or within a cellular area at an elevation above low superstructure steel or masonry.

5. There shall be no encroachments on the waterway or roadway of the structure.

6. The installation shall not be below low steel or masonry of the structure.

7. The installation shall be on the downstream side of the structure.

8. The hangers supporting the communication system shall be designed to clamp to the structure as generally no burning or drilling of holes or welding is permitted.

9. The construction and maintenance of the communication cable and its supports shall be done without any closure of any traffic lane and inconvenience or interference with highway traffic. All safety precautions for the protection of the traveling public must be observed. Undue delay to traffic will not be tolerated.

10. The communication cables shall be suitably insulated, grounded, and preferably carried in protective conduit or pipe from the point of exit from the ground to re-entry. Only low frequency voltage will be permitted in the communications cable.

11. The permit shall be reviewed and approved by the bridge design engineer and the structures and facilities maintenance engineer.

12. Communication cables owned by private individuals or concerns and not serving a segment of the general public, shall not be permitted on highway structures.

13. Should the owner fail to maintain his facilities in a condition acceptable to the department, the department, after notifying the owner, will perform the maintenance and bill the owner for the cost or take other appropriate action to ensure the safety and convenience of the traveling public.

14. All materials and workmanship shall conform to the requirements of the applicable industry code and to department specifications.

15. All excavations within the limits of the right-of-way shall be backfilled and tamped in 6-inch layers to the density of the adjacent disturbed soil. Where sod is removed or destroyed, it shall be replaced. Where it is necessary to make excavations in the shoulder, the top 6 inches of backfill shall be sand-clay gravel or equivalent. Where existing spoil material is, at the discretion of the department unsuitable for backfill, select material shall be furnished in lieu thereof and the existing material disposed of by approved methods.

16. A guarantee deposit to insure the satisfactory completion of the work shall accompany the application for permit. The amount of the guarantee deposit shall be calculated in accordance with schedules given below. No inspection fee is charged and the guarantee deposit will be refunded promptly upon receipt of notice from the district administrator that the work has been satisfactorily completed.

17. This permit may be terminated by either party upon 30 days notice in writing to the other party after which the communication company will be given a reasonable period of time to remove his system. The department may revise the annual rental rate upon 30 days notice in writing to the owner.

18. The one-time lump sum fee and one year's rental for this privilege shall accompany the application for permit. The amount of the lump sum fee and the annual rental shall be calculated in accordance with schedules given below.

Guarantee Deposit Schedule		
	Bridges 300 feet and less	**Bridges over 300 feet**
Per cable not over 1 inch	$500	$1,000
In excess of 1 inch diameter	$700	$1,400

Lump Sum Fee and Annual Rental Schedule	
Bridges over 300 feet long	
Computed Charges	**Minimum Charges**
Lump Sum Fee = $1.25/feet/pound of weight	Lump Sum = $50,000
Annual Rental = $0.15/feet/pound	Annual Rental = $5,000
Bridges under 300 feet long	
Computed Charges	**Minimum Charges**
Lump Sum Fee = $0.50/feet/pound of weight	Lump Sum Fee = $5,000
Annual Rental = $0.15/feet/pound of weight	Annual Rental = $500

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:504(B)(1)(d) et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 10:90 (February 1984).

Chapter 3. Utility Relocation Assistance Funding

§301. Introduction

A. When a publicly owned, non-profit utility is not able to bear its share of the cost for adjusting its facilities to accommodate a highway project, it may apply for funding under R.S. 48:381(C), hereinafter referred to as Utility Relocation Assistance Funding (URAF).

1. General Conditions

a. In order to qualify for URAF funds, a utility must be owned by a governmental body such as a municipality or parish, or be a non-profit utility.

b. In order to qualify for URAF funds, a utility must be financially unable to bear its share of the adjustment expense.

c. URAF funding is neither a loan nor a grant and there is no interest charged on this money. However, the utility must repay this money eventually, or it will not be allowed to locate its facilities within highway right-of-way.

d. Highway adjustments are considered normal, foreseeable maintenance for utilities located on highway right-of-way.

2. Procedure

a. The publicly owned or non-profit utility informs the headquarters utility and permit engineer, in writing, that it is not financially able to bear the cost of adjusting its facilities, and formally requests URAF funding.

b. The headquarters utility and permit engineer requests the legislative auditor to examine the utility's records to determine the utility's eligibility for URAF funds.

c. The legislative auditor examines the utility's records and informs the headquarters utility and permit engineer of the utility's eligibility for URAF funds.

d. If the utility is eligible for URAF funds, executed agreements are converted to URAF agreements, and/or new agreements are executed as necessary.

e. The Federal Highway Administration is advised when URAF funds are approved for federal aid projects.

f. Issuance of permits to the utility is suspended, and the utility is added to the URAF database. Note that the suspension does not include most crossings.

g. The final amount of URAF funds used is added to the URAF database after final payment is made.

h. After final payment is made, Department of Transportation and Development Project Control is informed of the total amount of URAF funds used and bills the utility accordingly.

i. Issuance of permits to the utility will remain suspended until Department of Transportation and Development Project Control notifies the utility and permit section that the utility has repaid the full amount to the Department of Transportation and Development. The utility may repay this amount as a lump sum, in partial amounts, in exchange for goods and/or services, or in any combination thereof. Department of Transportation and Development Project Control shall notify the headquarters utility and permit engineer of any payments as soon as they are received. Note that an exchange of goods or services is at the discretion of the Department of Transportation and Development. Note that the Federal Highway Administration participates in URAF costs. It is the responsibility of Department of Transportation and Development Project Control to credit Federal Highway Administration, at its participating percentage, for any funds that are repaid.

3. Issuance of Permits

a. General issuance of permits may resume if the utility shows a good faith effort to repay this debt by making annual payments to Department of Transportation and Development of 5 percent of its gross income, or 10 percent of its outstanding URAF debt. The first payment must be made within one year of the date of invoicing of the utility by Department of Transportation and Development, and issuance of permits shall remain suspended until the first payment is made. The utility's payments shall be due by January 15 of each year. The Department of Transportation and Development shall suspend issuance of permits to any utility that fails to submit payment by this date. Partial payments will be accepted as payment toward the total debt; however, issuance of permits shall be suspended when a utility fails to make the required minimum payment. Since these options were not available prior to the promulgation of these rules, issuance of permits to utilities that have URAF agreements that were executed prior to January 1, 1993, may resume, if the utility begins to show a good faith effort to repay this debt, by making annual payments to DOTD of 5 percent of its gross income, or 10 percent of its outstanding URAF debt, by January 15, 1995. When issuance of permits is suspended because the utility failed to make the required minimum payment by the specified deadline, issuance may resume after the utility makes the minimum required payments on time for a period of three consecutive years, or by making a lump sum payment of 25 percent of the total remaining URAF funds owed to DOTD.

b. When in the best interest of the public, specific permits may be issued to utilities, without removing the general suspension, under the following circumstances:

i. eminent danger to the public or to the highway as the result of a damaged or faulty facility that is located within highway right-of-way, such as:

(a). a leaking water or sewer line that is eroding the right-of-way;

(b). a leaking or exposed gas line, at Department of Transportation and Development discretion, these facilities may be repaired or replaced with a similar facility of equal capacity;

ii. insufficient right-of-way available to place distribution lines to serve properties adjacent to the highway. This may occur in highly urbanized areas where there is no room to place utilities between the edge of the highway right-of-way and an adjacent structure, and the adjacent property cannot be accessed through an alternate route. If the physical space is available, the utility shall use its expropriation rights to secure the necessary right-of-way for its facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 18:1415 (December 1992).

§303. Additional Information to be Supplied by Applicants for Utility Relocation Assistance Funding (URAF)

A. A copy of the utility owner's most recently completed audit report must be provided to DOTD. If no audit has been performed, the utility owner should initiate one. The certification process may not begin until this report is submitted.

B. A copy of the utility owner's unaudited financial statements covering the period from the date of the last audited financial statements to the current date must be provided to DOTD.

C. A copy of the utility owner's budget, including any amendments, for the current fiscal year must be provided to DOTD.

D. A listing of encumbrances that are payable from the utility owner's current year earnings must be provided to DOTD. For the purpose of this certification, encumbrances are considered to be those items for which the utility owner has incurred an obligation to expend current year earnings, plus 10 percent of the current year's revenue as a reserve.

E. A signed representation letter prepared on the utility owner's letterhead must be provided to DOTD. It must state:

1. that the utility owner is familiar with the provisions of R.S. 48:831;

2. that the utility owner has not violated any of the provisions of R.S. 48:381 in the past;

3. if the utility owner has received URAF funding from DOTD in prior years, the utility owner must meet the following requirements:

a. it must state that it has received prior URAF funding;

b. it must state that it has:

i. not located facilities longitudinally in state highway right-of-way since last receipt of URAF funding if a balance is outstanding; or

ii. facilities have been placed longitudinally in highway right-of-way and URAF funds have been reimbursed to DOTD.

F. The utility owner is responsible for the presentation of the financial statements and other information provided and for insuring that the information is complete and accurate.

G. The financial information provided must be taken from verifiable records. The budget information must be based on estimates derived from the financial statements.

H. The utility owner must certify that it has no other unpaid obligations to the state of Louisiana.

I. If the utility owner fails to satisfactorily complete the certification process, the utility owner may request a second certification review after one year from date of the first certification report. The request for the second review must be made before the starting date of construction. The request for the second review should be addressed to the DOTD audit section. When in the best interest of DOTD, the time period between the first failure of certification and the second request for certification may be modified by DOTD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 23:210 (February 1997).

Chapter 5. Standards Manual for Accommodating Facilities on Highway Right-of-Way

§501. Introduction

A. General. The Department of Transportation and Development (DOTD) has the legal authority and the responsibility to regulate all utilities on highways under state jurisdiction, to designate and control the use made of right-of-way acquired for public highway purposes to preserve the integrity, operational safety and function of the highway facility. The DOTD adopts the American Association of State Highway and Transportation Officials (AASHTO) publications, "A Policy on the Accommodation of Utilities on Freeway Right-of-Way," dated February, 1989, and "A Guide for Accommodating Utilities within Highway Right-of-Way," copyright 1981, as a part of the DOTD's standards manual. These standards should be uniformly interpreted and administered by representatives of both the utility owners and the DOTD. These standards are the result of the DOTD's responsibility, under law, to regulate the use of highway right-of-way for the protection of the traveling public and the public's investment in the highway itself. These standards should be interpreted and applied to the extent consistent with state laws which allow utilities to use or occupy the highway right-of-way.

B. Purpose. These standards are provided for use by representatives of the DOTD for regulating the locations, design, methods for installing, adjusting, accommodating, and maintaining utilities and/or driveways on highway right-of-way. They are limited to matters which are the responsibility of the DOTD for preserving the integrity of the highway and its safe operation. Where federal, state or local laws, regulations and laws or ordinances of other subdivisions of the state, industry or governmental codes prescribe a higher degree of protection than provided by these standards, then the higher degree of protection shall prevail. These standards are also provided for use by public and private utilities as well as private citizens. They are to be applied as set forth herein or as stated in the laws of the local, state or federal governments and/or *Standard Specifications of the Louisiana Department of Transportation and Development*.

C. Scope. These standards apply to all public and private utilities including electrical power, telephone, telegraph, cablevision, water, gas, oil, petroleum, steam, chemicals, sewage, drainage, irrigation, and similar lines that are to be located, adjusted or relocated within the right-of-way of highways under jurisdiction of the DOTD. Such utilities may involve underground, surface or overhead facilities, either singularly or in combination. Furthermore, these standards apply to all public and private driveways located within highway right-of-way and/or connecting to state highways. Additionally, these standards apply to all other installations and work performed within DOTD right-of-way.

D. Application and Payment. The DOTD has the right to charge a fee or require a performance bond for utility and/or driveway work that is carried out in the highway right-of-way. Payment of all fees shall be in the form of a personal check, corporation check, certified check or money order. No bank drafts will be accepted. Fee schedules and appropriate information, such as how, when and where payments may be made, can be found on and/or attached to, the applicable permit application. Permit applications for the various types of permits listed herein can be obtained from the district utility and permit specialist at a district office. Penalties can be assessed for not following these *Utility Guidelines*, possibly a forfeiture of the deposit, as determined by the DOTD. Bonds are kept on file for permit applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 19:14, 30:210-217, 32:236, 38:2223, 38:3094, 48:191-193, 48:217, 48:295.1-4, 48:343-344, 48:381-383, 48:385-387, 51:1901-1909.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§503. Statutes

A. Responsibilities Pertaining to Highway Occupancy

1. State of Louisiana Department of Transportation's Responsibility

a. Prescribe and enforce all rules and regulations as to construction, repairs or maintenance of the poles, wires and lines of telegraph, telephone, community antenna television systems or power companies and pipelines of gas districts, gas, water, sewers, or other pipeline companies, so as to insure the safety of the traveling public in using the roads, bridges and highways in this state; and to include regulations in contracts and agreements entered into with utilities in granting permits for construction on right-of-way necessary to insure the safety of the traveling public and prevent damage to highways and bridges.

b. Prescribe and enforce any reasonable rules and regulations so as to prevent unnecessary trespassing upon or damage to any of the public roads, bridges or highways of the state.

c. Direct utilities to relocate their plant when such plant is in conflict with highway construction contracts.

d. Pay cost of adjustment of plant to be relocated if said plant is located on private right-of-way.

e. Pay cost of adjustment if plant in conflict is located on public right-of-way under certain conditions, such as utilities having prior rights.

f. Withhold permit from utility if it concerns area where highway construction project is in progress until utility has received permission from the prime highway contractor to enter or cross said project.

2. Utilities Responsibility

a. Relocate utility's facilities that are in conflict with highway or street constructions when directed to do so by the State of Louisiana Department of Transportation and Development.

b. Ensure that installations within highway right-of-way are in accordance with applicable federal, state, and industry standards and policies.

c. Coordinate location of facility installation with other utilities in the same area.

d. Carry out the provisions of contract or agreement entered into with the State of Louisiana Department of Transportation and Development when permit for construction in highway right-of-way was issued.

e. If proposed construction by utility is in conflict with highway construction already in progress, secure written permission from the prime highway contractor to cross the project prior to requesting a permit from the department. Hold the State of Louisiana Department of Transportation and Development harmless from any claims by highway contractor for damages done by utility during construction.

f. Pay cost of adjustment from public highway right-of-way, except where utility has prior rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 19:14, 30:210-217, 32:236, 38:2223, 38:3094, 48:191-193, 48:217, 48:295.1-4, 48:343-344, 48:381-383, 48:385-387, 51:1901-1909.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§505. Definition of Terms

A. The following are definitions of the terminology used in these standards:

Abandonment—occurs when a facility remains in highway right-of-way after it is no longer functioning.

Access Connection—any roadway facility by means of which vehicles can enter or leave a highway. Included are intersections at grade, private driveways, and ramps or separate lanes connecting with cross streets or frontage roads.

Advertisement—a public announcement inviting bids for work to be performed or materials to be furnished.

Approved Drawing—relocation drawings submitted by a utility in place of a utility relocation agreement. This is allowed when the state has no liability for the adjustments. Approved drawings have the same force as an agreement, are assigned an agreement number, and may be referred to as a utility agreement.

Arterial Highway—a general term denoting a highway primarily for through traffic, usually on a continuous route.

Auxiliary Lane—the portion of the roadway adjoining the traveled way for parking, speed-change or for other purposes supplementary to through traffic movement.

Average Daily Traffic—the average 24-hour volume, being the total volume during a stated period divided by a number of days in that period. Unless otherwise stated, the period is a year. The term is commonly abbreviated as ADT.

Backfill—replacement of soil around and over a pipe.

Backslope—in a cut section, the graded slope from the back of the ditch to the natural grade.

Base Course—the layer or layers of specified material of designed thickness on a subbase or a subgrade to support a surface course.

Bedding—organization of soil to support a pipe.

Bidder—an individual, partnership, corporation, joint venture or any acceptable combination thereof submitting a bid proposal.

Bridge—structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, which has a passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches or extreme ends of openings for multiple boxes; may include multiple pipes

where the clear distance between openings is less than half of the smaller contiguous opening.

Bury—depth of top of casing, if cased, or carrier pipe, if uncased, below surface grade.

Cap—rigid structural element surmounting a pipe.

Carrier—pipe directly enclosing a transmitted fluid (liquid or gas).

Casing—a larger pipe enclosing a carrier.

Clear Roadside Area—that area as covered by the definition below of the clear roadside policy, providing a specified minimum distance from edge of traveled lane, beyond which above-ground obstruction may be allowed.

Clear Roadside Policy—the policy employed by the DOTD to increase safety, improve traffic operations, and enhance the appearance of highways by designing, constructing and maintaining highway roadsides as wide, flat and rounded as practical and as free as practical from physical obstructions above the ground, such as trees, drainage structures, massive supports, utility poles and other ground-mounted obstructions.

Coating—materials applied to or wrapped around a pipe.

Conduit or *Duct*—an enclosed tubular runway for protecting wires or cables.

Control of Access—the condition where the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with a highway is fully or partially controlled by public authority.

Controlled Access Highway—any highway, to or from which access is denied or controlled, in whole or in part, from or to abutting land or intersecting streets, roads, highways, alleys or other public or private ways.

Conventional Highway—an arterial highway without access control.

Cradle—rigid structural element below and supporting a pipe.

Culvert—any drainage structure along and/or under the roadway not defined as a bridge.

Department—the Department of Transportation and Development of the state of Louisiana, constituted under the laws of the state for the administration of highway work.

Department of Transportation and Development—the Department of Transportation and Development of Louisiana, through its offices and officers, responsible for developing and implementing programs to assure adequate, safe, and efficient transportation and other public works facilities and services in the state in accordance with Act 513 of the 1976 Regular Session of the State Legislature.

Direct Burial—installing a utility facility underground without encasement, by plowing.

Divided Highway—a highway with separated roadways for traffic in opposite directions.

DOTD—the Department of Transportation and Development of the state of Louisiana.

Drain—appurtenance to discharge liquid contaminants from casings.

E.D.S.M.—Engineering Directives and Standards Manual of the Louisiana Department of Transportation and Development.

Emergency—a situation where the safety of the traveling public or general public, or the structural integrity of the roadway itself, is placed in jeopardy.

Encasement—structural element surrounding a pipe.

Encroachment—unauthorized use of highway right-of-way or easements, as for signs, fences, buildings, etc.

Engineer—the chief engineer of the Louisiana Department of Transportation and Development, acting directly or through his duly authorized representatives. When the term *chief engineer* is used, it shall mean the chief engineer in person.

Equipment—all machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and acceptable completion of the work.

Expressway—a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at major intersections.

Flexible Pipe—a plastic, fiberglass or metallic pipe having large ratio of diameter to wall thickness which can be deformed without undue stress.

Flume—a structure used primarily for the passage of irrigation water.

Freeway—an expressway with full control of access.

Front Slope—the graded slope between the outside edge of shoulder (or sidewalk area) and the edge of ditch nearest the road (or natural ground).

Frontage Road—a local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

Full Control of Access—that the authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads only by prohibiting crossings at grade or direct private driveway connections.

Gallery—an underpass for two or more pipelines.

Grade Separation—a crossing of two highways, or a highway and a railroad, at different levels.

Grounded—connected to earth or to some extended conducting body which serves instead of the earth, whether the connection is intentional or accidental.

Grout—a cement mortar or a slurry of fine sand or clay, as conditions govern.

Headquarters Utility and Permit Engineer—the licensed professional engineer authorized by the chief engineer to perform all of the functions associated with relocating utility facilities and issuing right-of-way permits.

High Grade Highway—a highway having a minimum of four lanes divided by a median, or a highway having two or more lanes and an average daily traffic volume of 3,500 vehicles or more.

Highway Prism or *Roadway Prism*—that portion of earth supporting the roadway structure and allied drainage ditches and/or structures.

Highway Purpose—any purpose approved by the legislature of Louisiana to be accomplished by the office of highways of the Department of Transportation and Development upon highways and streets, including relocation of public utility and railroad facilities, and including the purpose of compliance with federal laws, rules, and regulations.

Highway, Street or *Road*—a general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way. Recommended usage in urban areas: highway or street; in rural areas: highway or road.

Inspector—the engineer's authorized representative assigned to make detailed inspections of contract performance.

Interchange—a grade-separated intersection with one or more turning roadways for travel between intersecting legs.

Intermediate Grade Highway—a paved highway having a minimum of two lanes and an average daily traffic volume which is less than 3,500 vehicles.

Laboratory—the testing laboratory of the DOTD or any other approved testing laboratory which may be designated by the engineer.

Local Street or *Local Road*—a street or road primarily for access to residence, business of other abutting property not in state maintained highway system.

Low Grade Road—any road having an unpaved surface.

Major Highway or *Major Road*—an arterial highway with intersections at grade and direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.

Manhole—an opening in an underground system which workmen or others may enter for the purpose of making installation, inspections, repairs, connections and tests.

Median—the portion of a divided highway separating the *traveled ways* for traffic in opposite directions.

Normal—crossing at a right angle.

Oblique—crossing at an acute angle.

Overfill—backfill above a pipe.

Parish—the parish in which the specified work is to be done.

Parkway—an arterial highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon, or park-like developments.

Partial Control of Access—the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections.

Pavement Structure—the combination of subbase, base course and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

Pipe—a tubular product made as a production item for sale as such. Cylinders formed from plate in the course of the fabrication of auxiliary equipment are not pipe as defined here.

Plans—the contract drawings which show the locations, character, and dimensions of the prescribed work, including layouts, profiles, cross sections and other details.

Pressure—relative internal pressure in psig (pounds per square inch gauge).

Profile Grade—the trace of a vertical plane intersecting the top surface of the proposed wearing surface or other designated course usually along the longitudinal centerline of the roadbed. Profile grade means either elevation or gradient of such trace according to the context.

Project—the specific section of the highway together with all appurtenances and construction to be performed thereon under the contract.

Project Engineer—the engineer assigned to one or more specified construction projects to represent the DOTD through the chief engineer.

Project Number—a number used for convenience to describe and delineate certain construction within definite geographical limits.

Project Specifications—all standard specifications, supplemental specifications, special provisions and other provisions that are applicable to the project.

Public Utility—any business or organization that regularly supplies the public with a commodity or service including electricity, gas, water, telephone, telegraph, radio, television, cable television, drainage, sewerage, and other like services.

Right-of-Way—a general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

Rigid Pipe—a welded or bolted metallic pipe or reinforced, prestresses or pretensioned concrete pressure pipe designed for diametric deflection of less than 1.0 percent.

Roadbed—the graded portion of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulder.

Roadside—a general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

Roadside Development—those items necessary to the complete highway which provide for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seedings, sodding, mulching and the placing of other ground covers; such as suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the highway.

Roadway—in general that portion of a highway, including shoulders, provided for vehicular use. A divided highway has two or more roadways. In construction specifications, a roadway is that portion of a highway within the limits of construction.

Roadway Crossing—any utility service installation either over or under a state or local highway.

Safety Rest Area—a roadside area with parking facilities separated from the roadway provided for motorists to stop and rest for short periods. It may include drinking water, toilets, tables and benches, telephones, information and other facilities for travelers.

Scenic Overlook—a roadside area provided for motorists to stop their vehicles beyond the shoulder, primarily for viewing the scenery in safety.

*Secretary (*or *Designated Representative)*—chief executive officer of the state of Louisiana Department of Transportation and Development.

Semirigid Pipe—a large diameter concrete or metallic pipe designed to tolerate diametric deflection up to 3.0 percent.

Service Road or *Frontage Road*—a local street or road auxiliary to and located on the side of the roadway for service to abutting property and adjacent areas and for control of access.

Shoulder—the portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use or for lateral support of base and surface courses.

Sidefill—backfill alongside a pipe.

Sidewalk—that portion of the roadway primarily constructed for the use of pedestrians.

Slab, Floating—slab between but not contacting pipe or pavement.

Sleeve—short casing through pier or abutment of highway structure.

Specifications—the compilation of provisions and requirements for the performance of prescribed work.

Standard Plans—drawings approved for repetitive use, showing details to be used where appropriate.

Standard Specifications—a book of specifications for general application and repetitive use.

State—the state of Louisiana, acting through its authorized representative.

Street—any public street, road, lane, expressway, boulevard, etc., that is not a state or federal highway under the DOTD's control.

Structures—bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains and other features which may be encountered in the work and not otherwise classed herein.

Subbase—the layer or layers of specified or selected material of designed thickness placed on a subgrade to support a base course.

Subcontractor—an individual, partnership, firm, corporation, joint venture, or any acceptable combination thereof, to which the contractor sublets parts of the contract.

Subgrade—the top surface of a roadbed upon which the pavement structure and shoulders are constructed.

Substructure—all of that part of the structure below the bearings of simple and continuous spans, skewbacks or arches and tops of footings or rigid frames, including backwalls, and wing protection railings.

Superintendent—the contractor's authorized representative who is in responsible charge of the work.

Superstructure—the entire structure except the substructure.

Supplemental Specifications—additions and revisions to the standard specifications.

Surety—the corporation, partnership or individual, other than the contractor, executing a bond furnished by the contractor.

Surface Course—one or more layers of a pavement structure designed to accommodate the traffic load, the top of which resists skidding, traffic abrasion, and the disintegrating effects of climate.

Through and *Local Traffic*—through traffic is that traffic which has neither its origin nor its destination within the limits of the project. Local traffic is that traffic which has either its origin or its destination within the limits of the project.

Through Street or *Through Highway*—every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways or streets is required by law to yield right-of-way to vehicles on such

through highway in obedience to either a stop sign or a yield sign, when such signs are erected.

Traffic Lane—the portion of traveled way for the movement of a single lane of vehicles.

Traveled Way—the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Trenched—installed in a narrow open excavation.

Untrenched—installed without breaking ground or pavement surface, such as by jacking or boring.

Use and Occupancy Agreement—the document by which the DOTD regulates and/or gives approval of the use and occupancy of highway rights-of-way by utility facilities or private lines.

Utility Agreement—any document that has an agreement number. These are supplied by the utility, and may consist of Articles of Agreement, estimate, statement of work, specifications, and drawings, or may consist of drawings only.

Vent—appurtenance to discharge gaseous contaminants from casings.

Walled—partially encased by concrete poured alongside the pipe.

Work—the furnishing of all labor, materials, equipment and other incidentals necessary or convenient to the successful completion of the project and the carrying out of all duties and obligations imposed by the contract.

Working Drawings—supplemental design sheets or similar data which the contractor is required to submit to the engineer such as stress sheets, drawings, erection plans, falsework plans, framework plans, cofferdam plans and bending diagrams for reinforcing steel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1901.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§507. Standards, Policies and Conditions for Utility Installations

A. Permits granted by the DOTD are granted only insofar as the Louisiana Department of Transportation and Development has the power and right to grant them. In granting permits no right or privilege of the abutting property owner is interfered with or abridged, nor is the DOTD responsible for any damage which may arise between the applicant and the property owner.

B. The headquarters utility and permit engineer is responsible for issuing all right-of-way permits, processing joint use agreements, and relocating utilities for construction projects.

C. The district administrator may issue certain permits under specified conditions (the headquarters utility and permit engineer may also issue these permits).

D. Each district administrator is responsible for enforcing the requirement of obtaining a permit before performing work on highway right-of-way, and for requiring compliance with issued permits. Whenever it is discovered that work is being performed on highway right-of-way without a permit, or not in accordance with an issued permit, the work shall be stopped immediately and shall not continue until compliance is obtained.

E. The district utility and permit specialist acts as the representative for both the district administrator and the headquarters utility and permit engineer; therefore, the district administrator and the headquarters utility and permit engineer will usually act through the district utility and permit specialist when dealing with these matters.

F. Individual permits may be suspended, canceled, or approved by the headquarters utility and permit engineer, the district administrator, and the district utility and permit specialist. Also, issuance of permits to a specific party may be suspended on a district wide basis by the district administrator, district utility and permit specialist, or the headquarters utility and permit engineer. Issuance of permits to a specific party may only be suspended on a state wide basis by the headquarters utility and permit engineer.

G. Permits may be suspended or canceled if the permittee fails to comply with any DOTD policy, or fails to cooperate with DOTD personnel. Note that permits should be suspended and/or canceled for those utilities that fail to submit utility relocation agreements at the time specified. The reason for any action should be made clear. The district utility and permit specialist should suspend and/or cancel permits upon the request of the following DOTD personnel:

1. project engineer;
2. headquarters utility and permit specialist;
3. district construction engineer;
4. district maintenance engineer.

NOTE: These parties must provide a valid reason for requesting any action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:217.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§509. Requirements for Applications

A. All applications for permits shall originate in the office of the district utility and permit specialist. The district utility specialist shall be responsible for performing and/or insuring the following.

1. Checking with all appropriate district personnel (district administrator, district maintenance engineer, district construction engineer, etc.) to ascertain that the work requested will not interfere with existing or proposed highway operations.

2. Assuring that the application:

a. is on the correct form;

b. is submitted with the correct number of copies, including all attachments;

c. copies are completed correctly;

d. copies are clearly legible, preferably typed.

3. The work involved is on a state maintained highway, and the correct highway number and control section numbers are shown.

4. The proposed work is confined to one parish per permit application.

5. The name and address of the applicant is legible on all copies.

6. The application has been signed by the applicant, and the applicant's name is typed or printed legibly beneath the signature. The applicant must be the property owner/lessee, permits shall not be issued to contractors, or other third parties.

7. The nature of the work is clearly and completely indicated both in text and on the drawings.

8. Four copies of the drawings must be submitted with each application. Right-of-way limits and property lines must be clearly indicated on the drawings. The exact location of the proposed work must be indicated if reference to the highway, right-of-way, and property lines, the names of local streets and businesses may be placed on the drawings; however, the locations must be located in reference to the highway in such a manner that someone unfamiliar with the area can comprehend these details. Where surface or underground work is involved, a cross-section drawing that clearly indicates existing conditions and proposed changes must be included. Where grading operations are involved, cross-section drawings must show the highway surfacing, shoulder, ditch, and slope indicating the present section and proposed section.

9. The request conforms with this Chapter and all other DOTD standards. Applications which do not conform to DOTD standards shall be returned to the applicant with a short explanation. The explanation should indicate the primary deficiencies, but not be so detailed that DOTD will in effect be performing either research or design for the applicant. When the district administrator feels that conditions warrant an exception for an application that failed to meet DOTD standards, the application and a letter from the district administrator explaining the reasons for recommending a deviation should be submitted to the headquarters utility and permit section. DOTD purchases right-of-way for the purpose of providing roads for the general public, not to provide parking or other such benefits to individuals. Therefore, exceptions should not be requested for:

a. parking for anyone other than a governmental agency;

b. increasing the driveway widths or allowing driveways to be placed so that large trucks or busses back out directly onto, or partially block a highway (including the shoulder);

c. allowing less than the minimum clearance over a highway;

d. open cutting a highway, blocking traffic, or other actions detrimental to the DOTD or to the travelling public, for the sole purpose of saving/earning the applicant money.

10. The district administrator may issue all routine right-of-way permits that meet with DOTD requirements. This authority does not include major installations such as street intersections, subdivision entrances, crossovers, turning lanes, changes to the roadway sections, or anything that does not conform with this manual and all other DOTD requirements. All permits approved by the district administrator must be assigned a permit number and entered into the permit database by the district utility and permit specialist, and the original copy must be transmitted to the headquarters utility and permit section. Additionally, one copy of the approved permit and drawings must be returned to the permittee.

11. The district utility and permit specialist shall furnish the permittee with the grade, elevation, and alignment of drainage structures when drainage structures are to be installed.

B. Upon notification by the permittee that all work has been completed, or upon expiration of the time limit, the district utility and permit specialist shall inspect or request an inspection of the site. If all work has been satisfactorily completed, the district utility and permit specialist shall complete the permit on the permit database. If no work has begun, the permit shall be canceled, and the district utility and permit specialist shall cancel the permit on the permit database. If work is in progress but incomplete, the permittee is required to apply for an extension of time. If the work is unsatisfactory, the district utility and permit specialist shall notify the permittee of the deficiencies in writing, and request that immediate action be taken to remedy this situation; a copy of this letter should be sent to the headquarters utility and permit section. If the permittee fails to take action, the district utility and permit specialist shall suspend issuance of permits and/or cancel existing permits. If this fails, the matter should be referred to the headquarters utility and permit section for further handling. If the deficiencies are of such a nature as to create a hazard to the traveling public, the district administrator shall take immediate action to remedy the situation with DOTD forces. An itemized account of the expenses incurred in performing this work shall be compiled and submitted to the headquarters utility and permit section so that the permittee may be billed accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§511. General Considerations

A. The following shall govern the location and design of all utility installations within highway right-of-way.

1. Location

a. Utility lines shall be located to minimize need for later adjustment to accommodate future highway improvements and to permit installation and servicing such lines with minimum interference to highway traffic.

b. Parallel installation shall be located on a uniform alignment as near as practicable to the right-of-way line so as to provide a safe environment for traffic operations and preserve space for future highway improvements or other utility installations.

c. To the extent feasible and practicable, utility line crossings of the highway will cross on a line generally normal (90°) to the highway alignment.

d. The horizontal and vertical location of utility lines within the highway right-of-way limits will conform with the clear roadside policies applicable for the system, type of highway and specific conditions for the particular highway section involved. The location of above-ground utility facilities will be consistent with the clearances applicable to all roadside obstacles for the type of highway involved.

e. In planning utility installations or relocations just outside highway right-of-way, consideration should be given by the utility to avoid placement of facilities within one foot immediately adjacent to and outside the right-of-way to avoid damages by the DOTD's contractor in relocating property owners' fences 1 foot beyond such right-of-way in compliance with DOTD policy on construction projects.

f. In all cases, full consideration will be given to measures reflecting sound engineering principles and economic factors, necessary to preserve and protect the integrity and visual quality of the highway, its maintenance efficiency and the safety of highway traffic.

2. Design

a. The utility is responsible for the design of the utility facility to be installed within the highway right-of-way. The DOTD is responsible for review proposal with respect to the location of the utility facilities to be installed. This includes the measures to be taken to preserve the safe and free flow of traffic, structural integrity of the roadway or highway structure, ease of highway maintenance, appearance of the highway and the integrity of the utility facility.

b. Utility installations on, over or under the right-of-way of state highways shall as a minimum, meet the following requirements.

i. Electric power and communication facilities shall conform with the current applicable National Electric Safety Code. However, in no instance should an aerial crossing have less vertical clearance over the roadway surface than 20 feet. A minimum vertical clearance of 16 feet shall be maintained between existing ground elevation and any aerial installation when such installation is within highway right-of-way, but does not cross the traveled surface of a highway.

ii. Water lines shall conform with the currently applicable specifications of the American Water Works Association.

iii. Pressure pipe lines shall conform with D.O.T. Title 49 and the currently applicable sections of ANSI/ASME Code for Pressure Piping of the American National Standards Institute and applicable industry codes, including Power Piping, ANSI B31.0, Petroleum Refinery Piping, ANSI B31.3, Liquid Petroleum Transportation Piping Systems, ANSI B31.4, Gas Transmission and Distribution Piping Systems, ANSI B31.8.

iv. Liquid petroleum pipelines shall conform with D.O.T. Title 49, ANSI/ASME Code, and the currently applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways.

v. Overhead or underground structures (i.e., pedestrian walkway, cattle chute, pipe rack, utility bridge, etc.) crossing the highway shall conform with E.D.S.M. IV.2.1.7. All aerial installations must maintain a minimum vertical clearance of 20 feet over the surface of the highway. Foundations and supports shall be outside the highway right-of-way.

vi. Where standards of the DOTD exceed those of the above cited codes, the standards of the DOTD shall apply.

c. Ground-mounted utility facilities shall be of a design compatible with the visual quality of the specific highway section being traversed.

d. All utility installations on, over or under highway right-of-way shall be of durable materials designed for long-service life expectancy and relatively free from routine servicing and maintenance.

e. On new installations or adjustments of existing utility lines, provision should be made for known or planned expansion of the utility facility and for future improvement of the highway, particularly those located underground. They shall be planned so as to minimize hazards and interference with highway traffic when additional overhead or underground lines are installed at some future date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§513. Specific Policies and Conditions

A. The rights and privileges granted under an occupancy permit or agreement shall be nonexclusive and shall not be construed to be any broader than those expressly set out in acts of the Legislature of the State of Louisiana, regardless of the language used in the permit or agreement and any

fixture or appurtenances on the highway right-of-way shall be placed in accordance with existing laws and the standards of the DOTD.

B. The DOTD does not allow utility installations to be placed on and along highway right-of-way unless the applicant is a public utility operating under the jurisdiction of the Louisiana Public Service Commission or is a federal, state, parish, or municipal agency. Under this policy, REAs are classified as public utilities. Also included are certain nonprofit organizations or companies, generally financed by FHA loans, which serve the public with some utility service, but which do not come under the jurisdiction of the Louisiana Public Service Commission. Temporary facilities, for a specified time not to exceed 120 days, may be permitted under this policy.

C. All fixtures and appurtenances thereto, after having been erected on highway right-of-way, shall at all times be subject to inspection, and the right is reserved to require such changes, additions, repairs, relocations and removal as may at anytime be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway and to provide proper and safe protection to life and property on or adjacent to the highway or in the interest of safety to traffic on the highway, and the cost of making such changes, additions, repairs and relocations shall be borne by the applicant for permit and all of the cost of the work to be accomplished under the permit shall be borne by the permittee who agrees to hold the DOTD harmless.

D. The proposed facilities or their operation or their maintenance shall not unreasonably interfere with the facilities or the operation or maintenance of the facilities of other persons, firms or corporations previously issued permits of use and occupancy, and the proposed facilities shall not be dangerous to persons or property using or occupying the highway or using facilities constructed under previously granted permits of use and occupancy; the DOTD's records of permits are available to the applicant for permit to determine the existence and location of all facilities within the highway right-of-way.

E. The DOTD does not allow utility installations to be placed on or attached to its bridges and structures, except for communication cables in accordance with E.D.S.M. IV.2.1.8.

F. The DOTD does not allow installations to be placed through drainage structures (this hinders clean out and/or maintenance of the structure). Temporary installations may be permitted, if they will not unduly interfere with drainage requirements.

G. Hard-surface roadways are not to be cut for placing utility installations across the highways except in extreme cases which must be fully explained and justified by the permittee and the district utility and permit specialist. Pipe or casing crossing roadway shall be jacked or bored in accordance with the applicable requirements of this Chapter and in accordance with E.D.S.M. IV.2.1.1.

H. No drainage canals or ditches except those drainage canals and ditches excavated, operated and maintained by the DOTD for the purpose of draining the highway are to be constructed on highway right-of-way. The DOTD has the right to prohibit and prevent the connection of any other system of drainage canals, ditches or conduits with its canals, ditches or conduit systems.

I. The DOTD does not permit any transmission facilities on or parallel to the highway right-of-way. This applies to both overhead and underground facilities. Applications are to indicate whether the proposed facility is a transmission or a distribution facility and in the case of an electric line, the voltage is to be shown. The DOTD will consider applications for over building existing electric distribution lines with transmission lines, provided pole locations remain relatively the same and, further, provided that single pole construction is used. Operating pressures of natural gas and product lines parallel to and in highway right-of-way shall not exceed 200 pounds per square inch.

J. The DOTD does not permit sanitary sewer lines to discharge at any point within the limits of the highway right-of-way. However, effluence may be discharged in accordance with R.S. 48:385.

K. Data relative to the proposed location, relocation and design of fixtures or appurtenances as may be required by the DOTD shall be furnished to the DOTD by the applicant free of cost, and the applicant shall make any and all changes or additions necessary to make the proposed fixtures and appurtenances thereto satisfactory to the DOTD.

L. Cutting and trimming of trees, shrubs or vines within highway right-of-way will be permitted only in accordance with E.D.S.M. IV.2.1.6 and in accordance with the *Policy for Roadside Vegetation Management Manual*.

M. For grading and landscaping, the permit application must be in the name of a public agency such as a municipality or police jury (not garden clubs or other such organizations). All work must be in accordance with the *Policy for Roadside Vegetation Management Manual*, and approved by the DOTD's landscape architect. All plantings shall be accomplished without blocking or slowing traffic, nor shall traffic hazards be created (by parking on or near the highway, leaving equipment or plants on or near the highway, etc.). The permit shall be revoked immediately if any of this occurs. This type of permit is discouraged on controlled access highways. Sprinkler systems, vegetation lighting and other such installations within highway right-of-way are also discouraged.

N. Telephone companies are installing more and more buried cable in lieu of overhead communication lines. Due to the type of equipment used in installing this cable and in recognition of the advantages of this type of installation, such as a reduction in the number of poles and reduced cutting and/or trimming of trees, permits and agreements are approved for locations other than the last few feet of right-of-way. This is not to be construed as a waiver of policy. In all cases, DOTD policy is to require installation as near the right-of-way line as possible, allowing sufficient room for the operation of plowing-machine and auxiliary equipment.

O. When and so long as the facilities involved in the permit are used in interstate commerce, the permit is conditioned on there being in force a Certificate of Convenience and Necessity issued by the Federal Power Commission, or such other federal agency as may be so authorized by Congress, to the applicant for permit and upon the applicant's compliance with all the terms of such certificate and the orders issued in connection therewith.

P. The DOTD does not issue blanket permits or agreements. A separate and new permit or agreement is required each time additional work is to be performed on highway right-of-way.

Q. The DOTD does not issue continuous permits or agreements. Permits for continuing work within DOTD right-of-way, such as cutting grass, shall be issued for periods of less than five years, and shall not be renewed (i.e., the permittee must apply for a new permit). Joint use agreements shall be issued for periods of less than 10 years, and may be renewed in 10-year increments. Utility relocation agreements shall remain valid until all work has been completed and the agreement is closed.

R. The applicant for permit agrees to hold harmless the DOTD and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this permit, whether or not the same may have been caused by the negligence of the DOTD, its agents or employees, provided, however, that the provisions of this last clause (whether or not the same may have been caused by the negligence of the DOTD, its agents or employees) shall not apply to any personal injury or property damage caused by the sole negligence of the DOTD, its agents or employees, unless such sole negligence shall consist or shall have consisted entirely and only of negligence in the granting of a permit.

S. The standards of the DOTD for installations or construction on state highways that are printed on the permit form shall be strictly observed and if none of these apply, such standards and specifications as do apply shall be attached to and become a part of the application for permit.

T. The applicant for a permit shall be the owner of the facility for which a permit is requested and any permit granted by the DOTD is granted only insofar as the DOTD has the power and right to grant the same. Any permit issued by the DOTD must be available at the site where and when work is being done.

U. Any permit granted by the DOTD is subject to revocation at any time.

V. Signing for warning and protection of traffic in instances where excavations are made in the shoulder of the roadway, or in the roadway surfacing, or where workmen, equipment or materials are in close proximity to the roadway surfacing, shall be in accordance with requirements contained in the DOTD's *Maintenance Traffic Control Handbook*, available from the office of the DOTD maintenance engineer administrator. Insofar as is possible, no vehicles, equipment and/or materials shall operate from, or be parked, stored or stockpiled on any highway in an area extending from the outer edge of the shoulder of the highway on one side to the other edge of the shoulder of the highway on the opposite side or in the median of any divided highway. Vehicles, equipment, materials, etc., shall not be left within this area of a highway during hours of darkness unless protected by crash attenuation devices placed adjacent to an unprotected immovable object located within 30 feet of the edge of the traveled roadway.

W. Any application for permit which provides for any work within the limits of a highway construction project must be accompanied by a signed letter from the highway contractor giving his approval or offering no objection to the proposed work.

X. All provisions and standards contained herein relative to the installation of utilities shall apply to future operation, service and maintenance of utilities.

Y. Drainage in highway side and cross ditches must be maintained at all times. The entire highway right-of-way affected by work under a permit must be restored to as good a condition as existed prior to beginning work to the complete satisfaction of the engineer.

Z. Permits will not be issued nor utility relocation agreements approved for the placing of any type of sign on highway right-of-way except to certain political subdivisions of the state such as the Department of Agriculture or the Forestry Commission. In these cases, the exact location of each sign must be reviewed by the district traffic operations engineer and approved by the district administrator. Nothing herein is to be construed as prohibiting the erection of railroad warning signs which are required by law. Also, as a condition to granting a permit or approving an agreement which requires excavation in the roadway section or provides for work in close proximity to the roadway surfacing, the DOTD shall require the applicant to provide and maintain adequate temporary signs to warn and protect the traveling public.

AA. The DOTD shall allow the placement of signs on highway right-of-way by schools where it is necessary to designate a school zone, or to comply with the drug free zone laws. In these cases, the exact location of each sign must be reviewed by the district traffic operations engineer and approved by the district administrator.

BB. The DOTD does not allow the installation of underground anode cathodic protection in highway right-of-way.

CC. In instances where a utility company is relocating its facilities on a DOTD construction project, via utility agreement with DOTD, the agreement is construed as the permit for the installation.

DD. Repairs under the roadway will not be allowed if it necessitates open cutting the roadway prism. If trouble with a crossing is experienced the utility company must install a new crossing at 100 percent their cost.

EE. Repairs are not allowed within control of access areas.

FF. Vitrified clay pipe and asbestos concrete pipe are not allowed within DOTD right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 19:14, 30:210-217, 32:236, 38:2223, 38:3094, 48:191-193, 48:217, 48:295.1-4, 48:343-344, 48:381-383, 48:385-387, 51:1901-1909.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§515. Standards for the Installation of Utilities on Highways

A. General

1. All materials and workmanship shall conform to the requirements of the applicable federal, state, and industry code and the DOTD's specifications.

2. All safety precautions for the protection of the traveling public must be observed. Undue delay to traffic will not be tolerated.

3. All excavations within the limits of the right-of-way shall be backfilled and tamped in layers to the density of the adjacent undisturbed soil. Where sod is removed or destroyed, it shall be replaced. Where it is necessary to make excavations in the shoulder, the top 6 inches of backfill shall be with like shoulder material. Existing soil materials declared unsuitable for backfill by the DOTD shall be disposed of by approved methods and replaced with select material as needed.

4. All above ground installations such as hydrants, pedestals, pipeline vents, markers, etc., must be installed at or beyond the highway right-of-way line. This does not include pole lines and other facilities specifically covered by other standards and regulations in the permit form or agreement.

5. Any nonmetallic or nonconductive (electric current) underground facility must be installed with a noncorrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. This applies to both parallel installations and crossings. Wire or tape must be connected to all fixtures and appurtenances. Qualified Products List No. 21 from the Materials Labor gives the names of acceptable materials which can be used for this purpose.

6. When conditions warrant, a guarantee deposit to ensure the satisfactory completion of the work may be required by the DOTD. The amount of the guarantee deposit shall be determined by the DOTD on a case-by-case basis. The guarantee deposit will be refunded promptly upon receipt of notice from the district utility and permit specialist that the work has been satisfactorily completed.

7. A fee may be charged for a permit required for particular work. The amount of the fee shall be as specified by the DOTD and listed on fee schedules found herein.

B. Pipeline Standards. All applicable general considerations, specific policies and conditions, and general standards shall apply.

1. Location and Alignment

a. New crossings should be located as near normal (90°) to the highway alignment as practical.

b. On parallel installations, underground utilities shall be placed as close to the right-of-way line as possible, and should be a suitable distance beyond the slope, ditch, or curb line to ensure that the structural quality of the roadway is not impaired.

c. Vertical and horizontal clearances between a pipeline and a structure or other highway or utility facility should be sufficient to permit maintenance of the pipeline or other facilities. A minimum horizontal clearance of 10 feet from the edge of a bridge or culvert footing to a pipeline is desired. For an underground utility crossing, the bed of a stream or river, a minimum clearance of 25 feet to any footing is desired.

2. Bury. The critical controls for bury on a pipeline crossing are the low points in the highway cross-section. Usually these are the bottoms of the longitudinal ditches or drain lines. In establishing the depth of bury below an unpaved ditch, consideration should be given to potential increases in ditch depth resulting from scour, ditch maintenance operations, or the need to increase the capacity of the ditch. On parallel installations, the critical controls for bury are the depths of lateral drainage facilities, landscaping, buried utility lines, bridge bury of pipe lines.

a. The minimum bury for parallel installations shall be 24 inches.

b. The minimum bury under pavement or surfacing shall be 4 feet for cased crossings and 5 feet for uncased crossings.

c. The minimum bury under ditches and drainage structures shall be 24 inches for cased facilities and 36 inches for uncased facilities.

d. Protection, in the form of a concrete slab or other acceptable method, must be provided invulnerable locations, such as below ditches, if the minimum bury cannot be practically obtained.

3. Cased Crossings

a. When used, casing shall be designed to support the load of the highway and superimposed loads there on, and, as a minimum:

i. the casing shall be sealed at each end with suitable flexible casing seals;

ii. the cased installation shall include the necessary events and markers at the right-of-way line. Markers must be installed over the pipe which clearly define its location, product carried, operator and telephone number;

iii. casing should extend from right-of-way to right-of-way.

4. Uncased Crossings

a. Uncased crossings of welded steel pipelines may be permitted provided additional protective measures are taken in lieu of encasement, including the extra depth and concrete pad, when applicable, described previously in this Section.

b. The Louisiana DOTD will require that the wall thickness for natural gas and other hazardous material pipelines be at least two increments greater than that required by Federal DOT Title 49. (As per EDSM IV.2.1.9)

c. Existing uncased pipelines under proposed highway construction may be allowed to remain in place if they are in compliance with Federal DOT regulations for uncased crossings, and are not in conflict with highway construction or maintenance; provided both highway and utility officials are satisfied that the lines are, and will remain, structurally and operationally safe. These will be dealt with on a case-by-case basis.

d. Cutting the surface or tunneling under hard-surfaced roads is specifically prohibited. Open trench installations are restricted to unsurfaced highways with low traffic volumes, except where unusual circumstances justify approval by the DOTD to open cut hardsurfaced highways.

5. Appurtenances. Vents, drains, markers, manholes, and shut-offs are appurtenances to pipeline installations. Controls for such appurtenances follow.

a. Vent standpipes shall be located and constructed so as not to interfere with maintenance of the highway nor to be concealed by vegetation.

b. Drains shall not be used as a waste-way for purging the carrier unless specifically authorized.

c. Markers. The utility will place readily identifiable and suitable markers along or within 1 foot of the outer limits of the right-of-way line indicating the location of the underground utility crossing and/or showing an accurate offset to a parallel utility installation within such highway right-of-way. Such markers shall be placed at agreed-upon spacing, depending upon the type of installation and its hazard to the highway user, the highway structure, the highway right-of-way or maintenance personnel maintaining the highway right-of-way, or the facility itself. Such spacing shall be agreed upon between the utility company and the engineer. Where curb and gutter type of highways are involved, suitable markers may be in the form of a metal plate or disc affixed to the curb. Vent pipes may serve as a marker for crossings.

d. Manholes shall be designed and located in such a manner that will cause the least interference to other utilities and future highway expansion. The utility is responsible for adjusting manhole or valve box covers in conjunction with resurfacing operation by the state, when allowed to remain inside paved areas, and shall utilize such manholes for maintaining its facilities only during low traffic volume periods. Manholes shall normally be placed only in unpaved areas; however, when allowed to remain inside paved areas, all manholes shall be placed in the outside or slow lane of traffic of a multilane facility.

e. Shut-off valves shall be installed in lines at or near ends of structures and near unusual hazards, unless hazardous segments can be isolated by other readily available sectionalizing devices within a reasonable distance. Automatic shut-off valves are preferred unless it can be shown by the utility that such installations could be hazardous and have adverse affects on the utility's system.

6. Restriction against Varied Use. Subject to safety regulations adopted by the state of Louisiana or the federal government, the following precautionary measures are to apply to pipeline installations.

a. Pipeline installation or relocation permits should specify all information required for completing the pipe data sheet; including the class and average temperature of transmittant, the maximum working, test, or design pressures, and the design standards for the carrier.

b. When it is anticipated that there will be a change in the class of transmittant, or an increase in the maximum design pressure specified in the permit, the utility is required to give the highway agency advance notice and obtain approval for such changes. The notice should specify the applicable codes to be used.

7. Installation

a. Trenched Construction and Backfill

i. All trenched construction must be approved by the engineer. Trenches shall be cut to have vertical faces, where soil and depth conditions permit, with a maximum width of outside diameter of pipe plus 2 feet. They shall be shored where necessary.

ii. Backfill placed under the roadway prism shall equal or exceed the quality of the existing material and be compacted to a density equal to or in excess of the density of the existing undisturbed roadway embankment.

iii. Backfill inside the highway right-of-way, but not under the roadway prism shall be compacted to a density at least equal to the density of the surrounding undisturbed soil. This shall be accomplished by the use of tools, methods and materials approved by the engineer.

iv. The required compaction of the backfill throughout the utility's installation within the limits of highway right-of-way shall be satisfactory to the engineer who may make or cause to be made such density tests that he may consider appropriate for the circumstance.

v. In some instances, the DOTD may require that backfill and/or paving be performed by its own forces or under its direction at the expense of the utility when considered necessary by the engineer for the protection of the traveling public and/or the highway itself.

vi. The pavement structure shall be restored in appropriate layers utilizing materials at least equal in quality and layer depths to the original construction. There will be

additional removal of base and surfacing to minimize later development of sag in the grade of pavement over the ditch.

vii. Blasting. Any blasting within the highway right-of-way will require written approval of the chief engineer. No blasting will be allowed near highway structure footings.

viii. Unimproved or Low Grade Roads. When a utility facility is installed across or under the roadway prism, the backfill and riding surface shall be restored as specified by the DOTD.

b. Untrenched Construction and Grouting

i. Subsurface installations under hard-surfaced highways are to be made by jacking or boring under the highway in accordance with standard practice. Jacking and boring operations shall be in accordance with the *Louisiana Standard Specifications for Roads and Bridges* (Section 728) and additional requirements given in this Chapter. In conflicts between the *Louisiana Standard Specifications for Roads and Bridges* and this Chapter, this Chapter shall govern.

ii. Wet-boring shall be confined to the drilling mud bore method. The casing may be installed by drilling a hole with an open type bit that leaves the cuttings in place. A gel-forming colloidal drilling fluid consisting of approximately 2.5 percent (by weight) high grade carefully processed bentonite may be used to consolidate cuttings of the cutting bit, seal the walls of the hole, and furnish lubrication for subsequent removal of cuttings and installation of the casing immediately there after. Field adjustment of the percentage of bentonite may be required to accommodate varying soil conditions. In this method, when drilling through dense formation, cuttings may be partially removed from the hole in 3-inch plugs by use of compressed air as drilling progresses. However, in low density soils of a sandy or silty nature, a plug shall be installed in the mouth of the bore (hole) to prevent the movement of any cuttings from the hole until immediately before installation of the casing. No bit larger than 3 inches in diameter shall have holes therein larger than 5/16 inch in diameter through which drilling fluid is forced during boring. The casing will be installed immediately after the casing hole is completed. In no case will water be used to flush cuttings from the drill hole. The cuttings shall remain in the bore hole except as previously provided for as drilling progresses so as to consolidate them to support the bore wall. The filter cake which is formed by cuttings and drilling fluid prevents cave-in or sluffing of the drill hole.

iii. Untrenched construction under all surfaced, noncontrolled-access highways shall be at least from ditch line to ditch line.

iv. The utility will restrict the oversize of the boring excavation to a minimum. Grout backfill shall be required for overbreaks and voids, unused holes, abandoned pipelines and/or casings 6 inches or larger in diameter, overcutting in excess of 1 inch shall be remedied by pressure grouting the entire length of the installation.

c. Utility Bridges. If and when such installations can be justified and are approved by the engineer, they shall conform to the bridge standards of the DOTD. Since the need for such installations is very rare, each such request will be handled on an individual basis as a special case.

8. Removal and Abandonment of Utility Facilities. All facilities installed within state highway right-of-way shall be removed and disposed of by their owner as soon as they stop serving a useful purpose. Facilities may be abandoned under the following circumstances.

a. Pipelines and casings crossing highways or other hard surfaces may be abandoned in place, with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer.

b. Pipe lines and casings installed along highways, may be abandoned in place, with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer, provided that they are less than 6 inches in diameter, or that they are buried with more than 8 feet of cover.

c. Electrical and communication facilities installed within a casing, and crossing under highways or other hard surfaces may be abandoned in place with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer, provided that the cable is removed from the casing.

d. Uncased cables crossing under highways or other hard surfaces may be abandoned in place provided that they are removed to a point as near to the edge of the highway as feasible.

e. Electrical and communication cables installed along highways may be abandoned in place, with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer, provided that they are less than 4 inches in diameter, or that they are buried with more than 8 feet of cover.

f. All above ground facilities installed along state highways shall be removed and disposed of by their owner as soon as they stop serving a useful purpose.

g. Facilities that are located so that their removal would be likely to result in damage to the highway, or to other facilities, may be abandoned in place, with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer. The procedure for abandoning these facilities will be specified on a case-by-case basis; however, in general, sections shall be removed where possible, and all remaining lines shall be filled with grout.

9. Where it is not possible nor feasible to remove pipelines and/or casings under existing highways, such

pipelines and/or casings may be abandoned in place provided removals shall be accomplished by the owner, as near to the highway on each side as possible and in all cases, beyond existing ditches to right-of-way lines, and further provided that all pipelines and/or casings abandoned under the highway shall be abandoned in accordance with D.O.T. Title 49 (i.e., pipelines are purged, capped, and filled with grout; note that when highway construction will remove the line in the near future, the DOTD's project engineer may approve the use of water in place of grout).

10. Pipelines and cables shall be removed from abandoned casings where possible.

11. In all cases the highway right-of-way shall be repaired, at the permittee's expense, to match DOTD standards. An approved backfill material shall be used to fill in any trenches or low areas, and shall be compacted to the same density as the surrounding soil. Any desirable trees or shrubs that are damaged shall be replaced, and any other damages (i.e., to subsurface drainage, traffic signs, etc.) shall be repaired.

12. Companies who fail to comply with this by leaving their facilities within highway right-of-way after they are no longer used, or by not repairing the right-of-way after removing their facilities, shall not receive any permits until the situation is rectified.

13. In cases where the DOTD decides that it is necessary to remove a facility and/or to repair highway right-of-way damaged by a utility or the utility's facility, the company shall be invoiced for costs to the DOTD for removing abandoned facilities, or for repairing damaged right-of-way. Unpaid invoices shall be referred to DOTD's accounting section for further action.

14. Note that a recommendation for abandonment by the project engineer is required only on construction projects. The district construction engineer should be consulted by the district utility and permit specialist when an abandonment may cause a potential problem with future construction. The district maintenance engineer should be consulted by the district utility and permit specialist when an abandonment may cause a potential maintenance problem.

15. The owner of the abandoned facilities shall maintain full responsibility for any future problems caused by the facilities, and shall remove the facilities upon receiving a written request from the DOTD. The cost of removing these facilities shall be borne by the owner, and the DOTD shall assume no liability for this cost.

C. Overhead Power and Communication Lines Standards

1. Type of Construction

a. Any parallel installations of overhead lines on the highway right-of-way shall be limited to single pole type of construction.

b. Joint use single pole construction is encouraged.

c. Only one parallel pole line will be allowed within highway right-of-way on each side of the roadway.

2. Vertical Clearance

a. The minimum vertical clearance for overhead power and communication lines above the highway and the lateral and vertical clearances from bridges shall conform with the *National Electrical Safety Code*. However, in no instance should an aerial crossing have less vertical clearance over the roadway surface than 20 feet. A minimum vertical clearance of 16 feet shall be maintained between existing ground elevation and any aerial installation when such installation is within highway right-of-way, but does not cross the traveled surface of a highway.

3. Location

a. All pole lines shall occupy the last few feet of the right-of-way behind the ditch and shall be no further from the right-of-way line than one-half of the width of the cross arms plus 1 foot, except in cases of absolute necessity where a permit or agreement is issued for another location.

b. In keeping with the nature and extent of roadside development along conventional highways in urban places, such facilities shall be located at or as near as practical to the right-of-way line. Where there are curbed sections, the utilities shall be located as far as practical behind the outer curb face, and where feasible, behind the sidewalks.

c. Location of overhead utility installations on highways with narrow right-of-way or on urban streets with closely abutting improvements are special cases which must be resolved in a manner consistent with the prevailing limitations and conditions. Before locating the utility at other than the right-of-way line, consideration will be given to designs employing self-supporting, armless single pole construction, with vertical alignment of wires or cables, or other techniques permitted by governmental or industry code that are conducive to a safe traffic environment. Exceptions to these clearances may be made where poles and guys can be placed at locations behind guard rails, beyond deep drainage ditches, or the toe or top of steep slopes, retaining walls, or other similar protected location.

d. Guy wires to ground anchors and stub poles will not be placed between a pole and the traveled way where they encroach upon the clear roadside area. Guy wires to ground anchors located within the highway right-of-way or guy wires overhanging the right-of-way shall be protected with a shield to prevent their being cut during roadside grass cutting operation or prevent personal injury to maintenance personnel running into such guys. Guy wires to ground anchors outside the highway right-of-way shall be avoided wherever it is feasible to do so, except where the pole for which support is provided is located reasonably close to the right-of-way.

e. Where irregular shaped portions of the right-of-way extend beyond the normal right-of-way limits, variances in the location from the right-of-way line will be allowed as necessary to maintain a reasonably uniform alignment for parallel overhead and underground installations so long as they do not adversely affect the maintenance operations of the right-of-way.

f. Parallel installations of poles, guys, or other related facilities will not be located in a highway median. On crossings of a highway, any such facility will not be located in a highway median except in unusual circumstances and approved by the DOTD. Poles and other appurtenances for highway lighting may be located in the median if other alternatives are determined to be impractical and where suitable protection is provided to the highway user. Traffic impact attenuators will normally be required in these situations.

g. Location of above-ground utility installations where sufficient right-of-way is available shall be as follows.

i. Where the highway is constructed with shoulders, above-ground utility appurtenances shall be at least 30 feet from the edge of the traveled way when the design speed is 50 miles per hour or more; or at least 20 feet from the edge of the traveled way when the design speed is below 50 miles per hour.

ii. Where curb and gutter sections are involved without a parking lane, above-ground utility appurtenances shall be a minimum of 6 feet back of the face of the curb.

iii. Where curb and gutter sections are involved and a parking lane is adjacent to the curb, above-ground utility appurtenances may be located a minimum of 2 feet back of the face of the curb.

h. Requirements for street lighting facilities on state highways are as follows.

i. Construction shall conform to all applicable codes, standards, and specifications.

ii. Illumination. Roadway should be lighted in continuous lengths without intervening unlit areas. Average initial level of illumination shall not be less than 0.8 FC on the roadway. The ratio of average initial illumination to minimum initial illumination at any point on the roadway shall not be greater than 4:1. Luminaire mounting heights shall be 30 feet minimum, preferably higher.

iii. Light Poles and Foundations. Light poles shall be manufactured from steel, aluminum, fiberglass or other corrosion resistant materials. Wood poles are not acceptable; however, lights may be installed on existing wood utility poles provided the system conforms to all illumination requirements of these standards. Poles and foundations shall be designed to withstand wind velocities for the area where the poles are installed. The design wind velocities shall be for the 25-year mean recurrence interval. Pole foundations shall be flush with the existing ground. On slopes, the longitudinal centerline shall be flush with the existing ground. A 6-foot diameter by 4-inch thick concrete mowing apron shall be placed around each light pole. The apron shall be constructed flush with the ground line. Light poles located within 40 feet of the roadway shall conform to AASHTO criteria for breakaway supports or shall be located such that they are protected from vehicular collision. The above may be excepted by the DOTD where a greater hazard would be created by falling poles.

iv. Light Pole Locations. Light poles shall not be located between the traveled roadway and guard rails or barriers. Light poles shall not be located within 15 feet from the edge of the traveled lane except when the posted speed limit is below 40 mph, poles may be located 10 feet minimum from the traveled road, where poles are located behind barrier curbing, they may be installed 6 feet minimum behind the curb, when poles are located on urban routes that routinely have on street parking, they may be placed 2 feet minimum behind the curb, and where the right-of-way is insufficient to allow compliance, minimum clearances may be reduced to that of the right-of-way.

v. Wiring. The electrical system shall conform to the *National Electrical Safety Code*. An equipment grounding conductor shall be installed with each new circuit and shall be connected to each new light pole and fixture. Where lights are connected phase to phase, the branch circuit overcurrent device shall disconnect both phases upon a single line to ground fault. All new light poles shall be served by underground wiring conforming to the following conditions: nonmetallic conduit, duct and direct buried cables shall be buried 3 feet minimum (preferably 4 feet) below the ground; rigid steel conduit shall be buried 3 feet when possible, and 2 feet minimum; electrical marker tape shall be installed above all new underground electrical facilities. The tape shall be installed 8-12 inches below the ground. The buried depths may be reduced 1 foot from that given provided the cable and/or raceway is encased in 3 inches minimum of red concrete. Under roadway, crossings shall be installed through jacked crossings located 4 feet minimum below the roadway. Excavation shall not take place closer than 4 feet from edge of shoulder and water shall not be used in the jacking process. The ends of the under roadway ducts or casings shall be marked with surface markers.

vi. Plans and Drawings. Permit request shall include fully dimensional and detailed plans and design calculations. After construction is completed, detailed drawings showing the exact locations of all newly installed underground cables shall be provided to the DOTD.

vii. Aerial power or communication lines shall not cross under bridges, and should not cross over bridges where it is possible to avoid such installations. This is necessary to allow the state sufficient room for equipment to maintain a bridge. Lateral clearance from a bridge shall be sufficient to allow construction and/or maintenance of the bridge structure itself or 25 feet minimum.

D. Underground Electric Power and Communication Lines Standards

1. Underground utility construction shall conform to all applicable codes, standards and specifications.

2. The minimum depths of bury are as follows.

a. Underground electric power lines shall have a minimum cover under ditches or within the limits of the right-of-way of 48 inches. Minimum cover under pavement

shall be 48 inches. Installations within the highway prism shall be encased.

b. Underground communication lines shall have a minimum cover under ditches and within the right-of-way limits of 24 inches on all highways. Minimum cover under pavement shall be 48 inches. Such facilities may be encased within the limits of the highway structure provided the utility agrees not to open cut roadway or breach controls of access to maintain such facilities, except under extreme emergencies with DOTD's approval, and under controlled conditions.

c. Pedestals or other above-ground utility appurtenances installed as part of buried cable plant shall be located at or within 1 foot of the right-of-way line, outside controls of access or the highway maintenance operating area.

d. All proposed locations and utility designs will be reviewed by the DOTD to insure that the proposed construction will not cause avoidable interference with the existing or planned highway facilities or with highway operation or maintenance.

e. On both cased and uncased installations, particularly on crossings of the highway, consideration will be given for placing spare conduit or duct to accommodate known or planned expansion of underground lines.

f. The general controls previously outlined for pipelines as related to markers, installation, trenched or untrenched construction, and adjustment will be followed, as applicable, on underground installation of electric power and communication lines. Accurate markings of underground electric power lines are required.

g. Subject to the approval of the DOTD, a utility may be allowed to plow in a utility facility provided it is able to maintain reasonable controls to insure that the horizontal installation can be made within 1 foot of the approved location and that the stipulated minimum cover can be obtained and maintained in this type of installation. It is the utility company's responsibility to provide the state with a recommended procedure of restoring the highway right-of-way to its original state or an acceptable condition. Such procedure should include some method of compaction which will assure the state that a satisfactory condition is attained in the vicinity of the disturbed soil. Such installation will only be allowed between the roadway prism and the right-of-way limits. No plowing operations will be allowed within the roadway prism area.

3. Location and Alignment

a. On parallel installations, locations parallel to the pavement at or adjacent to the right-of-way line are preferable so as to minimize interference with highway drainage, the structural integrity of the traveled way, shoulders and embankment, and the safe operation of the highway. As a minimum, where practical, their lateral location will be offset a suitable distance beyond the slope, ditch or curb line, as the DOTD may stipulate.

b. Crossings will be located as near normal (90°) to the highway alignment as practical.

c. Conditions which are generally unsuitable or undesirable for underground crossings shall be avoided. These include such locations as:

i. in deep cuts;

ii. near the top of steep hills;

iii. near footings of bridges and retaining walls;

iv. across intersection at grade or ramp terminals;

v. at crossdrains where flow of water drift or streambed load maybe obstructed;

vi. within basins of an underpass drained by a pump; and

vii. in wet or rocky terrain where it will be difficult to maintain minimum bury.

4. Cased and Uncased Construction

a. Where it is acceptable to both the utility and the DOTD, underground communication line cables crossing the highway may be installed without protective conduit or duct provided the utility agrees not to open cut road or breach controls of access to maintain said facility except in extreme emergency with DOTD's approval and under controlled conditions. Normally, such installation will be limited to open trench construction or to small bores for wire or cable facilities, where soil conditions permit installation by boring a hole about the same diameter as the cable and pulling the cable through. Underground electric power lines shall not be allowed to cross the highway without casing.

b. Where crossings of underground lines are encased, the DOTD's standards applicable to the encasement of pipelines shall apply.

c. Consideration shall be given to the encasement or other suitable protection for any wire or cable facilities:

i. with less than minimum bury;

ii. near the footings of bridges or other highway structures; or

iii. near other locations where they may be a hazard.

d. The utility is required to furnish reasonable information as to the control and construction methods to be employed, before the proposed installations are considered by the DOTD for crossing of the highway. This is to insure the necessary protection of the utility facility and the integrity and operation of the highway facility.

e. Where less than minimum cover is allowed across ditch sections, a floating slab of concrete is recommended for protection of the facility and highway maintenance operation.

5. Abandonment and Removal of Electrical and Communication Lines. Where applicable, the removal and abandonment rules stated herein for pipelines shall also

govern electrical and communication lines, and any other utility facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§517. Additional Standards Applicable to the Installation of Utilities on Interstate Highways and Freeways

A. General. All applicable general considerations, specific policies and conditions, and general standards shall apply, in addition to those listed in this Section. This Section shall be the DOTD's compliance with 23 CFR 713 Subpart B, the accommodation policy for controlled access areas.

B. Access. Access for installation and for future service and maintenance of utilities, and all work performed in connection therewith, must be effected from the frontage road or from some point other than through lanes and ramps except where specifically waived by the permit or agreement. No interference with traffic on through lanes or ramps will be tolerated.

C. Parallel Utilities

1. Utilities parallel to the centerline of the highway shall not be permitted within highway right-of-way except in instances where the right-of-way and controls of access do not coincide, such as where frontage roads are constructed along and outside controls of access or where the control of access is located on the facia of bridge structures.

2. In such instances subsurface and aerial utility distribution facilities may be installed inside and as near to the highway right-of-way line as possible in accordance with standards for such facilities listed elsewhere in this Chapter.

D. Utility Crossings

1. All subsurface installations in which casing is used are to be encased from control of access line to control of access line and properly vented except as follows:

a. in instances where a street, road, or another highway is overpassed by the interstate highway;

b. where the subsurface utility is parallel to and between the street, road, or other highway and the overpass embankment; and

c. where access may be had to the utility without conflicting with the control of access, no encasement will be required except under ground-level ramps where normal encasement standards would apply.

2. Aerial crossing shall completely span the highway right-of-way and poles, supports, guys, etc., shall be beyond the limits of said right-of-way except as follows:

a. in instances where a street, road, or another highway is overpassed by the interstate highway and where access may be had to the aerial utility and supporting structures within and parallel to the street, road, or other highway without conflicting with the control of access;

b. in instances where control of access is not coincidental with right-of-way lines, such as where frontage roads are present or where controls of access are located on the facias of bridge structures, supporting structures may be placed within and as near right-of-way lines as conditions will permit;

c. in cases of undue hardship which can be justified to the satisfaction of the DOTD and Federal Highway Administration.

3. Untrenched construction shall be required for all pipeline crossings of existing freeways and other major controlled-access highways. The untrenched construction shall extend under and across the entire control of access. Waiver of this policy will be made only under unusual circumstances, require proper justification by the utility, and work performed under rigidly controlled conditions.

4. Repairs within control of access areas will not be permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§519. Standards for the Installation of Plastic Pipe

A. General

1. All applicable general considerations, specific policies, and general standards listed elsewhere in this Chapter shall apply.

2. Where uncased crossings are permitted, the following general considerations shall apply.

a. New installations must provide at least 5 feet of cover below the roadway and 3 feet below ditches or drainage structures.

b. Repairs under the roadway will not be allowed if it necessitates open cutting the roadway. If trouble with the crossing is experienced, the utility company must install a new crossing at 100 percent their cost. Repairs are not allowed within control of access areas.

c. Where possible, joints below the roadway should be avoided. However, if joints below the roadway are necessary, they should be solvent welded, fusion welded, or in the case of bell joint PVC pipe, mechanically restrained.

d. Protection in the form of a concrete slab, or other acceptable method, must be provided in vulnerable locations, such as below ditches when there is less than the minimum cover.

3. Markers must be installed over the pipe which clearly define its location, product carried, operator and telephone number.

4. Detection tape or wire must be installed with all thermoplastic underground facilities.

5. Since the use of PVC for gaslines and polyethylene for waterlines is rare, applications to install either will be scrutinized on a case-by-case basis.

B. Water Distribution Lines. PVC piping used in water service must be made from compounds conforming to ASTM D 1784, and piping must be manufactured in accordance with ASTM D 2241 and AWWA C-900. Wall thickness for uncased PVC water line crossings must be at least that of DR 21 for pipe less than 4-inch nominal diameter and DR 18 for pipe equal to or larger than 4-inch nominal diameter.

C. Gas Distribution Lines

1. Design of natural gas distribution lines must be in accordance with Federal D.O.T. Title 49, applicable industry codes, ANSI/ASME B 31, and other state and DOTD policies as apply.

2. Polyethylene piping used in gas service must conform to ASTM D 2513.

3. Uncased crossings of up to 2 inches nominal diameter will be allowed provided the wall thickness is at least that of SDR 11. All crossings of polyethylene lines above 2 inches must be encased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§521. Standards for Jacking and Boring Pipe under Roadway

A. In addition to the standards described elsewhere in this manual, requirements for jacking and boring pipe under roadways shall be governed by Section 728 of the *Louisiana Standard Specifications for Roads and Bridges* and EDSM No. III.2.6.1 (construction) and EDSM No. IV.2.1.1 (maintenance) as found in the *Engineering Directives and Standards Manual*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§523. Scenic Enhancement Areas

A. In addition to the applicable standards set forth in other sections, the following apply to all new utility installations permitted within areas that have been acquired or set aside for their scenic quality, namely scenic strips, overlooks, rest areas, recreation areas, the right-of-way of highways adjacent thereto, and the right-of-way of sections of highways which pass through public parks and historic sites. These standards shall also apply to utility-type installations that are needed for highway purposes.

1. Underground. New underground utility installations may be permitted within such lands where they do not require extensive removal or alteration of trees or other natural features visible to the highway user or do not impair the visual quality of the lands being traversed.

2. Aerial. New aerial installations will be avoided at such locations where there is a feasible and prudent alternative to the use of such lands by the aerial facility. Where this is not the case, they may be considered only where all three of the following conditions are met:

a. other locations are unusually difficult and unreasonably costly, or are less desirable from the standpoint of visual quality;

b. underground installation is not technically feasible or is unreasonably costly; and

c. the proposed installation can be made at a location acceptable to the DOTD and will employ suitable design and materials which give adequate attention to the visual qualities of the area traversed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§525. Drainage Related Actions within or Adjacent to State Highway

A. General Requirements

1. All construction activities within state highway rights-of-way or servitudes shall conform to latest DOTD standards. Typical sections of ramps, driveways, intersecting streets, etc., shall generally conform to the standards under which the roadway was built. The design of drainage structures, such as side-drains, pipe drops, cross-drains, storm sewer systems, etc., shall be according to current standards as indicated in the DOTD's *Hydraulics Manual*; the materials must also conform to current standards. Extensive construction activities are subject to erosion from flowing water. Seeding, fertilizing and watering of denuded areas, using current standards, are required.

2. Diversion of additional drainage area to highway ditches, side-drains, crossdrains, bridges and storm sewer systems will not be allowed unless acceptable compensating or mitigating features are provided. Significant modifications of roadside ditches which adversely affect safety, drainage, maintainability or esthetics will not be allowed. The applicant should include sufficient information so that the required evaluations can be performed.

B. Roadside Ditches. Permit requests for tie-in of drainage systems to highway roadside or lateral ditches will be evaluated per individual request.

1. Examples of significant section alteration would be:

a. a significantly deeper ditch;

b. steeper side-slopes;

c. narrowing the existing shoulder;

d. significantly flatter ditch grades, etc.; or

e. any change which would have a significant adverse affect on the safety of maintenance personnel and the traveling public, maintainability of the roadside, capacity of the roadside ditch, or esthetics.

2. Examples of compensatory or mitigating proposals would be:

a. to enclose the roadside ditch using a properly designed swale ditch/storm sewer system; or

b. to modify the existing ditch to meet current standards.

3. The latter method usually results in wider shoulders, flatter slopes and often requires additional right-of-way. Current design methods will be used to evaluate the ability of existing drainage features to accept flow modifications requested by applicant. The applicant should include sufficient information so that the permit request may be evaluated. Required information may consist of drainage maps, plan-profile sheets, cross-sections, etc.

C. Storm Drain Systems

1. Generally, proposed tie-ins to existing highway storm drain systems will not be allowed if additional drainage area is being diverted to the system. That is, if the total proposed drainage area is greater than the existing drainage area, permission for a tie-in will usually be denied. Exceptions may be granted when it can be shown that there are compensatory or mitigating features in the proposal. An example of this could be where another highway system is overloaded and the proposed diversion eases the problem without creating a significant overload to the system to which the tie-in is requested. In general, tie-ins will be allowed if the drainage area served is within the original design drainage area. The construction of the tie-in shall be according to current standards.

2. Parallel storm drain trunk lines may be allowed within highway right-of-way if it can be shown that the proposed trunk line benefits highway drainage. An example of this would be if the proposed trunk line serves a drainage area previously draining to the highway drainage system. Another condition which must be satisfied is that there be no interference with utilities or highway features.

3. The application should include sufficient information so that the permit request may be evaluated. Required information may consist of drainage maps, plan-profile sheets, cross-sections, etc.

D. Driveways in Roadside Ditch Areas

1. Most driveways (ramps) require a drainage structure (side-drain) underneath them to convey roadside ditch flows. A ramp located at a divide in roadside ditch flow direction may be built without a side-drain, and is called a dry ramp. Two consecutive dry ramps are not allowed.

2. Recommended minimum side-drain sizes are based on current DOTD design standards. The property owner may use side-drains with capacities greater than the recommended minimum.

3. The applicant should include sufficient information so that the permit request may be evaluated. A rough sketch locating the proposed ramp is a minimum requirement. Additional helpful information would be the drainage area contributing to the side-drain.

E. Driveways in Swale Ditch Storm Drain System Areas

1. A driveway installed in areas where highway drainage is provided by a swale ditch/storm drain system may take one of two forms. Each is designed to continue existing drainage.

2. The first option is to construct the driveway to cross-section of the swale. Where swales are shallow, this is a practical solution. Swale drainage must be continued across the driveway.

3. The second solution is to construct a catch basin upstream of the driveway to intercept swale drainage. Drive profiles need not follow the swale ditch shape and catch basin design must be approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193, 48:344, 38:2223.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§527. Miscellaneous

A.1. Preservation, Restoration, and Clean Up

a. Temporary Erosion Control

i. When the engineer determines that the utility owner's forces are causing erosion that may damage the highway right-of-way, adjacent property, streams or otherwise become a public nuisance, the engineer may order the utility owner to perform and maintain temporary erosion control methods until such time as the restoration and clean-up of the right-of-way can be satisfactorily accomplished in accordance with these standards.

ii. The methods used by the utility owner shall be in compliance with the DOTD's standard specifications for such work in effect at the time the work is performed.

iii. Prior to beginning temporary erosion control work, the utility owner shall present to the DOTD, for its approval, the method and/or procedures by which the utility owner expects to temporarily control erosion.

b. Disturbed Areas

i. The area disturbed by utility installations or relocations shall be kept to a minimum. Restoration methods shall be in accordance with the DOTD's specifications, standards, and/or special provisions in utility use and occupancy agreements.

ii. All solid sod or cover disturbed and replaced by the utility must be maintained for a length of time to insure a living and growing sod or cover.

iii. The condition of the right-of-way at any time during or after the completion of a utility's installation or maintenance operation is subject to the approval of the

engineer. Where drainage ditches must be obstructed, they shall be restored to a passable state at the end of each construction day.

iv. Trees or shrubs to be cut or trimmed during the work for a utility installation shall be specified on the utility's plan. No additional trees or shrubs shall be cut, trimmed, sprayed with herbicides, or damaged in the normal maintenance of the facility without the permission of the DOTD. Any such damage caused by the utility beyond the scope of permission shall be replaced by the utility.

v. It is necessary to cut vegetation away from electrical power lines; therefore, this shall be considered normal maintenance for electric utilities not located on control of access highways, providing that such cutting is preformed judiciously. This privilege shall not be extended to any other permittee.

c. Drainage. Care shall be taken in utility installations to avoid disturbing existing drainage facilities. Underground utility facilities shall be back-filled with pervious material and outlets provided for entrapped water. Underdrains shall be provided where necessary. No jetting or puddling shall be permitted under the roadway.

2. Safety and Convenience. Any installation or maintenance of the utility's facilities will be accomplished with due regard to the safety of the general public. The utility shall provide all necessary and adequate safety precautions such as signs, flags, lights, barricades, and flagman. All traffic controls for utility construction and maintenance operations shall conform with the DOTD's *Manual on Uniform Traffic Control Devices* and *Maintenance Traffic Control Handbook*. The utility shall store no material, excess dirt, or equipment on the shoulders or pavement or, in case of multilane highway in the median strips. The pavement will be kept free from any mud or other excavation material. Upon completion of the work, all excess material shall be removed from the right-of-way.

3. Servicing, Maintenance, and Repairs. All utility facilities will be kept in good state of repair, both structurally and in appearance. The utility will conform to these standards and the conditions of their occupancy agreement with regard to their maintenance operation.

4. Occupancy Agreements

a. Prior approval by the DOTD is required for:

i. relocation or new installations;

ii. a change in transmittant or increase in operating pressure above that approved by the DOTD, or any change in type, function or physical location of a facility;

iii. aerial service connections, or the substitution or adding of wires, or accessory equipment to existing poles, or supporting structures crossing any traveled portion of a freeway.

b. Prior approval is not required for:

i. subsurface service connections not paralleling or crossing any traveled portion of the highway;

ii. aerial service connections not requiring additional supporting structure within the right-of-way on highways other than freeways;

iii. normal maintenance operations; *normal maintenance* is defined for the purpose of these standards as being that work required to keep the existing facility in a state of good repair without adding to its physical makeup or changing its functional capacity;

iv. substituting wires, or accessory equipment to existing poles or supporting structures on highways other than freeways, provided that there is no change in the type, nature, or operating conditions of the originally approved facility;

v. passing through conduits or pipe encasements already in place where such additional installation does not require the physical disturbance of the surface or subsurface of the right-of-way and does not change the type, nature or operating conditions of the originally approved facility;

vi. placement of mailboxes or newspaper boxes, provided these facilities are placed at the shoulder line of an uncurbed section of highway, or back of the curb where curb exists; they are located so that they do not interfere with highway traffic, maintenance, or drainage; they shall be relocated when requested by DOTD at no cost to DOTD; they are to be grouped and placed on suitable stands, with supports of adequate strength and size to properly support the box(es). The use of heavy metal posts, concrete posts, and other miscellaneous items (such as plows, or milk cans filled with concrete) is specifically prohibited. When struck, the support should bend or fall away from the striking vehicle without severely damaging the vehicle or injuring its occupants. Mailbox supports should be no larger than 4 inches square or 4 1/2 inches in diameter wood posts, or 2-inch diameter standard steel or aluminum pipe, buried no more than 24 inches, and should safely breakaway if struck by a vehicle. The mailbox must be securely attached to its support to prevent separation if struck by a vehicle. No commercial advertising of any nature is to appear on these facilities. Mailboxes shall be installed in accordance with the AASHTO publication *A Guide for Erecting Mailboxes on Highways*.

c. In the event that a utility does not install a facility covered by a permit agreement, within six months of the written authorization to proceed with such installation, said permit agreement is revoked and a new authorization must be obtained from the state. Note that time extensions for a permit may be granted in six-month blocks, so that a permit may be valid for a maximum of two years. All extensions must be requested in writing, and approved in writing.

d. The utility owner shall notify the DOTD in writing at least 24 hours prior to beginning of work on any installation covered by an agreement with the DOTD. When the utility owner desires to work on highway right-of-way on weekends and/or holidays, the owner shall secure permission

of the DOTD 48 hours in advance of the time the owner plans to begin work.

e. The utility owner shall notify the DOTD in writing when the owner considers the work to be complete. The engineer or his representative shall inspect the work promptly and either accept or reject the work. When the engineer or his representative considers the restoration and clean-up of the right-of-way and other features of the work to be satisfactory, he shall notify the utility owner in writing.

f. The utility owner is fully responsible for his facilities, and all damage caused by them, as long as the facilities are within the DOTD's right-of-way.

5. Inspection. When the work is to be performed by a contractor, the utility will retain a full-time inspector on any relocation, adjustment or new installation within the limits of highway right-of-way to insure the utility and the DOTD that such installations are made in full compliance with these standards and the approved location of the facilities.

6. Compliance. Failure to comply with the approved permit, agreement, state standards, or approved location, horizontal or vertical, shall be grounds for the DOTD to issue a stop order to the utility and continued abuses of this nature shall be grounds for revoking a permit.

7. Staking. Before the DOTD representative is requested to review a proposed installation within the highway right-of-way, the utility should stake the line so that the proposed installation can be reviewed in the field with full knowledge of what is proposed by the utility.

8. Responsibility of Utility. The utility is responsible for reconciling any conflict with the facilities of any other utility that are on the right-of-way and shall secure any necessary permission from such other utility for any alteration.

9. Compensable Interest. Where a utility has a compensable interest in the land occupied by its facilities and such land is to be jointly owned and used for highway and utility purposes, the DOTD and the utility shall agree in writing as to the obligations and responsibilities of each party. The interest to be vested in the DOTD in any portion of the right-of-way of a highway project to be vacated, used or occupied by utilities or private lines shall be of a nature and extent adequate for the construction, safe operation and maintenance of the highway project.

10. Solicitation of Funds. Solicitation of funds within DOTD right-of-way shall be in accordance with R.S. 51:1901-1909. The procedure shall be as specified in R.S. 51:1906.

NOTE: These statutes are printed in the front of this manual.

11. Other Type Permits. Additional permits handled by the utility and permit engineer are as follows.

a. Geophysical Permit. Geophysical surveys within highway right-of-way must be performed in accordance with R.S. 30:211-217 and all other state statutes. A separate permit application must be submitted for each parish, and each permit shall expire one year from the issue date. The use of vibrating equipment within the crown width of a highway is specifically prohibited. Applications for permit on "vibroseis" tape surveys will be considered.

b. Movable Property. Permits must be obtained when moving buildings or other large objects across a highway by some means other than by a wheeled vehicle or device. If it is to be moved on wheels, application for permit should be made to the district permit office:

i. that applicant is the owner of the property to be moved;

ii. crossings are to be made at as nearly right angles to highway as possible;

iii. all necessary precautions must be observed for the protection of the traveling public and undue delay to traffic will not be permitted;

iv. all excavations within the limits of the right-of-way shall be backfilled and tamped in 6-inch layers. Where it is necessary to make excavations in the shoulders, the top 6 inches of backfill shall be sand, clay, gravel or equivalent;

v. applicant is required to supply a traffic control plan (TCP) for all crossings.

c. Hay Permit. Application for permit for cutting and removing grass or hay on highway right-of-way is approved by the district administrator. A separate permit must be issued for each parish, and each permit shall expire six months from the issue date. This type of permit shall not be issued within control of access areas.

d. Traffic Control Device Permit. This type of permit shall normally be issued only to municipalities, school boards, or parish police juries. These permits must be reviewed and approved by the district traffic engineer prior to final approval by the district administrator. All work must conform with the Louisiana Department of Transportation and Development *Manual on Uniform Traffic Control Devices*.

e. Automatic License Plate Camera Devices. This type of permit is normally issued to Louisiana law enforcement agencies. For purposes of this Rule, law enforcement agencies eligible for this permit may include the Louisiana State Police, sheriffs' departments of the parishes of this state and municipal police departments. These permits must be reviewed and approved by the district administrator or his designee. If the automatic license plate camera device will be placed upon a bridge or sign truss, approval must also be obtained from the department headquarters utility and permit engineer. Permit applicants must comply with all permit requirements.

12. Emergency Permits and Joint Use Agreements. "Walk-through" or "hand-delivered" permits and/or joint use agreements shall not be accepted by the headquarters permit office except in emergency situations where safety or the DOTD's interest is involved. In these situations the permit must be accompanied by a letter from the district administrator stating that an emergency exists and

explaining the emergency. Also, the district utility and permit specialist must telephone the headquarters utility and permit specialist and make an appointment for the permittee to deliver the permit application to the headquarters utility and permit office. Verbal approval of permits shall only be given when in the interest of the DOTD, or in emergency situations. Emergency situations are those where there is danger to life, health, or property. Cases where the permittee will lose time or money due to the lack of a permit because the permittee failed to apply in time or because of the lack of cooperation by permittee shall not be considered an emergency.

13. Displaying American Flags within Highway Right-of-Way. The Department of Transportation and Development will allow the display of American flags within its right-of-way under the following conditions.

a. Permanent flag poles shall be located behind barriers or beyond the designated clear zone of the highway. Clear zone distances are to be in accordance with the current approved design standards of DOTD at the time the application is made and a copy is to be attached to the permit. In cases where the right-of-way width is less than the clear zone distance, the flag pole may be installed within one foot of the right-of-way.

b. Design of the flag poles are to conform with the standards asset forth in the *Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals* as prepared by the American Association of State Highway and Transportation Officials (AASHTO). Maximum height of flag poles shall be 30 feet with an approximate maximum flag size of 5 feet x 9 feet. A 6-foot diameter concrete mowing apron shall be installed around the base of the flag pole in a typical installation.

c. Yard arms or outrigger flag poles may be mounted on light standards providing their placement does not degrade the light standards' structural integrity or interfere with traffic and maintenance of the light fixtures. In those cases where the light standards are owned by local government agencies and are maintained by them or private power companies, additional approval shall be obtained from the local government agency and/or power company. Minimum mounting heights for yard arms or outriggers shall be 20 feet above the natural grade. Maximum length of the yard arm or outrigger shall be 6 feet and the maximum flag size shall be approximately 3 feet x 5 feet.

d. Yard arms or outrigger flag poles may be mounted on utility poles providing their placement does not create a hazard or degrade the poles' structural integrity. Approval from the poles' owner must be obtained by the permittee prior to applying for a permit. Minimum mounting heights for yard arms or outriggers shall be 20 feet above the natural grade. Maximum length of the yard arm or outrigger shall be 6 feet and the maximum flag size shall be approximately 3 feet x 5 feet.

e. Temporary flag poles may be erected along the right-of-way for holidays such as Memorial Day, Independence Day, etc. These poles shall have a maximum diameter of 1 1/2 inches and be located in such a manner that if they should fall they will not interfere with traffic. These temporary flag poles should be erected in a sleeve mounted flush with ground and shimmed to project the pole in a vertical, stabilized position. They shall be constructed of a material which will allow them to collapse when struck by a vehicle.

f. Flags will not be allowed to be mounted on the superstructure of bridges since they could cause a distraction to the motorists thus creating a traffic hazard. Flags may be flown from the substructure of bridges providing they are mounted in such a manner as not to allow the wind to blow the flag into the travel lanes of the bridge. Positive tie downs or sufficient weight is to be added to the trailing edge of the flag to prevent the uplift of the flag.

g. Flags are to be displayed as outlined in Public Law 94-344.

h. Location of existing underground utilities shall be verified by the permittee or his agent prior to digging the foundation hole for the flag pole.

i. Purchase, installation cost, removal cost, and maintenance of the flag pole shall be the responsibility of the permittee.

j. The installation or removal of flags shall be accomplished in a manner that will not interfere with the normal flow of traffic.

k. Uplighting shall be allowed providing that the light is shielded and will not interfere with drivers' vision; and further provided that there is sufficient space to allow placement of the lighting within the right-of-way. Prior to erecting a flag pole or poles, yard arms or outriggers, or the display of flags from the substructure of bridges it shall be necessary to obtain a permit from the local DOTD district office, on Project Permit Form 593, describing the location, type and method of erecting the poles and displaying the flags.

14. Flags and/or flag poles installed without permit, or not installed in accordance with the conditions of the permit, shall be immediately removed at the expense of the party responsible for the installation. Issuance of flag permits shall be at the discretion of the DOTD, and only governing bodies or nonprofit organizations may obtain them.

15. Drawings of the flag pole, footings and other structural features, shall be attached with each permit request and stamped by an engineer licensed by the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 19:14, 30:210, 30:211-217, 32:236, 38:2223, 38:3074, 48:26, 48:191-193, 48:217, 48:295.1-4, 48:343-344, 48:381-383, 48:385-387, and 51:1901-1909.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994), amended by the Department of Transportation and Development, Office of Engineering, LR 39:2801 (October 2013), LR 39:3100 (November 2013).

§529. Utility Relocation

A. The DOTD shall enter into an agreement with each utility owner to provide for adjustment of utilities in conflict with proposed highway construction. Utility agreements must be completed on forms approved by the DOTD. Copies of approved agreement forms may be obtained from the district utility and permit office. Also available are:

1. *Guide for Completing the Agreement for Relocating Utilities*;

2. *Guide to Invoicing Procedures for Utility Relocation Projects*;

3. FHPM 1-7-2 "Administration of Negotiated Contracts";

4. FHPM 6-6-3-1 "Utility Relocations, Adjustments and Reimbursement";

5. FHPM 6-6-3-2 "Accommodation of Utilities";

6. 23 CFR 713 Subpart B;

7. Secretary's PPM No. 22 "Employment of Consultants";

8. Alternate Procedure for Approval of Federal-Aid Utility Agreements, all of which are contained in this manual.

B. Overview of Procedures and Sequence

1. The district utility and permit specialist prepares a preliminary utility relocation cost estimate, and enters it into the utility database.

2. The headquarters utility and permit specialist requests funds for the project. If it is a federal aid project, the estimate shall be transmitted to the Federal Highway Administration by the DOTD's Federal Aid Unit at this time, in order to comply with the alternate procedure.

3. DOTD transmits construction plans and notifies the utility owner (company, town, water district, etc.) by preliminary engineering authorization letter that the owners' facilities must be relocated or adjusted because they are in conflict with a scheduled project.

4. As soon as practicable after the preliminary engineering letter, the district utility representative and utility owners' engineer or representative meet on the project site and compile a list of facilities to be relocated or adjusted. Note that because of difficulties with obtaining plans, this step may occasionally occur prior to the previous step.

5. The utility owner may elect to employ a consulting engineer to handle its utility adjustments. The utility owner must request DOTD's approval for the employment of a specific consulting engineer in advance of finalizing the engineering agreement, stating the reasons for requesting a consultant, usually because the owner has no qualified engineering personnel. A copy of the proposed engineering agreement showing the amount and method of payment of the engineering fee, a detailed breakdown of the manner in which the fee was established, a preliminary estimate of utility costs, and a certification of consultant shall be submitted with each request. Services performed under existing written continuing contracts may be approved where it is demonstrated that such services are regularly performed at reasonable costs for the utility in its own work. When time is a governing factor, conditional approval may be granted subject to later submittal of the above.

6. The DOTD and/or FHWA approves or disapproves employment of the specified consulting engineer, subject to FHPM 1-7-2 and Secretary's PPM 22.

7. The consulting engineer and utility owner negotiate a contract for doing the necessary engineering work in accordance with the provisions of FHPM 6-6-3-1, with the fee schedule based on one of the methods or combinations thereof, set forth in FHPM 1-7-2. A copy of the contract and the certificate required are forwarded to the Headquarters utility and permit section, DOTD, for review and concurrence nonconcurrence. A detailed breakdown of the engineering fees should be included in this transmittal. Some consulting engineers may have a continuing contract with utility owners under which the necessary relocations or adjustments will be handled. In this case, a copy of the continuing contract should be forwarded with the estimate for engineering work, together with an upset maximum quotation where the continuing contract provides for fees based on actual costs. Note that the consulting engineer will receive public funds, therefore his records are subject to audit.

8. Reimbursement for services provided by consultants who do not comply with DOTD policies, or who fail to meet the deadline for submitting utility relocation agreements on any project or permit may be disallowed. The utility will be informed of this situation when requesting approval for a consultant. The utility may elect to use the consultant at its own expense, or to select another consultant.

9. Based on the required right-of-way, a cost allocation is prepared by headquarters utility personnel specifying the shares of the utility adjustment cost that are to be borne by the DOTD and utility owner.

a. Utility facilities located on private servitudes, or on property owned in fee, are private property and payment for taking or damaging that property must be made when relocation is necessary to accommodate a highway improvement. These facilities need not necessarily be relocated to new private servitudes; they may be relocated within highway right-of-way when the presence of such facilities are consistent with the policies of the DOTD.

b. Utility facilities once located on private property, but that were relocated to accommodate a highway project or that were allowed to remain in place after the DOTD acquired the right-of-way, maintain "prior rights," in that the DOTD will continue to be liable for the cost of adjusting these facilities on all future highway projects. Note that except for being reimbursed for adjustments, these facilities must meet all other DOTD requirements for occupying highway right-of-way.

c. The liability for adjusting utility facilities occupying highway right-of-way must be borne by the utility, except for those cases where the utility has prior rights. The utility must provide proof of prior rights before the DOTD will assume this liability (i.e., a copy of a utility agreement, the agreement number, or proof of the date of the installation).

d. The DOTD assumes the rights listed above for new roads that are added to the DOTD's highway system, and when performing work for off system projects (projects on roads not owned by the DOTD).

e. Parishes and municipalities maintain their reimbursement status ("prior rights") when a parish or municipally owned road is taken into the DOTD's system for those facilities that are in place at the time the road is added to the system. It is the municipality's responsibility to provide evidence of the DOTD's liability.

f. The DOTD assumes liability for all costs involved in reinstalling lighting systems which were removed due to highway construction (See EDSM II.2.1.9 for Lighting of Roadways and Structures).

g. Should any abandoned water wells be encountered on construction projects, the DOTD assumes liability for all costs involved in plugging the well. All abandoned wells shall be properly plugged and sealed in accordance with R.S. 38:3094. Plugging and sealing abandoned wells should be performed as follows.

i. It should usually be included in the DOTD's construction plans.

ii. It should be handled by a plan change when the abandoned well is encountered after the project has been let to contract.

iii. It may be included as part of a utility agreement when the local water system is performing other adjustments on the project, and when the local water system is capable of this action.

h. Individual or private owners' adjustments are handled by the DOTD's real estate section; however, the district utility and permit specialist shall provide a location list for the headquarters utility and permit section to forward to the real estate section.

10. The consulting engineer or owner does the necessary field engineering, prepares plans for the utility adjustment, estimates costs (including a detailed estimate of preliminary and other engineering costs), and prepares a clear concise statement of work to be done (including the estimated number of working days for construction). The *Guide for Completion of Agreements* should be used for this.

11. Next the consulting engineer or owner prepares agreement forms and compiles them with the statement of work, cost estimate, and plans, into the formal Articles of Agreement. The utility owner then executes the agreement form by signing it and having two witnesses sign it.

12. Normally the Articles of Agreement package (two copies of the agreement and six copies of the statement of work, cost estimate, and plans) is sent to the DOTD's district utility and permit specialist for review and recommendations. At this time the district utility and permit specialist works out corrections and/or changes with the consulting engineer and/or the utility owner.

13. All agreements, both federal and state, must be submitted by the federal deadline (usually six or seven weeks prior to the letting).

a. Failure of consultants to meet this deadline may affect their approval on future projects.

b. Permit applications may be suspended and/or existing permits revoked for those utility owners who fail to meet this deadline.

c. Failure of utility owners to meet this deadline may jeopardize their reimbursement.

d. Utility owners failing to meet this deadline are still responsible for relocating their facilities, and for submitting drawings to the DOTD for approval.

14. After the district utility and permit specialist's review is complete and all components of the Articles of Agreement are in order, the copies are sent to the headquarters utility and permit section.

15. Headquarters utility and permit section personnel review the Articles of Agreement documents, coordinate any modifications not already handled, and complete the execution of the Articles of Agreement. Copies of the executed agreement are distributed as follows:

a. headquarters utility file—one complete original agreement with all attachments;

b. utility owner—one complete original agreement with all attachments;

c. audit DOTD—agreement and estimate only;

d. district utility and permit specialist—one complete agreement with all attachments;

e. project engineer—two complete agreements with all attachments;

f. Act 258 file—drawings only.

16. If utility adjustments are to be done by the utility owners' forces, or by a continuing contract, authorization to begin work is given at time of approval of the agreement. If to be done by a contractor selected by bids, authorization to proceed with solicitation of bids is given in lieu of authorization to begin work.

17. The utility owner or the utility's consulting engineer recommends award of contract (usually to the lowest qualified bidder). Before the contract is awarded four copies of a tabulation of bids, specifications and the recommended bid are sent to the headquarters utility and permit section for the DOTD's concurrence.

18. The headquarters utility and permit section reviews the recommended bid, and either concurs in the award of the contract to the recommended qualified bidder and authorization to begin work is given, or recommends rejection of all bids and a re-solicitation of bids is requested.

19. Authorization for work is given in three stages.

a. First stage authorization is given by the headquarters utility and permit section. This assures that funding is available, and that all paper work is complete and in order.

b. Second stage authorization is given by the district utility and permit specialist. The district utility and permit specialist is responsible for coordinating all aspects of the design and construction of a utility project.

c. Final authorization is obtained from the project engineer. The project engineer is responsible for the entire highway project, including coordinating each utility relocation with all other work. Therefore, the utility may not begin actual construction until the project engineer has given his approval.

20. All work is to be coordinated with the project engineer. He must be able to verify and approve all construction charges submitted to the DOTD by the utility company.

21. The utility company will accumulate costs and submit a final billing to the district utility and permit specialist, who will secure verification of major quantities included in the billing from the project engineer. The billing must conform to the *Guide to Invoicing Procedures for Utility Relocation Projects*. The billing must be signed by both the district utility and permit specialist and project engineer, and then submitted to the headquarters utility and permit section for further processing.

22. Beginning and ending dates of work, as well as explanations of overruns or underruns in excess of 10 percent deviation from the estimate, must be submitted with the final billing.

23. Partial invoices may be submitted as work progresses; a minimum retainage of five percent will be held by the DOTD pending an audit. All billings must comply with the *Guide to Invoicing Procedures for Utility Relocation Projects*.

24. The headquarters utility and permit section will forward final invoices to the audit section for the purpose of verifying costs billed. The headquarters utility and permit section initiates payment of the DOTD's prorata share of eligible charges for partial invoices and audited final invoices.

C. Location and Survey Phase

1. Prior to beginning the location survey, the survey party chief shall obtain the names and addresses of all utilities with facilities in the area to be surveyed. This list shall be transmitted to both the headquarters utility and permit engineer and the district utility and permit specialist. The district utility and permit specialist will verify the names and addresses, and will provide addresses not furnished.

2. Any utilities found in the project area during or after the location survey, that were not included in the initial list, shall be promptly reported to both the headquarters utility and permit engineer and the district utility and permit specialist.

3. After preliminary engineering authorization is given to the utility, the district utility and permit specialist or the survey party chief may request assistance in locating facilities from the utility. Note that work performed by a utility prior to this authorization is not reimbursable; however, it is often in the utilities best interest to render this assistance. The survey party chief shall inform each utility of the DOTD's survey schedule, and coordinate efforts toward obtaining the necessary survey information with minimum efforts expended by all parties involved.

4. Individual or private owners' adjustments are handled by the DOTD's real estate section; however, these owners shall also be requested to assist in locating their facilities.

5. The survey party shall locate each pipeline and determine its angle of crossing, profile, diameter, operating pressure, vent locations, casing length, etc., each communication pole, powerpole, underground cable and all appurtenances, all water valves and meters, fire hydrants, gas meters, etc., and shall determine their position relative to:

a. the surveyed line;

b. the centerline of the existing highway if the survey is on an existing road and/or when making a line change;

c. the centerline of the offset line when the survey is made on an offset line;

d. the centerline of cross roads where utilities are located within both the project limits and the right-of-way limits of the cross road.

6. Horizontal and vertical measurements shall be made to the nearest 0.1 foot.

7. The survey party, in consultation with the district utility and permit specialist, must use judgment on the length of pipeline to be profiled. Requirements are predicated on terrain, pipeline size, expected right-of-way width, etc. In the case of meandering pipelines, care must be taken to get sufficient measurements to describe its path.

8. All utility location data, as described above, shall be recorded on Form 03-24-0006 "Utility Location (Pole) (Underground)," as shown below. The survey party shall assist the district utility and permit specialist as follows.

a. The survey party shall obtain the information needed to prepare the utility survey list (Form 03-24-0006) from each utility, and after completing the form, forward it to the district utility and permit specialist. The district utility

and permit specialist shall assist the survey party when there is difficulty obtaining assistance from a utility.

b. Dates of installation shall be determined by the district utility and permit specialist as necessary. It is only necessary to determine these dates when it is suspected that the utility was installed prior to the highway, or in the case of municipalities, prior to Act 40 of 1955, known as R.S. 48:191-193.

c. Copies of the utility survey list (Form 03-24-0006) shall be submitted to the district utility and permit specialist and the design section.

d. A utility survey list shall not be valid after a period of five years. Therefore, a new utility survey should be performed when a period greater than five years occurs between the completion of the utility survey list and the completion of the cost allocation notification.

D. Design Phase

1. The design section will forward preliminary highway construction plans, cross-section sheets and utility sheets (if any) to both the district utility and permit specialist, and the project engineer. The project engineer will work with the district utility and permit specialist and the utility as needed in locating existing utilities, compiling Utility Location Lists (Form 03-24-0006), project staking, etc.

2. Upon receipt of preliminary plans from the design section, the district utility and permit specialist shall:

a. review list of utility owners and advise of any additional owners;

b. enter the preliminary cost estimate into the ES data screen, and advise the headquarters utility and permit section when this is completed. Note that this estimate shall be revised by either the district or headquarters specialist as the project advances; funding shall be adjusted by the headquarters utility and permit section to reflect these revisions as necessary;

c. review drawings to determine if all utilities are shown, and inform the design section of any omissions or inaccuracies;

d. complete the Utility Location Lists (Form 03-24-0006) and meet with each utility, on site, to correct any errors or omissions. The appropriate disposition for each facility must be indicated on the list (i.e., remain, relocate, lower, encase, etc.). A copy of the list should be transmitted to the utility and to the headquarters utility and permit section; when the utility returns a signed copy to the District Utility and Permit Office, a copy of the signed list should be transmitted to the headquarters utility and permit section. Note that location lists should be transmitted to the headquarters utility and permit section at least eight months prior to the letting date, and preferable 12 months prior to the letting;

e. if the utility location lists reveal substantial changes in existing utilities, either in the form of additions, deletions or location corrections, the district utility and permit specialist shall forward the lists to the design section so that the changes may be incorporated into the construction plans.

3. District utility personnel shall obtain the agreement from the utility prior to the federal authorization date. Note that Approved Drawings may be used in place of an agreement, and that the procedure is the same for either. Each agreement shall be reviewed by the District Utility Office by:

a. ensuring that the utility's proposed adjustments conform with DOTD policies and standards. Note that a Pipe Data Sheet for Proposed Installations must be submitted for each pipe located on the highway right-of-way that is covered by the agreement;

b. ensuring that the utility's facilities shall not conflict with the highway project after adjustments are completed. Note that in some cases utility adjustments must occur during the same time period as the highway construction; in these cases the district utility and permit specialist and the project engineer must coordinate activities between the utility's contractor and the DOTD's contractor so that expenses and delays are minimized for all parties;

c. reviewing each agreement to ensure that it was completed in accordance with the *Guide for Completing the Agreement for Relocating Utilities*;

d. for each agreement a utility agreement checklist must be completed and signed by the district utility and permit specialist;

e. having the utility make all necessary corrections;

f. two original copies of the agreement and six copies of all attachments, and the utility agreement checklist shall be forwarded to the headquarters utility and permit section for final approval;

4. once approved, the headquarters utility and permit section shall distribute copies to the utility, project engineer, district utility and permit specialist, and ACT 258 file.

E. Construction

1. Utilities, driveways and other items occupying highway right-of-way must be in accordance with all DOTD policies and standards (these are summarized on the back of each permit form).

2. DOTD policy prohibits the issuance of blanket permits or agreements; a new permit or agreement is required each time work is performed on highway right-of-way.

3. The DOTD's contractor is liable for any utility adjustments required to facilitate use of his equipment, such as raising a conductor above the height required by the DOTD. Refer to the *Louisiana Standard Specifications for Roads and Bridges* for additional responsibilities of the DOTD and the DOTD's contractor in regard to utilities.

4. In order that the utility owners may proceed with the relocation of their facilities, the project engineer will furnish such stakes as required to establish lines, grades or other details indicated by the project plans to the extent normally required by a contractor.

5. The relocation or taking of utility facilities can be compelled under eminent domain laws (R.S. 48:441).

6. Notice to Proceed. The district utility and permit specialist will advise the utility when to begin work, with instructions that the utility must notify the project engineer prior to beginning work.

7. Preconstruction Conference. In accordance with EDSM III.1.1.7, a preconstruction conference with each utility is required, and a record of each conference must be made. This conference will normally be held jointly with the project engineer, district utility and permit specialist, DOTD's contractor, and all utilities. When utility adjustments are not to be performed concurrently with highway construction, the district utility and permit specialist may meet with each utility individually; however, this type of preconstruction conference should only be used when it is not possible to meet with all parties at once. At the pre-construction conference all parties shall be informed of work schedules, time schedules, and conditions requiring cooperative efforts. A complete understanding of utilization and occupancy of available right-of-way space, including the use of common ducts or ditches, should be reached between all parties. Work shall be scheduled to permit the orderly progress of all parties, and to minimize each parties time and expense.

8. Extra Work. Prior approval from the DOTD is required for additional work to be reimbursable. Procedurally:

a. either the project engineer, district utility and permit specialist, or utility will notify the other two parties of the circumstance necessitating additional work;

b. the utility prepares a change order and submits it to the district utility and permit specialist;

c. the utility and permit specialist reviews the change order and has the utility make any necessary corrections, and then forwards it to the project engineer for approval;

d. the project engineer reviews the change order, working with both the utility and district utility and permit specialist to correct any problems. Then the project engineer signs the change order, approving it. Note that the project engineer may elect to approve any portion of the change order by specifically disapproving the remaining parts. When this occurs, the project engineer must write a letter to the district utility and permit specialist explaining this action in detail. The change order is then transmitted to the district utility and permit specialist;

e. the district utility and permit specialist reviews and approves the change order by signing it and forwarding it to the headquarters utility and permit section;

f. after reviewing the change order, final approval is given by the headquarters utility and permit office.

9. Where necessary to prevent undue delay to or interference with the highway construction, the district utility and permit specialist, with the concurrence of the project engineer, may obtain verbal approval for extra work from the headquarters utility and permit engineer. The required change order must be submitted as soon as possible for approval. In emergency situations where there is danger to life and property, or where a substantial delay or cost increase may occur, the project engineer or the district utility and permit specialist may authorize additional work, provided that the headquarters utility and permit engineer is notified as soon as possible, and that the change order is submitted as soon as possible.

10. Minor Changes in Approved Work. The project engineer, with the consent of the district utility and permit specialist, may authorize minor changes in quantities or add minor items that are necessary to accomplish the intent of the agreement. Formal approval by the headquarters utility and permit engineer is not necessary; however, the final billing and the project records must adequately document these changes and the reasons for them.

11. Project Files. In accordance with EDSM III.5.1.1 separate files for each utility agreement must be kept by the district utility and permit specialist and the project engineer. All files must be maintained until the final invoice has been paid. The project engineer's completed files should be transmitted to the General Files Office, and the district utility and permit specialist's completed files should be transmitted to the district archives for storage.

12. Project Inspection and Field Records. The project engineer is required to make daily inspections of utility adjustment activities to insure that the adjustments are being accomplished in accordance with the requirements of the utility agreement and to furnish supporting documentation for payments to the utility. Form 03-40-3093 "Project Diary" is used to record the daily inspections; see EDSM III.3.1.2 for instructions. There are three types of utility agreements, lump sum, actual cost, and approved drawings. The information required for the utility diary is as follows.

a. Lump Sum Agreement. Tracking labor, materials, or salvage is not necessary. Emphasis should be placed on a description of work accomplished, and must be in sufficient detail to substantiate payment of invoices and certification that the work was accomplished in accordance with the agreement.

b. Actual Cost Agreement. A daily record of the number and classification of work force, equipment, material used, material salvaged, work accomplished, and any other information that may be of assistance in the verification of invoices is required.

c. Approved Drawing. Only a description of work accomplished, in sufficient detail to indicate that the work was accomplished in accordance with the drawings and with the DOTD's standards, is necessary.

13. All excavations within the right-of-way must be backfilled with suitable material and tamped in 6-inch layers to the approximate density of the adjacent undisturbed soil, in accordance with normal DOTD policy. A portion of the backfilling, especially beyond the limits of construction, may be visually accepted provided that the visual acceptance is noted in the utility diary. However, the project engineer shall take as many density tests as necessary to ensure that each layer of backfill meets the density requirements. The density tests are to be recorded on Form 03-22-0750 "Density and Moisture Content Work Sheet" and made part of the permanent records of the utility agreement.

F. Billing and Reimbursement Phase

1. All invoices shall be processed in accordance with the *Guide to Invoicing Procedures for Utility Relocation Projects*. The appropriate information shall be entered into the invoice database (IN) as the invoice is processed. It is to the DOTD's advantage to process final invoices as quickly as possible while the details are easily obtained; therefore, all parties should make every effort to obtain and process final invoices as soon as possible after the utility adjustments are complete.

2. For actual cost agreements:

a. the utility shall accumulate costs and submit a partial or a final billing to the district utility and permit specialist for verification and approval;

b. the district utility and permit specialist transmits the invoice to the project engineer for verification of major quantities and work, and for approval. Note that the project engineer may elect to approve a portion of the invoice, by taking exception to the remainder. When this occurs, the project engineer must write a letter to the district utility and permit specialist explaining the exception in detail. This letter is used by the headquarters utility and permit section and the audit section to determine and justify the final amount of reimbursement to the utility;

c. after signing the invoice, the project engineer shall return it to the district utility and permit specialist. The district utility and permit specialist shall resolve any problems, sign the invoice, and transmit it to the headquarters utility and permit section. If it is a final billing, the district utility and permit specialist shall complete and attach a final invoice checklist to the invoice, and include the beginning and ending dates with the transmittal. If there is a deviation of 10 percent or more from the latest estimated amount (including all bids, change orders and other revisions), then the district utility and permit specialist must include an explanation of the deviation;

d. the headquarters utility and permit section will pay up to 95 percent of each invoice prior to the audit. Invoices that are complete and final, and that have all of the required information, shall be submitted to the audit section for an audit.

3. For Lump Sum Agreements

a. The utility shall accumulate costs and submit a final billing to the district utility and permit specialist for verification and approval.

b. The district utility and permit specialist transmits the invoice to the project engineer for verification of work, and for approval.

c. After signing the invoice, the project engineer shall return it to the district utility and permit specialist. The district utility and permit specialist shall resolve any problems, sign the invoice, and transmit it to the headquarters utility and permit section along with a completed final invoice checklist.

4. Utility vouchers are completed and submitted to the financial services section, along with a copy of the invoice, for payment.

5. The financial services section processes the voucher and submits a check to the utility and permit section.

6. The utility and permit section records the check and transmits it to the utility.

7. All files are closed and transmitted to the microfilm unit for storage.

8. A complete and final invoice meeting the requirements of both the utility invoice checklist and the *Guide to Invoicing Procedures for Utility Relocation Projects* must be submitted to the district utility and permit specialist, by the utility for each actual cost agreement.

G. Utility Relocation Assistance Funding (URAF). When a publicly owned, nonprofit utility is not able to bear its share of the cost for adjusting its facilities to accommodate a highway project, it may apply for funding under R.S. 48:381(C). Please refer to the section of the manual entitled "Statutes."

H. Act 258 Compliance. R.S. 38:2223 (ACT 258) is printed in full in this manual. The DOTD interpretation and procedure is as follows.

1. Prior to the full work order being issued to the DOTD's contractor, by the project control section, the headquarters utility and permit section must notify each utility located in an area where a highway project involving utility adjustments is planned.

2. The utility complies with ACT 258 by:

a. if no agreement was executed and no drawings were submitted, the utility must submit a diagram or plat showing the correct location of all of its facilities located near the highway project, in relation to the highway project;

b. the utility is considered in compliance if it submits relocation drawings, informs the headquarters utility and permit section of this in writing, and includes the agreement number or the approved drawings number. The utility should also submit a diagram or plat showing the location of any additional facilities not shown on the original drawings. If the utility fails to comply with Act 258 within

30 days of the notification mentioned in §1329.H.1, the utility assumes full liability for any damage to its facilities resulting from highway construction, until the utility complies with ACT 258.

3. After the project control section issues a full work order, the utility and permit section transmits the drawings submitted by the utilities to the DOTD's contractor. Additional drawings submitted by the utilities are transmitted to the DOTD's contractor. The DOTD's contractor is liable for all damage to utility facilities indicated on the drawings, once they are transmitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, 38:2223.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§531. Driveway Permits

A. Guidelines. Driveway permits are required in order to assure safe and orderly movement for vehicular traffic entering and leaving the highway; to abolish hazardous and indiscriminate parking adjacent to the roadway surface; to preserve adequate sight distances at intersections; to encourage beautification of property frontage and to insure uniform design and construction of driveways on highway right-of-way. The DOTD's authority to require permits for driveways is set forth in R.S. 48:344. All rules governing the installation of driveways are now located at LAC 70:I.Chapter 15, Access Connection Permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193, 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994), amended by the Department of Transportation and Development, LR 37:353 (January 2011).

§533. Special Conditions for Permits

A. Guidelines

1. Structure shall be as approved by the district utility and permit specialist.

2. ____ (diameter in inches) culvert is to be used for drainage structure as approved by the district utility and permit specialist.

3. Drainage shall be as approved by the district utility and permit specialist.

4. All conditions contained in the attached letter from the highway contractor are to apply to this permit. All work is to be under the supervision of the DOTD's project engineer, Mr. _____, and is to be completed to his satisfaction.

5. The entire highway right-of-way affected by this work shall be restored to as good conditions as existed prior to beginning work.

6. Signing for warning and protection of traffic in instances where excavations are made in the shoulder of the roadway, or in roadway surfacing, or where workmen, equipment or materials are in proximity to the roadway surfacing, shall be in accordance with requirements contained in the DOTD's *Manual on Uniform Traffic Control Devices*.

7. The attached note requiring the use of metallic wire or tape shall apply.

8. Any nonmetallic or nonconductive (electric current) underground facility must be installed with a non-corrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. This applies to both parallel installations and crossings. Wire or tape must be connected to all fixtures and appurtenances. All PVC or polyethylene pipe crossings shall be jacked or bored in minimum of 40 feet lengths centered under the highway and shall have a minimum allowable working pressure of 200 psi. All PVC or polyethylene pipe paralleling state highways shall have a minimum allowable working pressure of 160 psi.

9. Construction/Installation shall comply with DOTD standards and be subject to the approval of the district utility and permit specialist.

10. Trees shall be cut to the ground line and completely removed from the highway right-of-way.

11. Cutting and/or trimming of trees shall comply with regulations contained on the attached supplement.

NOTE: DOTD personnel must be present when trimming is performed.

12. Notify (applicable district utility and permit specialist and address), in writing, before beginning work. This permit prohibits the actual conduct of operations by any vibrating type of equipment within the limits of the right-of-way of any highway covered by this permit. Any cables parallel to the highway shall be placed on back edge of right-of-way in such a manner as not to interfere with normal highway maintenance operations or with ingress or egress facilities of adjacent property owners. Cables shall cross roadway only through and/or under existing culverts or structures and shall be completely removed from the highway right-of-way upon completion of work or as directed by the district utility and permit specialist.

13. Notify (applicable district utility and permit specialist and address) before beginning work and after work is completed. This permit is being issued subject to the permittee obtaining written permission from the highway contractor on any highway under construction prior to doing any geophysical explorations on that highway.

14. The exact location of these test holes must be approved by the district utility and permit specialist. Upon request of the DOTD, the casing will be removed and the wells shall be filled to ground level and the affected areas of the highway right-of-way restored to their original condition. This permit does not include the interstate system or any other controlled access highway.

15. Construction shall be in accordance with "Standards for the Installation of Inverted Siphons (Rice

Flumes) under State Highways" which is printed on this form.

16. This permit is issued subject to the condition that the applicant shall remove this fence upon the request of the adjacent property owner, and at no cost to the Department of Transportation and Development. The applicant is to provide an opening in the fence in the form of a gate or other suitable facility at any time and at any location requested by the adjacent property owner. The fence must be constructed within one foot of the right-of-way line and, in no case, in a location which will interfere with the maintenance of the highway ditch or backslope. All costs and obligations for construction and satisfactorily maintaining this fence shall be the responsibility of the permittee.

17. This is to be a temporary installation for a period of time not to exceed 90 days from the date of issuance of this permit at which time this temporary line must be completely removed from the highway right-of-way. Line is to be placed on back edge of right-of-way in such a manner as not to interfere with normal highway maintenance operations or with ingress or egress facilities of adjacent property owners.

18. The inner edge of the sign shall be at least 2 feet outside the roadway shoulder. The base of the sign shall be 4 feet to 5 feet above the elevation of the roadway. Beacons are to be aimed a minimum of 2 degrees away from a tangent to the highway.

19. Flashing beacons shall be two faces placed vertically and flashed alternately on each beacon. These beacons shall be in use during school hours only.

20. This is to be a temporary driveway and upon completion of (logging) (drilling) (construction) operations shall be completely removed from the highway right-of-way.

21. Surface drainage shall be downward away from the surface of the roadway.

22. The edge of the bridge adjacent to the highway is not to be nearer than nor higher than the shoulder of the road, and drainage in the ditch is not to be blocked or impeded.

23. The edge of the board surfacing is not to be nearer than 10 feet to the edge of the traveled roadway.

24. This permit is valid only as long as this property remains residential.

25. This permit is issued subject to permittee obtaining written approval for any driveway(s) and producing, upon demand, written permission from abutting property owner, otherwise said driveway(s) shall be completely removed from the highway right-of-way. Driveway(s) is to be used for the maintenance of utilities and is not to be used for other purposes.

26. This permit is issued to allow an in place (installation) (driveway) to remain.

27. This permit is issued subject to the permittee obtaining prior written permission from adjacent owner for encroachment in front of his property and shall be included in and become a part of this permit. In the event that at any time that permission from adjacent owner is rescinded or voided the permittee shall be required to reconstruct driveway(s) to DOTD requirements and specifications.

28. No above ground appurtenances shall be located in state right-of-way by this permit.

29. Base and surface repairs shall be as directed by the district utility and permit specialist.

30. All conditions and provisions contained in Permit No. _____ are to apply to this permit which is issued to allow an in place installation to remain. Upon completion of pumping operations and removal of dredge pipe, casing shall be filled with suitable material as directed by the district utility and permit specialist.

31. That all of this work is to be done at no cost to the DOTD. Permittee shall be held responsible for the satisfactory maintenance of these plantings in the median area, and the DOTD reserves the right to effect complete removal should maintenance prove unsatisfactory. The DOTD is not to be held responsible for any damage to these plantings from normal maintenance operations by maintenance personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193, 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§535. Guide for Completing the Agreement for Relocating Utilities

A. The agreement is made up of the Articles of Agreement, Statement of Work, Estimate of Work to be Performed, and Plan of Work. The following is a guide to help complete the agreement.

1. Attention is directed to Paragraph 6b of DOTD PPM 6-6-3-1. If company is not adequately staffed to perform the work of engineers, land surveyors, architects or other professional services, approval for private consultant services must be given by the department and the Federal Highway Administration before authorization is given to perform these services.

2. The following items should be submitted to the DOTD:

a. two completed original copies of the agreement form;

b. six copies of the Statement of Work;

c. six copies of the Estimate of Cost (Exhibit A);

d. six copies of the drawings (Exhibit B).

3. Articles of Agreement (two copies). The Articles of Agreement should be completed as follows:

a. Page 1:

i. principal office of the company;

ii. name and title of the official representing the company;

b. Page 3:

i. estimated number of working days (Article VIII);

ii. method by which the costs will be developed (Article IX);

iii. amount of the agreement (Article X);

iv. signature of company official, with witnesses;

v. street address of location where records may be audited.

4. Statement of Work to be Performed (six copies). The statement of work should be brief but informative and should include but not be limited to:

a. a short narrative of the work to be performed;

b. a more complete narrative of individual relocations which would not follow a routine relocation;

c. a statement that the work will be performed by company forces, continuing contract, competitive bids or other method;

d. an explanation of betterments if included in the relocation;

e. estimated number of working days to complete the adjustments;

f. justification for removal or abandonment of existing facilities, followed by documentation in estimate if necessary.

5. Estimate of Cost (Exhibit A) (six copies). The estimate of cost should clearly show how the cost of the relocation is developed. (Note that the final invoice must be in the same format as the estimate.) The estimate should be developed under the following applicable Subparagraphs:

a. preliminary engineering;

b. right-of-way;

c. temporary construction;

d. permanent construction;

e. removal costs;

f. salvage;

g. betterment;

h. supervision and overhead.

6. Each section should show the costs by items, unit hours, man hours, contract unit prices, etc., in the same manner as the actual costs will be charged or that would support a lump sum estimate. A summary or recap of the sections shown above must be included.

7. Plan of Work (Exhibit B) (six copies). The plan of work should present a clear picture of all the work to be performed. The plan should by appropriate symbols and legend show:

a. Project Features:

i. highway centerline;

ii. highway stationing;

iii. highway right-of-way limits;

iv. control of access lines where applicable;

b. Company Features:

i. facilities removed;

ii. facilities placed;

iii. facilities abandoned, with justification for abandonment included in estimate and/or statement of work;

iv. facilities to be adjusted;

v. facilities in place to remain;

vi. all existing and new facilities should be identified by highway stationing;

vii. adequate notation should be made on the drawings, or profile sketches included, showing minimum depth of cover or vertical clearances for all facilities, both parallel and crossings, installed within highway right-of-way;

viii. distances from new facilities to either highway centerline, edge of roadway or right-of-way line;

ix. legend for symbols used;

x. company's title block or other means of identifying drawings (Note: the company's name must appear on all drawings);

xi. existing and proposed utility right-of-way;

xii. for existing and proposed gas pipelines subject to minimum federal safety standards:

(a). maximum operating pressure, class location and temperature of gas;

(b). outside diameter, wall thickness, material specification and minimum yield strength of carrier pipe;

(c). outside diameter, minimum yield strength, and wall thickness of casing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381-382, 48:193, 48:344.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

§537. Guide to Invoicing Procedures for Utility Relocation Projects

A. General Information

1. When selecting a contractor, the DOTD is not allowed to pay interest, late charges, or any other related penalty fees.

2. The agreement is between the DOTD and the utility, contractors should not contact the DOTD directly about payments.

3. No invoices may be paid until evidence of compensable property is submitted (i.e., copies of right-of-way servitudes, deeds, or an affidavit stating the right to occupy the area).

4. It takes approximately four weeks to produce a check once the headquarters office submits a voucher to accounting.

5. When state funds are used, the project records of all parties involved on a utility adjustment project is subject to audit by DOTD auditors. This includes all utility company, consultant, and contractor records.

6. It takes one to three months for an audit once the headquarters office submits a project to audit. Note that all final invoices for actual cost agreements must be audited.

7. When invoicing the DOTD, the company must submit three copies of the invoice to the district utility specialist.

8. The purpose of lump sum agreements is to eliminate paper work on projects involving small costs (less than $25,000 on federal projects or $75,000 on state projects) to the state. Therefore, partial payments are not made on lump sum agreements.

9. Three copies of a final and complete invoice should be submitted to the district utility specialist, as soon as possible, after completing the utility adjustments specified in the utility agreement.

10. The following DOTD personnel examine, approve, or otherwise handle each partial invoice:

a. district utility specialist;

b. project engineer;

c. headquarters utility specialist;

d. utility and permit engineer;

e. DOTD accounting and Division of Administration personnel;

f. headquarters utility check processing clerks.

B. Final Invoice—Lump Sum Agreements. Final invoice requirements for lump sum agreements are as follows.

1. The invoice must be on company letterhead.

2. The first page of the invoice must contain:

a. the state project number for construction;

b. the agreement number;

c. the parish where the project was located;

d. a statement that it is a lump sum billing;

e. indicate the total amount requested for reimbursement (this amount must match the agreement).

C. Final Invoice—Actual Costs Agreements. Final invoice requirements for actual costs agreements are as follows.

1. The invoice must be in the same general format as the estimate (Exhibit A).

2. The invoice must be on company letterhead.

3. The first page of the invoice must contain:

a. the state project number for construction;

b. the agreement number;

c. the parish where the project was located;

d. a statement that it is a final billing;

e. the total cost of the adjustments, and the total amount requested for reimbursement;

f. the beginning and ending dates for the construction.

4. All supporting data should be attached with the final invoice.

5. If the final costs differ by more than 10 percent from the estimated costs, after adjustments for approved bids and change orders, an explanation for the overrun/underrun should be submitted with the invoice.

D. Partial Invoices (Actual Cost Agreements). Partial payments may be made on projects with actual cost agreements when the amount of state liability exceeds $25,000. Note that partial payment requests are submitted at the utility's option, and are not required by the state. The following is applicable for partial invoices.

1. Partial payment request for projects exceeding $25,000 may be made using one of the following procedures.

a. Percentage of the original estimate:

i. 25 percent invoice;

ii. 50 percent invoice;

iii. 95 percent invoice;

iv. final invoice.

b. Expenditures by item:

i. preliminary engineering;

ii. materials and storage;

iii. right-of-way and clearing;

iv. total amount (final invoice).

c. Additional partial invoices may be submitted when the state's liability is expected to exceed $250,000, or if the relocation construction time exceeds one year. However, all partial invoices must be in excess of 10 percent of the total costs of the project.

2. Partial invoices requirements are as follows.

a. The invoice must be on company letterhead.

b. The first page of the invoice must contain:

i. the state project number for construction;

ii. the agreement number;

iii. the parish where the project was located;

iv. the invoice number (i.e., the first invoice is Number 1, the second is Number 2, etc.);

v. a statement that it is a partial billing;

vi. indicate the total amount requested for reimbursement.

c. Supporting data should be attached to each invoice.

E. Utility Estimate

1. The initial estimate for Federal Aid Projects, used to initiate federal funding, is provided by the Federal Aid Unit, and is a percentage of the right-of-way estimate. The utility section has no input into this estimate.

2. The initial estimate for non-federal aid projects is based on an average expense of $25,000 per utility per project, with any large expenses, such as electrical substations, added. This estimate is only provided when requested.

3. After the preliminary plans and survey report are received, the district utility and permit specialist contacts each utility company for a rough estimate. Then this estimate is used to request funds from the state/federal aid administrator, for state projects, or the federal aid administrator, for federal projects.

4. The next estimate is prepared when all the utility agreements have been executed; usually about six weeks prior to the letting. This estimate is based on a detailed breakdown of the costs of the adjustments. If there is a significant deviation from the previous estimate, this estimate is used to adjust funds and to update the federal alternate procedure. At this point, the estimate is usually within 10 percent of the actual cost.

5. Additional estimates may be prepared when significant deviations occur during the construction phase.

F. Common Causes for Deviations

1. Additional utility facilities are found. This occurs when the survey list is old, construction plans are changed, when the letting is delayed for an extended period, and when the survey list is inaccurate.

2. Prices increase over time. This occurs when the letting is delayed for an extended period.

3. Additional adjustments are required, due to design modifications and field changes to highway construction, or due to unforeseen conflicts with other utility facilities.

4. The utility's contractor costs increase, usually due to design modifications and field changes to highway construction, or due to unforeseen conflicts with other utility facilities.

5. A high expense item requires adjustment, such as electrical substations, pipelines with special requirements, etc. These items are not apparent during the preliminary estimates, but usually appear in estimate in §537.F.3 and 4 as described above.

6. Insufficient right-of-way increases relocation expense. This occurs when existing utilities are not considered when purchasing right-of-way, when the consultant does not consider utilities when designing the project, and when construction servitudes are purchased instead of right-of-way.

7. Double Moves. Utilities are sometimes required to relocate twice on a project. This occurs in highly congested areas where space is at a premium, and when construction servitudes are purchased instead of right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:317 (March 1994).

Chapter 7. Utility Operator Fees

§701. Use of Rights-of-Way

A. Following is a schedule of fees for use of highway rights-of-way by utility operators.

Operator Type	Customers	Annual Fee
Class 1	0-100	$ 20
Class 2	101-500	$ 50
Class 3	501-6000	$200
Class 4	more than 6000	$700
Operator of Transmission Pipelines $100/Parish; $1500/Maximum		

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(E).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:318 (March 1994).

§703. Procedure

A. Following is the procedure for the processing of utility operator permit fees.

1. This fee only covers use of highway right-of-way for utility facilities and driveways; it does not cover attachments to structures, leasing excess property or joint use agreements.

2. The fee shall cover all utility facilities owned by the utility operator, regardless of how many different types of facilities are owned by the operator.

3. If, as the result of a highway relocation or other activity performed for the benefit of Department of Transportation and Development, a utility operator that previously had no facilities within highway right-of-way has facilities within highway right-of-way, this operator shall maintain his prior rights, and shall not be liable for this fee,

until such time as he places additional facilities within the right-of-way.

4. Class 1 and Class 2 operators who own facilities that cross highways perpendicularly, and that have no facilities located longitudinally within highway right-of-way shall be exempt from this fee.

5. Each operator shall include in his application updated information which may affect the amount of his invoice.

6. Each December the Department of Transportation and Development shall invoice all known utility operators with facilities located within state highway right-of-way.

7. Each operator shall pay the invoice in full by January 31 of the following year.

8. One fee shall be paid by each owner, regardless of how many divisions or types of facilities he owns.

9. Separate companies owned by the same parent company shall each pay separate fees.

10. Issuance of permits to operators failing to submit full payment by February 1 of each year shall be suspended. The operator shall be notified of this deficiency, and shall have 60 days from the date of this notification to submit payment in full. Facilities owned by operators who fail to submit full payment within the 60-day notification period shall be removed from highway right-of-way.

11. All payments shall be in a lump sum form, and shall be paid by cashier's check, money order, or approved alternative.

12. Upon receipt of all monies, the Department of Transportation and Development shall deposit same in the Right-of-Way Permit Processing Fund. All monies existing in this fund at the end of each fiscal year shall be retained in the Right-of-Way Permit Processing Fund and shall not be deposited in the General Fund

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(E).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 20:318 (March 1994), amended LR 20:1020 (September 1994).

Chapter 9. Requirement for Utility Companies to Subscribe to Louisiana Regional Notification Center

§901. General

A. No underground facility shall be permitted within highway right-of-way under the jurisdiction of the Louisiana Department of Transportation and Development unless and until the facility owner subscribes to the services of the Louisiana Regional Notification Center as provided for in R.S. 40:1749 et seq. This subscription must be continued throughout the duration of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 21:706 (July 1995).

§903. Exceptions

A. Owners of utility distribution facilities serving less than 100 customers shall be exempt from the requirement of subscription to the Regional Notification Center for purposes of installation in rights-of-way controlled by the Department of Transportation and Development.

B. The Department of Transportation and Development headquarters utility and permit engineer may exempt owners of utility distribution facilities within highway project limits when said owners are required to relocate their facilities in order to accommodate highway construction. This exemption shall be determined on a project-by-project basis.

C. Municipalities or parish governments which adopted ordinances exercising their options not to participate in the regional notification program, in accordance with the provisions of R.S. 40:1749.19, shall be exempt from the requirement of subscription to the Regional Notification Center for purposes of installation in rights-of-way controlled by the Department of Transportation and Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 21:706 (July 1995).

§905. Sanctions

A. Unless specifically exempted, each owner of utility distribution facilities who does not comply with the requirements set forth herein shall be unable to obtain a permit for activity within highway rights-of-way under the jurisdiction and control of the Department of Transportation and Development. This suspension of the permitting process may be lifted if the owner comes into compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Utility and Permit Section, LR 21:706 (July 1995).

Chapter 11. Contracts, Leases and Agreements

§1101. Joint Use Agreements

A. Elements of the Lease

1. At the initiation of the lease, DOTD's real estate section will estimate the fair market lease value of the property. That value will be utilized in determining the amount charged as a rental fee. At the conclusion of a five-year term, the market value of the leased property will be reassessed. If the lessee chooses not to renew the lease and pay the revised fair market value as a fee, the lease shall expire.

2. DOTD property that is "excess," or that was expropriated through unfriendly negotiations will not be eligible for lease. DOTD "excess" property shall be disposed of in accordance with R.S. 48:224 and EDSM Number I.1.1.10, and shall not be leased.

3. Property that bears improvements constructed with public funds will not be eligible for lease for a period of 20 years from the date of completion of said improvements.

4. Preference in use of right-of-way is as follows:

a. highway purposes;

b. drainage purposes;

c. legal street connections purposes;

d. legal driveway connections purposes;

e. utilities purposes;

f. joint use (lease) purposes.

5. Preference for availability of joint use leases shall be given to the following entities, in the following order:

a. governmental bodies using the property for the general public and generating no revenue;

b. governmental bodies;

c. the land owner from whom the property was expropriated;

d. adjacent land owners;

e. general public.

6. Title and control of the area of right-of-way involved will remain with DOTD.

7. Subleasing is prohibited without the prior written consent of DOTD.

8. Use of property shall be in accordance with local building and zoning ordinances and/or codes.

9. DOTD may terminate the lease agreement at any time and require lessee to vacate the premises and remove all improvements. Improvements not removed by lessee within 30 days may be removed by DOTD at lessee's expense.

10. The lease shall be subordinate to any existing agreements between DOTD and other parties affecting the leased property.

11. Illegal activities on the premises conducted by lessee are prohibited and shall trigger automatic termination of the lease.

12. All heavy commercial activity and the serving of alcohol are prohibited on the leased premises.

B. Application Procedure

1. Parties interested in leasing state right-of-way must contact the headquarter's utility and permit engineer at the permit office of DOTD.

2. The applicant must submit, in writing to the headquarter's utility and permit engineer, a proposal detailing the use of the property including a location description. The headquarter's utility and permit engineer will distribute copies of the proposal to the district office and other appropriate parties within the department.

3. DOTD will investigate proposed highway improvements in the area and the viability of leasing the property.

4. If a lease agreement is viable, then the applicant must submit:

a. a layout map of the requested area showing DOTD right-of-way, including a metes and bounds description;

b. a written metes and bounds description of the area labeled as "Exhibit A";

c. detailed plans showing any improvements to be placed on the premises including structures, type of material used, appearance, fences which may be required, and any other pertinent information, labeled "Exhibit B";

d. vertical clearance between area to be used and bottom of overhead structure.

5. DOTD's real estate section will estimate the fair market lease value of the property.

6. If more than one party is interested in leasing the same parcel of property:

a. DOTD shall first attempt to facilitate a cooperative endeavor agreement between the parties, so that the property can be shared;

b. if a cooperative endeavor is not possible, then §1101.A.5 shall be utilized to select a lessee;

c. if two or more parties tie for top choice, then DOTD shall initiate a bidding process as follows:

i. all parties will be informed of the bid situation and given 30 days to prepare bids;

ii. DOTD shall designate a date to receive sealed bids;

iii. the headquarter's utility and permit engineer shall open all bids on the same day;

iv. bids more than 10 percent below the estimated fair market value shall be rejected. All bids for uses that the headquarter's utility and permit engineer deems prohibited, inappropriate, or inconsistent with use of the property by DOTD shall be rejected. If any bids remain, the lease shall be awarded to the highest bid. If no eligible bids remain, then the bid process may be repeated. If there are still no eligible bids, then all proposals shall be discarded. In the event of a tie, the tied parties will be allowed to toss a coin to determine the winning bidder.

7. DOTD performs all required reviews of the request, including an environmental assessment. The applicant may

be required to submit corrected and/or additional information.

8. Once the submittal is complete and correct and the environmental clearance is issued, the request is given final approval by the headquarter's utility and permit engineer.

9. The request is then submitted to the Federal Highway Administration (FHWA) for review and becomes effective upon the concurrence of FHWA.

NOTE: FHWA concurrence is not required for some state routes.

C. Improvements

1. No improvements or alterations, including landscaping, shall be made upon the premises without written approval of DOTD.

2. The improvements and the property must be maintained by the lessee in good condition. Maintenance must be accomplished so that there is no unreasonable interference with the transportation facility.

3. All plans for construction of any improvements must be reviewed and approved by DOTD. Preliminary plans must be submitted with the initial application.

4. At the conclusion of the lease, all improvements must be removed leaving the property in its original condition. In special cases improvements may remain with written consent from DOTD, provided there is no expense to DOTD.

D. Maintenance and Inspection

1. The lessee shall, at its sole expense, keep and maintain the premises at all times in an orderly, clean, safe, and sanitary condition.

2. If proper maintenance is not performed, DOTD reserves the option to cancel the lease or perform the maintenance and obtain reimbursement from the lessee.

3. The lessee shall maintain the premises at the lessee's own expense, including all driveways, fences, and guardrails, subject to the approval of DOTD. The lessee shall be liable for reimbursement to DOTD for any damage to DOTD property.

4. On-premise signs, displays, or devices may be authorized by DOTD, but shall be restricted to those indicating ownership and type of activity being conducted in the facility, and shall be subject to reasonable restrictions with respect to number, size, location, and design.

5. Inspections of the property may be performed by a DOTD representative to assure compliance with all the rules set forth in the lease. DOTD specifically reserves the right of entry by any authorized employee, contractor, or agent of DOTD for the purpose of inspecting said premises, or the doing of any and all acts necessary on said premises in connection with protection, maintenance, painting, and operation of structures and appurtenances. DOTD reserves the further right, at its discretion, to immediate entry upon the premises and to take immediate possession of the same only in case of any national or other emergency and for the protection of said structures; and, during said period, lessee shall be relieved from the performance of all conditions of the agreement.

6. All structures shall be of fire resistant construction as defined by the applicable building codes, and will not be utilized for the manufacture of flammable material, or for the storage of materials or other purposes deemed by the DOTD or Federal Highway Administration to be a potential fire or other hazard to the highway.

7. The lessee shall secure all necessary permits required in connection with operations on the premises and shall comply with all federal, state, and local statutes, ordinances, or regulations which may affect the lessee's use of the premises.

E. Liability of Lessee

1. The lessee shall occupy and use the property at its own expense, and shall hold DOTD, its officers, agents, and employees, harmless from any and all claims for damage to property, or injury to, or death of, any person entering upon same with lessee's consent, expressed, or implied.

2. The lessee shall carry liability insurance to indemnify claims resulting from accidents and property damage, which coverage shall be extended to include the facilities authorized in this agreement, to provide for the payment of any damages occurring to the highway facility and to the public for personal injury, loss of life and property damage resulting from lessee's use of the premises. DOTD shall be named as an additional insured and proof of such required insurance shall be provided to DOTD prior to occupancy. The insurance company and lessee shall notify DOTD, in writing, at least 30 days prior to cancellation of changes affecting the required insurance coverage.

F. Credit Check and Security Deposit

1. DOTD may require a credit check.

2. A security deposit may be required at the discretion of the DOTD.

G. Payment

1. Payment will be due on the first day of every year. If the lease begins in the middle of the year, the rent will be prorated for that year according to the number of days remaining in that year.

2. At the discretion of DOTD, payment may be due on a monthly basis.

3. Payments must be made by check, money order, or certified check.

4. If a lessee submits a bad check for payment, he will no longer be allowed to pay with personal checks. Future payments must be made by certified checks or money orders.

H. Governmental Entities

1. The fees may be waived for governmental entities if there is no revenue derived by the use of the property.

2. If the revenue generated is not sufficient to cover operating expenses and the joint use fee, the rent may be reduced to 10 percent of the gross revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.1.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 24:1135 (June 1998).

Chapter 13. Permits for Rural Water Districts

§1301. Exemptions

A. All parish and municipal facilities are exempt from payment of annual permit fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381 (E).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:228 (March 1996).

§1303. Expense Reimbursement

A. The Department of Transportation and Development shall reimburse any reasonable expenses incurred by the rural water districts during an inspection and issue permits insofar as funding for such expense is available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(E).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:228 (March 1996).

§1305. Inspection Fee Reimbursement

A. Rural water districts shall comply with the following regulations if inspection fees are to be reimbursed.

1. A cost estimate per unit break-down shall accompany each permit request. The minimum cost reimbursable estimate shall be one inspector-hour.

2. The rural water district shall notify DOTD within 72 hours of completing work, and DOTD shall arrange for a final inspection. Failure to notify DOTD within the time limit specified shall relieve DOTD of any responsibility for reimbursement of inspection fees.

3. The rural water district shall submit the detailed invoice to DOTD within one week of the final inspection.

4. Upon receipt of the above information, DOTD shall schedule an audit of the rural water district's records. Upon completion of audit, all verifiable inspection expenses shall be paid by DOTD. Any expenses which cannot be verified by the DOTD auditor will not be approved for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(E).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:228 (March 1996).

§1307. Fees Covering Expenses

A. Reasonable inspection fees include one rural water district representative for the on-site inspection by DOTD, and other expenses incurred as a result of DOTD requests, such as surveying, excavating, probing, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381 (E).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:228 (March 1996).

§1309. Expenses Not Reimbursed

A. DOTD shall not reimburse expenses associated with highway relocation projects or expenses incurred after the permitted work has been completed.

B. Rural water districts that have received or requested Utility Relocation Assistance Funds (URAF) shall not be eligible for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(E).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:228 (March 1996).

Chapter 15. DOTD Wireless Telecommunications Permit

§1501. Purpose

A. In accordance with the provisions R.S. 48:381.2, the chief engineer of the Department of Transportation and Development, or his designee, may issue nonexclusive permits, on a competitively neutral and nondiscriminatory basis for use of public rights-of-way to utility operators for the purpose of installation of wireless telecommunications equipment and facilities within highway rights-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:96 (January 1999).

§1503. General Conditions and Standards

A. Any facilities placed within the highway right-of-way shall be placed in accordance with existing federal, state, or local laws and the standards of the department. Environmental clearances may also be necessary and are the responsibility of the permit applicant.

B. All facilities, after having been erected, shall at all times be subject to inspection and the department may require such changes, additions, repairs, relocations and removal as may at anytime be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway and to provide proper and safe protection to life and property on or adjacent to the highway, or in the interest of safety to traffic on the highway. The cost

of making such changes, additions, repairs and relocations shall be borne by the permit applicant, and all cost of the work to be accomplished under this permit shall be borne by the permit applicant.

C. The proposed facilities, their operation or maintenance shall not unreasonably interfere with the facilities or the operation or maintenance of the facilities of other persons, firms or corporations previously issued permits for use and occupancy of the highway right-of-way, and the proposed facilities shall not be dangerous to persons or property using or occupying the highway or using facilities constructed under previously granted permits of use and occupancy.

D. It is the duty of the applicant to determine the existence and location of all facilities within the highway right-of-way by reviewing departmental records for previous permits in the applicable area.

E. Installations within the highway right-of-way shall be in accordance with applicable provisions contained in the following: AASHTO Guide for Accommodating Utilities within Highway Right-of-Way, Code of Federal Regulations 23 (CFR 23), National Electrical Safety Code C2, 1996 Federal Telecommunications Act. Those facilities not included in the above mentioned documents shall be in accordance with accepted practice. Where standards of the department exceed those of the above cited codes, the standards of the department shall apply. The department reserves the right to modify its policies as may be required if conditions warrant.

F. Data relative to the proposed location, relocation and design of fixtures or appurtenances as may be required by the department shall be furnished to the department by the applicant free of cost. The permit applicant shall make any and all changes or additions necessary to make the proposed facilities satisfactory to the department.

G. Cutting and trimming of trees, shrubs, etc., shall be in accordance with the department's EDSM IV.2.1.6 and vegetation manual, as revised.

H. The applicant agrees to defend, indemnify, and hold harmless the department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, costs or expenses, including attorneys' fees sustained by reason of the exercise of their permit, whether or not the same may have been caused by the negligence of the department, its agents or employees, provided, however, that the provisions of this last clause (whether or not the same may have been caused by the negligence of the department, its agents or employees) shall not apply to any personal injury or property damage caused by the sole negligence of the department, its agents or employees, unless such sole negligence shall consist or shall have consisted entirely and only of negligence in the granting of a permit.

I. The permit applicant agrees to provide proof of liability insurance sufficient to indemnify the department from claims resulting from accidents associated with the use of the applicable permit. The applicant and its insurer shall notify the department in writing at least 30 days prior to cancellation of the insurance or prior to any other changes affecting the insurance coverage.

J. The applicant is the owner of the facility for which a permit is requested and is responsible for maintenance of the facility. Any permit granted by the department is granted only insofar as the department possesses the power and right to grant the same.

K. Any permit granted by the department is subject to revocation at any time.

L. Signing for warning and protection of traffic in instances where workmen, equipment or materials are in close proximity to the roadway surfacing, shall be in accordance with requirements contained in the department's manual on uniform traffic control devices. No vehicles, equipment and/or materials shall operate from, or be parked, stored or stock-piled on any highway, median, or in an area extending from the outer edge of the shoulder of the highway on one side to the outer edge of the shoulder of the highway on the opposite side.

M. All provisions and standards contained herein relative to the installation of utilities shall apply to future operation, service and maintenance of utilities.

N. Drainage in highway side and cross ditches must be maintained at all times. The entire highway right-of-way affected by work under a permit must be restored to its preexisting condition, and shall be approved by the department's right-of-way permits engineer.

O. Any non-metallic or non-conductive underground facility must be installed with a non-corrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. Wire or tape must be connected to all facilities.

P. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any underground facilities, such as cable or conduits, the applicant must be a member of Louisiana One-Call.

Q. A copy of the permit applicant's FCC license and registration number shall be submitted with the permit application. For towers in excess of 200 feet in height, a copy of FAA approval shall also be submitted to DOTD. All registration numbers shall be posted on the tower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:96 (January 1999).

§1505. Specific Standards for Installation and Operation of Wireless Telecommunication Tower Facilities

A. All materials and workmanship shall conform to the requirements of the applicable industry codes and to department specifications.

B. All safety precautions for the protection of the traveling public shall be observed. Delays to traffic will be minimized to the maximum extent possible during construction of wireless telecommunication facilities. Acceptable delays will be determined and approved by the DOTD permit engineer. Thereafter, no traffic delays are permissible. These precautions shall be in force and effect not only during the construction phase of the installation, but shall also be in force and effect at all times that maintenance is required. (See Manual on Uniform Traffic Control Devices-MUTCD.)

C. There shall be no unsupported, aerial installation of horizontal or longitudinal overhead power lines, wireless transmission lines, or other overhead wire lines, except within the confines of the wireless operator's facility as described herein.

1. Coaxial transmission lines, tower light power cables, and other wires or cables necessary for the proper and safe operation of the telecommunication facility required to crossover from the operator's equipment pad, shelter, or other means of communications equipment housing, to the vertical tower structure, shall be supported along their entire horizontal length by a structural cable trough and shall not exceed 25 feet in length.

2. Electrical utility lines, wireline telephone lines, and other utility services transmitted via wireline shall be installed underground in accordance with the National Electrical Code, and the department's specifications.

3. It is the responsibility of the wireless facility operator to negotiate with owners of preexisting utilities in order to have the preexisting lines relocated to accommodate these new installations.

4. Joint use agreements and existing permits and servitudes will be taken into consideration in determining areas for installations.

D. All excavations within the limits of the right-of-way shall be backfilled and tamped in 6 inch layers to the density of the adjacent undisturbed soil. Where sod is removed or destroyed, it shall be replaced within one week. Where existing soil material is, at the discretion of the department, unsuitable for backfill, select material shall be furnished in lieu thereof, and the existing material shall be disposed of by approved methods.

E. Where total clearing and grubbing is required by the telecommunication facility operator, the operator is authorized to retain all cleared timber and shall be responsible for removing all cleared timber from the right-of-way. The operator must follow-up with submittal of a landscape plan which may include an erosion control seeding plan approved by DOTD.

F. Installations through drainage structures are strictly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:98 (January 1999).

§1507. Order of Preference in Location Selection (to be Determined by the Department)

A. Rest areas and stationary weigh stations;

B. power poles and light standards;

C. on longitudinal elevated structures;

D. co-located on DOTD-owned communications tower facilities;

E. inside interchange loops and adjacent on/off ramps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:98 (January 1999).

§1509. Fees

A. The following fees shall apply to wireless telecommunications installations placed within state highway rights-of-way.

Type of Tower	Annual Fee
Self-Supporting Tower/Antenna	$3,500
Monopole/Antenna	$2,000
Attachments to Existing Utility/Light Poles	$1,500
Co-Location on DOTD Tower	$3,500
Video Cameras	Supply feed to DOTD

B. All permit fees must be paid to the department by check or money order. The department will not accept cash.

C. All permits will be in force and effect for a period of one year, but may be renewed for the same fee each year for a maximum of 10 years.

D. The department may waive fees in exchange for shared resources.

E. The department may waive fees for those permit applicants who erect facilities, attachments or cameras for the use of the department or other state agencies or political subdivisions to conduct departmental or state work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:98 (January, 1999), amended LR 30:272 (February 2004).

§1511. Types of Towers Permitted

A. In rest areas, weigh stations, maintenance units, and other large tracts of property:

1. 350 ft. (maximum) self supporting lattice type towers;

2. 195 ft. (maximum) monopole tower;

3. lighted monopole tower replacement of light standard;

4. existing communication tower.

B. Other acceptable areas:

1. 195 ft. (maximum) monopole tower;

2. lighted monopole tower replacement of light standard;

3. elevated structure;

4. 350 ft. (maximum) self supporting lattice type towers;

5. existing communication tower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:99 (January 1999).

§1513. Co-Location

A. DOTD communications equipment shall be allowed to co-locate on wireless facility towers, at no cost to DOTD, provided that the tower's structural capacity is adequate to safely support such additional use; the existing space on the tower is at the height DOTD desires; and no technical factors exist which would prohibit such a co-location.

B. Wireless facility operators, in certain instances, may be permitted to strengthen DOTD-owned towers, at the sole cost of the wireless facility operator, to provide additional structural capacity for multiple users. Alternatively, the tower structure may be replaced, rather than modified. Ownership of the new or modified tower and responsibility for maintaining the tower shall be negotiated prior to issuance of the permit, and shall be stated on the front of the permit. Applicant shall submit a structural analysis with the permit application. DOTD retains the right in perpetuity to have its antennae, pre-existing or added subsequent to permit issue, mounted on the new or modified tower.

C. Each wireless facility operator which co-locates on existing wireless telecommunication facilities operating within DOTD rights-of-way shall be subject to the same conditions and requirements which apply to the owner of the tower. The co-locator shall meet all departmental standards and policies and shall access the facility only after receiving prior written permission from the department.

D. When co-locating on an existing wireless telecommunication facility, each installation must be permitted separately by the co-locating facility owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:99 (January 1999), amended LR 30:272 (February 2004).

§1515. Attachments to Existing Bridge Structures

A. No authorized attachment to an existing structure shall cause technical interference with any equipment on the facility.

B. Plans will be submitted to the bridge design engineer and the structures and facilities maintenance engineer for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:99 (January 1999).

§1517. Access Requirements

A. Repairs under the roadway will not be allowed if such repairs necessitate open cutting the highway. If a problem occurs with a line crossing, the applicant must install a new crossing. The applicant must bear 100 percent of the cost.

B. Prior to the start of construction of wireless telecommunication facilities, the District Permit Office shall be contacted and notified of the required construction time to complete the wireless facility. The permit engineer may provide the operator with a specific authorized duration for access to the construction site.

C. Facilities Requiring Less than Six Accesses per Year

1. Access to the telecommunication facilities located adjacent to controlled access highways shall be first from the land side, second from the interchange (longitudinally) and third from the highway (to be approved in each instance). This shall not apply to those facilities with pre-existing access, such as rest areas, weigh stations or district offices.

D. The applicant shall contact the DOTD District Permit Office and obtain approval for each time that the facility must be accessed, including routine maintenance and meter reading, as well as any other access. For non-emergency accesses, the applicant shall give at least two days notice, and no more than 10 days notice. The applicant shall give as much notice as possible for emergency access; and shall inform the DOTD District Permit Office after the fact when it is not possible to give advanced notice.

E. Facilities Requiring Six or More Accesses per Year

1. Access to the facility shall meet all standard driveway requirements. Access to facilities located adjacent to controlled access highways shall be from the land side. This shall not apply to those facilities with pre-existing access, such as rest areas, weigh stations or district offices.

2. The applicant shall contact the DOTD District Permit Office and obtain approval for any change in the structure or configuration of the facility. Approval from DOTD is not required for routine maintenance or minor changes to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:99 (January 1999).

§1519. Security Requirements

A. Fences, parking, and other security measures may be permitted in accordance with other DOTD standards.

B. Traffic barriers and/or crash mitigation structures shall be installed as deemed necessary by the permit engineer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:100 (January 1999).

Chapter 17. Fiber Optic Permit Rules

§1701. General Permit Conditions and Standards

A. The rights and privileges granted to applicant shall be non-exclusive and shall not be construed to be any broader than those expressly set forth in Louisiana law. Any facilities placed on the highway right-of-way shall be placed in accordance with existing laws and the standards of the department.

B. All facilities, after having been erected, shall at all times be subject to inspection. The department reserves the right to require such changes, additions, repairs, relocations and removal as may at any time be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway, to provide proper and safe protection of life and property on or adjacent to the highway, or to insure the safety of traffic on the highway. The cost of making such changes, additions, repairs and relocations shall be borne by the applicant, and all of the cost of the work to be accomplished under the permit shall be borne by the applicant.

C. The proposed facilities, their operation and maintenance shall not unreasonably interfere with the facilities or the operation or maintenance of the facilities of other persons, firms or corporations previously issued permits of use and occupancy. The proposed facilities shall not be dangerous to persons or property using or occupying the highway or using facilities constructed under previously granted permits of use and occupancy. Departmental records of prior permits are available for inspection. It is the duty of the applicant to determine the existence and location of all facilities within the highway right-of-way.

D. Installations within the highway right-of-way shall be established in accordance with applicable provisions contained in the following:

1. AASHTO Guide for Accommodating Utilities within Highway Right-of-Way;

2. Code of Federal Regulations, 23 CFR 23;

3. National Electrical Safety Code (C2); and

4. 1996 Federal Telecommunications Act.

E. Those facilities not included in the above mentioned documents shall be established in accordance with accepted practice. Where standards of the department exceed those of the above cited codes, the standards of the department shall apply. The department reserves the right to modify its policies, as may be required, if conditions warrant.

F. Data relative to the proposed location, relocation and design of fixtures or appurtenances, as may be required by the department, shall be furnished to the department by the applicant free of cost. The applicant shall make any and all changes or additions necessary in order to receive departmental approval.

G. Cutting and trimming of trees, shrubs, etc., shall be in accordance with the department's EDSM (Engineering Directives and Standards Manual) IV.2.1.6 and Vegetation Manual, as revised.

H. The applicant must agree to defend, indemnify, and hold harmless the department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, costs or expenses, including attorneys' fees sustained by reason of the exercise of the permit, whether or not the same may have been caused by the negligence of the department, its agents or employees, provided, however, the provisions of this last clause (whether or not the same may have been caused by the negligence of the department, its agents or employees) shall not apply to any personal injury or property damage caused by the sole negligence of the department, its agents or employees, unless such sole negligence consists or shall have consisted entirely and only of negligence in the granting of a project permit or project permits.

I. The applicant is the owner of the facility for which a permit is requested, and is responsible for maintenance of the facility. Any permit granted by the department is granted only insofar as the department had the power and right to grant the permit. Permits shall not be assigned to another company without the express written consent of the department.

J. Any permit granted by the department is subject to revocation at any time.

K. Signing for warning and protection of traffic in instances where workmen, equipment or materials are in close proximity to the roadway surface, shall be in accordance with requirements contained in the manual on uniform traffic control devices. No vehicles, equipment and/or materials shall operate from, or be parked, stored or stockpiled on any highway or in an area extending from the outer edge of the shoulder of the highway on one side to the outer edge of the shoulder of the highway on the opposite side, including the median of any divided highway.

L. All provisions and standards contained in the permit relative to the installation of utilities shall apply to future operation, service and maintenance of utilities.

M. Drainage in highway side and cross ditches must be maintained at all times. The entire highway right-of-way affected by work under a permit must be restored to the satisfaction of the department.

N. Any non-metallic or non-conductive underground facility must be installed with a non-corrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. Wire or tape must be connected to all facilities.

O. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any

underground facilities such as cable or conduits, the applicant must be a member of Louisiana One-Call.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:2463 (December 1999).

§1703. Specific Standards for Installation of Fiber-Optic Cable

A. All materials and workmanship shall conform to the requirements of the applicable industry code and to department specifications.

B. All safety precautions for the protection of the traveling public must be observed. Undue delay to traffic will not be tolerated.

C. All excavations within the limits of the right-of-way shall be backfilled and tamped in 6 inch layers to the density of the adjacent undisturbed soil. Where sod is removed or destroyed, it shall be replaced within one week of the original disturbance. Where existing spoil material is, at the discretion of the department, unsuitable for backfill, select material shall be furnished in lieu thereof, and the existing material shall be disposed of by approved methods.

D. Any clearing and grubbing which may be required by the applicant shall be represented by a plan covering any such actions. Such plans shall also be submitted for erosion control measures which may be required to vegetate the area under such clearing and grubbing. The applicant is authorized to retain all cleared timber. The applicant shall follow up with an erosion control, seeding plan approved by the department.

E. Access to the permitted installation shall be made in the following order of priority:

1. first from the land side;

2. second from the interchange (longitudinally); and

3. third from the highway.

F. Each occasion of access shall be pre-approved by the appropriate DOTD District Permit Office.

G. Repairs beneath the roadway shall not be allowed if such repairs necessitate open cutting (open trenches) the highway. If a problem occurs with a line crossing, the utility company must install a new crossing. The utility company must bear the total cost.

H. The DOTD District Permit Office shall be contacted and notified and shall give departmental approval whenever the installation must be accessed, including access for routine maintenance. For routine maintenance, three days' notice shall be given. In emergency situations, as much notice as possible must be given.

I. Repeater boxes shall be placed outside of the right-of-way, unless otherwise approved by the department.

J. Parallel installations shall be located on a uniform alignment to the right-of-way line and within 6 inches of the approved alignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:2464 (December 1999).

§1705. Cables Installed Parallel to the Highway

A. In addition to the requirements enumerated above, the following requirements shall apply to cables installed parallel to the highway.

1. Installations shall occupy available space within the back 10 feet of the right-of-way (located on the side most distant from the traveled roadway), except where, upon showing of actual necessity, a permit is issued for another location.

2. Installations shall have a minimum earth cover of 36 inches.

3. Installations shall have a minimum clearance of 24 inches below existing or proposed drainage structures, unless otherwise approved by the department.

4. There shall be no installation of cable within the median.

B. In general, installation of cable shall be as close to the right-of-way line as possible. The order of preferred locations for installing cable shall be:

1. between the control-of-access and the right-of-way;

2. between control-of-access right-of-way and shoulder if environmental conditions allow;

3. on longitudinal elevated structure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:2465 (December 1999).

§1707. Cables Crossing the Highway

A. Crossings shall have at least 5 feet of cover below the roadway and 24 inches of cover below ditches or drainage structures.

B. Crossings shall be made at as nearly right angles to the highway as possible. No existing drainage structure under the highway may be used for this purpose.

C. Construction methods used shall be in accordance with the following requirements.

1. Cutting the surface or tunneling under it is specifically prohibited.

2. Installation shall be made either by boring or jacking under the highway from ditch bottom to ditch bottom. In the absence of ditches, or along sections of highway with curb or gutter, boring or jacking shall extend beyond the outside edge of the traveled way to a point at

least equal to three times the vertical difference between the elevation of the roadway surfacing and the elevation of the top of the cable. Where width of right-of-way is insufficient to enable compliance with this requirement or where it is necessary to make a connection to an existing parallel facility which precludes compliance, the distance shall be computed to the right-of-way line or to the parallel facility. Any voids or overbreaks resulting from this task shall be backfilled with grout consisting of a cement mortar or a slurry of fine sand or clay, as conditions require. Excavating an open ditch to the edge of the pavement and boring and jacking the remainder of the distance is prohibited. Jacking and boring shall be done in accordance with Section 728 of the Louisiana Standard Specifications for Roads and Bridges, latest edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:2465 (December 1999).

§1709. Fees

A. A flat fee of $5,000 per mile shall apply to fiber optic telecommunications installations placed within state controlled access highway rights-of-way.

B. The department may reduce fees in exchange for shared resources.

C. The department may reduce fees for its agents, i.e., those applicants who erect facilities on behalf of the department in order to conduct departmental work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:2465 (December 1999).

Chapter 19. Pipe Bursting/Crushing

§1901. Definition

A. The pipe bursting process is defined as the reconstruction of pipeline by installing an approved pipe material, by means of one of the pre-approved processes set forth in this specification.

B. The process involves one of the following methods:

1. the use of a hydraulic "moling" device or pneumatic hammer, suitable in size to break out the old pipe; or

2. the use of a modified boring "knife" with a flared plug that implodes and crushes the existing sewer pipe;

3. forward progress of the "mole" or the "knife" may be aided by the use of a hydraulic winch, as specified in the patented process;

4. the replacement pipe is either pulled or pushed by means of hydraulic force into place, size on size and/or upsizing two pipe sizes or upsizing according to manufacturer specifications;

5. the size hammer to be used shall be the minimum diameter necessary to facilitate the restoration process. Oversized hammers shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:105 (January 2005).

§1903. Applicability and Liability

A. Pipe bursting will only apply to water or sewer pipes, with the recommendation of the District Permit Specialist and with the approval of the Headquarters Permit Engineer.

B. If allowed, the fragments of the old pipe remaining in the soil shall not be considered abandoned until such time as the replacement pipe is abandoned.

C. The fragments of the old pipe, as well as the replacement pipe, both remain the liabilities of the permittee, and can only be abandoned as provided for in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:105 (January 2005).

§1905. Responsibility for Overflows and Spills

A. It shall be the responsibility of the permittee to schedule and perform the work in a manner that does not cause or contribute to incidents of overflows or spills of sewage from the sewer system.

B. In the event that the work activities of the permittee contribute to overflows or spills, the permittee shall immediately take appropriate action as follows:

1. contain and stop the overflow;

2. clean the spillage;

3. disinfect the area affected by the overflow or spill; and

4. notify the owner in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:105 (January 2005).

§1907. Indemnification

A. The permittee will indemnify and hold harmless the DOTD for any fines or third-party claims for personal or property damage arising out of a spill or overflow that is fully or partially the responsibility of the permittee, including legal, engineering, and administrative expenses of the DOTD in defending such fines and claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:106 (January 2005).

§1909. Materials

A. The replacement pipe used in pipe bursting operations shall be High Density Polyethylene (HDPE) Pipe manufactured from a high density, high molecular weight polyethylene resin which conforms to ASTM D-1248 and meets the requirements for Type III, Class A, Grade P34, Category 5, and has a PPI rating of PE 3408, when compounded.

B. The pipe produced from this resin shall have a minimum cell classification of 345434D or E (inner wall shall be light in color) under ASTM D3350.

C. All pipe shall be made from virgin material. No reworked material shall be used except that obtained from the manufacturer's own production of the same formulation.

D. Before commencement of work, the permittee shall submit to the DOTD for approval, the vendor's specific technical data with complete physical properties of pipe and pipe dimensions pertinent to the job.

E. The Standard Dimension Ratio (SDR) Classification for various depths shall be as follows.

1. The Standard Dimension Ratio (SDR), which is the ratio of the outside diameter (OD) of the pipe to its minimum wall thickness, shall be specified for the various depths listed in Table I.

2. The depth shall be measured from the upstream and downstream manhole rim to the invert of the existing sewer in the pipe segment to be replaced.

3. The SDR shall be selected for the deeper of the two manholes for a given pipe segment.

Table I	
Polyethylene Pipe SDR	
(Applicable SDR for Depth Range)	
HDPE Pipe SDR	Maximum Depth (Feet)
21	10
17	20

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:106 (January 2005).

§1911. Backfill

A. All excavations within the limits of the right-of-way shall be backfilled and tamped in layers to the density of the adjacent undisturbed soil.

B. Where sod is removed or destroyed, it shall be replaced.

C. Where it is necessary to make excavations in the shoulder, the top 6 inches of backfill shall be with like shoulder material.

D. Existing soil materials declared unsuitable for backfill by the DOTD shall be disposed of by approved methods and replaced with select material as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:106 (January 2005).

§1913. Pre-Installation Preparation

A. The permittee shall submit a work plan with the permit application to the DOTD for review and acceptance. The work plan shall address the following minimum preparation/steps, unless approved otherwise by the DOTD.

1. It is the responsibility of the permittee to examine the proposed line segment and notify the DOTD if conditions exist that could cause problems with the pipe bursting/crushing method. These could include nearby services that could be damaged by the operations, existing slabs that could be damaged, or less than acceptable depth of cover.

2. Prior to performing any excavations, the applicant is required to call Louisiana One-Call. If installing any underground facilities such as cable or conduits, the applicant must be a member of Louisiana One-Call.

3. When pipe bursting under a roadway, the pipe being replaced must be a minimum depth of 8 feet below the roadway. Therefore, all adjacent underground utilities must be located by the permittee. Pipe bursting will not be allowed within a distance of 3 feet or 3 times the diameter of the replacement pipe, whichever is greater, from existing underground utilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:106 (January 2005).

§1915. Pre-Installation CCTV Inspection

A. It shall be the responsibility of the permittee to televise the sewer pipe immediately before the pipe bursting/crushing to assure that the existing pipe conditions are acceptable for pipe bursting/crushing.

B. If Pre-Installation CCTV inspection reveals a sag in the existing sewer that is greater than one-half the diameter of the existing pipe, it shall be the responsibility of permittee to install the replacement pipe so that the result is an acceptable grade without the sag. The permittee shall take the necessary measures to eliminate these sags by one of the following measures:

1. pipe replacement

2. digging a sag elimination pit and bringing the bottom of the pipe trench to a uniform grade in line with the existing pipe invert, or

3. by other measures approved by the DOTD.

C. Eliminating sags under the roadway will not be allowed if it necessitates open cutting the roadway.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:106 (January 2005).

§1917. Bypassing Sewage

A. When required for acceptable completion of the pipe bursting/crushing process, the permittee shall provide for continuous sewage flow around the section(s) of pipe designated for the installation of replacement pipe.

B. The pump bypass lines shall be of adequate capacity and size to handle the flow.

C. Bypass pumping shall be considered incidental to the installation of the replacement pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:107 (January 2005).

§1919. Access to Worksite and Traffic Control

A. Access to the work area shall be from the main roadway or ramps or from the adjacent property, as safety dictates.

B. The permittee shall conduct his operation in accordance with DOTD Maintenance Traffic Control Handbook and shall utilize appropriate traffic control devices.

C. The disturbed access areas shall be restored to original condition upon completion of the work.

D. Work will be performed only during regular daylight hours, Monday through Friday excluding legal holidays, when the department is open.

E. When a lane closure on a state highway is necessary, the department shall ensure, whenever feasible, that work is not performed between the hours of 7 a.m. and 9 a.m. or between the hours of 3 p.m. and 6 p.m.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:107 (January 2005).

§1921. Installation Process

A. The permittee shall submit information, in detail, on the procedure and steps to be followed for the installation of the pipe bursting/crushing method selected, even if the process is named in the specification.

B. All such instructions and procedures submitted shall be carefully followed during installation.

C. Any proposed changes in installation procedures shall require submittal of revised procedures and acceptance by the DOTD.

D. If the roadway is damaged, permittee is responsible for repairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:107 (January 2005).

§1923. Insertion Pits

A. The location and number of insertion pits shall be planned by the permittee and submitted in writing for approval by the DOTD prior to excavation.

B. The pits shall be located in a manner that their total number shall be minimized and the length of replacement pipe installed in a single pull shall be maximized.

C. Repairs under the roadway will not be allowed if it necessitates open cutting the roadway. If difficulty with the crossing is experienced, the utility company must install and bear the total cost of a new crossing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:107 (January 2005).

Title 70
TRANSPORTATION
Part III. Outdoor Advertising

Chapter 1. Outdoor Advertising

Subchapter A. Outdoor Advertising Signs

§101. Purpose

A. The purpose of this directive is to establish policies for the installation of Specific Services (LOGO) Signing within state highway rights-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:782 (August 1985), amended LR 18:784 (July 1992), LR 19:352 (March 1993), LR 22:224 (March 1996).

§103. Definitions

A. Except as defined in this Paragraph, the terms used in this rule shall be defined in accordance with the definitions and usage of the Louisiana Manual on Uniform Traffic Control Devices (MUTCD).

Business Sign—a separately attached sign mounted on the specific information sign panel to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available on or near a crossroad or frontage road at or near an interchange.

Department—the Louisiana Department of Transportation and Development.

Specific Information Sign—a ground mounted rectangular sign panel with:

a. the words "GAS," "FOOD," "LODGING," "CAMPING" or "ATTRACTIONS";

b. directional information;

c. one or more business signs.

Specific Services (LOGO) Signing—the Specific Services (LOGO) Signing Program consists of the various components including business signs, specific information signs (mainline and ramp) and trailblazing signs. The term "LOGO Program" shall refer to the overall Specific Services Signing Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:782 (August 1985), amended LR 18:784 (July 1992), LR 19:352 (March 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:224 (March 1996), LR 31:727 (March 2005).

§105. Location

A. Eligible Highways. Specific information signs shall be allowed only on interstates and other fully controlled access facilities. Signs shall not be installed on elevated roadways and bridges.

B. Rural Areas. Specific information signs are intended for use primarily in rural areas.

C. Urban Areas. Specific information signs may be installed within urban areas where there is sufficient room for the installation of two or more specific services signs. Separate distance criteria have been established for interchanges in urban and rural areas. Increased congestion and travel time dictate the use of shorter distance criteria for interchanges in urban areas. The department shall determine which interchanges are urban based on political boundaries, commercial development, and other appropriate factors.

D. Lateral Location. The specific information signs should be located to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other signs within the highway right-of-way. Sign panel supports shall be of a breakaway or yielding design.

E. Relative Location. In the direction of travel, successive specific information signs shall be those for "ATTRACTIONS," "CAMPING," "LODGING," "FOOD," and "GAS" in that order.

F. Convenient Re-Entry Required. Specific information signs will not be installed at an interchange where the motorist cannot conveniently reenter the highway and continue in the same direction of travel.

G. Number of Signs Permitted. There shall be no more than one specific information sign for each type of service along an approach to an interchange or intersection. There shall be no more than six business signs displayed on a specific information sign.

H. Ramp Signing. Specific information signs with directional and distance information shall be installed along the ramp approaching the crossroad when the business(es) are not visible from that approach. These signs will be similar to the corresponding specific information signs along the main highway but reduced in size.

I. Trailblazing. Trailblazing to a business shall be determined by the department in accordance with the following provisions.

1. Trailblazing shall be done with an assembly (or series of assemblies) consisting of a ramp size business sign, an appropriate white on blue arrow, and if required a mileage

plaque. The business shall furnish all business sign(s) required. Preference will always be given to the erection of standard traffic signs (e.g., regulatory, warning, and guide signs) which may preclude the installation of trailblazers in heavily congested areas.

2. Intersection trailblazers shall be required in advance of all intersections requiring the motorist to turn from one route to another. The intersection trailblazer shall be installed with the appropriate left or right arrows.

3. When the distance between the interchange and the intersection trailblazers is greater than 5 miles verification trailblazers shall be required. The verification trailblazers shall be installed with a straight ahead arrow.

4. When the total distance from the interchange is greater than 5 miles a verification trailblazer shall be installed within 1,000 feet of the interchange. The verification trailblazers shall be installed with a straight ahead arrow and a mileage plaque.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:782 (August 1985), amended LR 18:785 (July 1992), LR 19:352 (March 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:224 (March 1996), LR 25:1277 (July 1999), LR 31:727 (March 2005).

§107. Criteria for Specific Information Permitted

A. General Criteria. Each business identified on a specific information sign shall meet the following general criteria.

1. Give written assurance to the department of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, age, disability, or national origin, and not be in breach of that assurance.

2. In rural areas, businesses shall be located no more than 10 miles in either direction for "GAS," "FOOD" and "LODGING" or 25 miles in either direction for "CAMPING" and "ATTRACTIONS" from the terminal of the nearest off ramp. In urban areas, businesses shall be located no more than 2 miles in either direction for "GAS," "FOOD" and "LODGING" or 5 miles in either direction for "CAMPING" and "ATTRACTIONS" from the terminal of the nearest off ramp. Measurements shall be made from the beginning of the curves connecting the ramp to the crossroad or the nosepoint of a loop along the normal edge of the pavement of the crossroad as a vehicle must travel to reach a point opposite the main entrance to the business.

3. Have appropriate licensing and/or permitting as required by federal, state, parish, and local laws or regulations.

4. Provide a telephone for public use.

B. Types of Services Permitted. The types of services permitted shall be limited to "FUEL," "FOOD," "LODGING," "CAMPING," and "ATTRACTIONS." At the discretion of the department, camping business signs may be displayed on an "ATTRACTIONS" specific information sign using the provisions of §109.C.2 to differentiate the two services.

C. Specific Criteria for "GAS"

1. Vehicle services of fuel (unleaded, diesel, or alternative fuels intended for use in motor vehicles for highway travel), oil, and water for batteries and/or radiators.

2. Clean modern restroom facilities for each sex and drinking water suitable for public use.

3. Year-round operation at least 16 continuous hours per day, seven days a week.

4. An on-premise attendant to collect monies, and/or make change.

D. Specific Criteria for "FOOD"

1. Indoor seating for at least 16 persons.

2. Clean modern restroom facilities for each sex.

3. Year-round operation at least six days per week and operating at least 12 continuous hours per day.

E. Specific Criteria for "LODGING"

l. Adequate sleeping accommodations consisting of a minimum of 20 units with private baths.

2. Off-street vehicle parking spaces for each lodging room for rent.

3. Year-round operation.

4. Bed and Breakfast facilities may be placed on the "LODGING" services sign provided that they meet the following criteria:

a. adequate off-street vehicle parking;

b. year-round operation at least five continuous days per week;

c. adequate sleeping accommodations consisting of a minimum of three units with private baths;

d. complimentary breakfast provided and included in the rate of the room;

e. member of the Louisiana Bed and Breakfast Association or in compliance with additional specific criteria established by the Department of Transportation and Development in lieu thereof.

F. Specific Criteria for "CAMPING"

1. Adequate off-street vehicle parking.

2. Clean modern restroom facilities for each sex, drinking water suitable for public use, modern sanitary and bath facilities (for each sex) which are adequate for the number of campers that can be accommodated.

3. Year-round operation seven days per week.

4. At least 10 campsites with water and electrical outlets for all types of travel-trailers and camping vehicles. A

tent camping area must also be provided with a minimum of two tent sites.

G. Specific Criteria for "ATTRACTIONS"

1. Fall under one of the following categories:

a. Arena/Stadium*;

b. Cultural Center*;

c. Historical Society*;

d. Historic District;

e. Historic Structure/Museum*;

f. Industrial Facility*;

g. Museum/Art Gallery;

h. Scenic/Natural Attraction (forest, garden, nature preserve, park, etc.);

i. Tour Boat;

j. Winery/Brewery*;

k. Zoo/Aquarium.

*Providing visitor tours.

2. Adequate off-street vehicle parking.

3. Clean modern restroom facilities for each sex and drinking water suitable for public use.

4. Year-round operation at least five continuous days per week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:782 (August 1985), amended LR 18:785 (July 1992), LR 19:353 (March 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:225 (March 1996), LR 25:1277 (July 1999), LR 31:727 (March 2005).

§109. Sign Composition

A. Specific Information Sign. The specific information sign shall be a blue background with a white reflectorized border and legend.

B. Business Signs. Business signs shall consist of either graphic symbols or text used to identify the business. A business identification graphic symbol or trademark shall be reproduced in the colors and general shape consistent with customary use, and any integral legend shall be in proportionate size. Businesses advertising on the "FUEL" specific information panel shall be required to use the trademark of the brand of fuel offered rather than a unique graphic symbol. Graphic symbols and trademarks that resemble any official traffic control device are prohibited. Business identification text shall consist of block letters no smaller than FHWA 6-inch Series C Lettering. No products, goods and services, accessory activities or descriptive advertising words, phrases or slogans shall be displayed on a business sign. The word *diesel* shall be permitted on the "FUEL" business sign of a facility that provides diesel motor fuel.

C. Supplemental Information on Business Signs (Flashes). Flashes consist of a solid color 6-inch stripe with a contrasting legend along the bottom edge of a business sign. Flashes may be used to convey the following information.

1. Twenty-Four Hours. A business that is open 24 hours per day may use a highway red flash with the legend "24 HOURS" in white 4-inch block lettering.

2. Attractions. A business that qualifies under camping, but is placed on the "ATTRACTIONS" specific information sign may use a highway yellow flash with the legend "CAMPING" in black 4-inch block letters. A business that qualifies as an attraction, but is not open seven days a week, must use a highway yellow flash with the continuous days of operation in black 4-inch letters. (example: "MON.-FRI." or "TUE.-SUN.")

D. Single-Exit Interchanges. The name of the specific service followed by the exit number shall be displayed in one line above the business signs. At unnumbered interchanges the directional legend "NEXT RIGHT (LEFT)" shall be substituted for the exit number.

E. Double-Exit Interchanges. The specific information signs shall consist of two sections, one for each exit. The top section shall display the business signs for the first exit and the lower section shall display signs for the second exit. The name of the specific service followed by the exit number shall be displayed in one line above the business signs in each section. At unnumbered interchanges the directional legends "NEXT RIGHT (LEFT)" and "SECOND RIGHT (LEFT)" shall be substituted for the exit numbers. Where a specific service is to be signed for at only one exit, one section of the specific information sign may be omitted, or a single-exit interchange sign may be used.

F. Split Signs. In remote rural areas where not more than three qualified facilities are available for each of two or more specific services or urban areas where space is not available for more that two signs, business signs for two specific services may be displayed on the same specific information sign. The specific information sign shall consist of two sections, one for each service. The top section shall display the business signs for the first service and the lower section shall display signs for the second service. The name of the specific service followed by the exit number shall be displayed in one line above the business signs in each section. Business signs should not be combined on a specific information sign when it is anticipated that additional service facilities will become available in the near future.

G. Priority. If space is limited, when an interchange is brought into the Specific Services Program, priority for signs will be given to "GAS," "FOOD," "LODGING," "CAMPING," and "ATTRACTIONS" in that order. Combined specific information signs shall be used to provide signing for all services with qualifying businesses, even if there are more than three qualifying businesses in a particular service.

H. Size

1. Specific Information Signs. The allowed sizes and layouts shall be as shown in the "DETAILS FOR SPECIFIC INFORMATION SIGNS."

2. Business Signs. Signs displayed on a mainline specific information panel shall be 48" x 36." Signs displayed on a ramp specific information panel or trailblazer shall be 24" x 18." The legend on ramp or trailblazer business signs shall be the same as on the mainline sign only proportionately smaller.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:782 (August 1985), amended LR 18:785 (July 1992), LR 19:353 (March 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:226 (March 1996), LR 31:728 (March 2005).

§111. Special Requirements

A. Business sign applications will be accepted on a "first-come" basis. Businesses must meet the distance requirements from each approach independently in order to be signed on each approach. All distance criteria are to be determined in accordance with the provisions stated in §107.A.2.

B. The specific information signs shall be fabricated and installed by the department. All business signs shall be furnished by the businesses at no cost to the department and shall be manufactured in accordance with the department's standards or special specifications and/or supplements thereto, for both materials and construction. Signs not meeting these requirements shall not be installed.

C. No business shall be eligible to participate in the Specific Services (LOGO) Signing program while advertising on an illegal outdoor advertising sign.

D. When one or more businesses at an interchange meeting the requirements of §107.A.2 agree to participate in the Specific Services (LOGO) Signing program, the general motorist service sign at that interchange shall be removed. General services other than "FUEL," "FOOD," "LODGING," "CAMPING" and "ATTRACTIONS" shall be signed for using an independently mounted symbolic service sign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:782 (August 1985), amended LR 18:786 (July 1992), LR 19:354 (March 1993), LR 22:227 (March 1996).

§112. Unique Traffic Generators

A. The state traffic engineer may, within his discretion, make exceptions to the above rules and regulations for unique traffic generators which do not otherwise fit within the parameters of the existing rules for Specific Services Signing (LOGO). This authority shall be exercised on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 and R.S. 32:238(B).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 26:2330 (October 2000).

§113. Fees and Agreements

A. The fees and renewal dates shall be established by the department. Notification will be given 30 days prior to changes in fees.

1. Businesses will be invoiced for renewal 30 days before the renewal date. The fee shall be remitted by check or money order payable to the Louisiana Department of Transportation and Development. Failure of a business to submit the renewal fee(s) by the annual renewal date shall be cause for removal and disposal of the business signs by the department. The initial fee shall be prorated by the department to the annual renewal date to cover the period beginning with the month following the installation of the business signs.

2. When requested by a business, the department, at its convenience may perform additional services in connection with changes of the business sign. A service charge shall be assessed for each business sign changed, and any new or renovated business sign required for such purposes shall be provided by the applicant.

3. The department shall not be responsible for damages to business signs caused by acts of vandalism, accidents, natural causes (including natural deterioration), etc., requiring repair or replacement. In such events the business shall provide a new or renovated business sign together with payment of a service charge fee per sign to the department to replace such damaged business sign(s).

4. Individual businesses requesting placement of business signs on a specific information sign shall submit to the department a completed application form provided by the department.

5. Businesses must submit a layout of professional quality or other satisfactory evidence indicating design of the proposed business sign for approval by the department before the sign is fabricated.

6. No business sign shall be displayed which, in the opinion of the department, does not conform to the department's standards, is unsightly, badly faded, or in a substantial state of dilapidation. The department shall remove, replace, or mask any such business signs as appropriate. Ordinary initial installation and maintenance service shall be performed by the department and removal shall be performed upon failure to pay any fee or for violation of any provision of these rules. The business (applicant) shall provide all business signs.

7. When a business sign is removed, it will be taken to the business during normal business hours. If the sign cannot be left with the business (closed, new owners, etc.), it will be taken to the district office of the district in which the business is located. The business will be notified of such removal and given 30 days in which to retrieve their

business sign(s). After 30 days the business sign will become the property of the department and will be disposed of as the department shall see fit.

8. Should a business qualify for business signs at two or more interchanges, the business sign will be installed at the nearest interchange. If the business wants signing at the other interchanges, it may be so signed provided it does not prevent another business from being signed. Should a business qualify for two or more services at one business location, it may do so provided the secondary business does not prevent another primary business from participating in the program. The primary business will be determined by the department.

9. When it comes to the attention of the department that a participating business does not meet the minimum criteria, the business will be notified that it has a maximum of 30 days to correct any deficiencies or its signs will be removed. If the business later applies for reinstatement, this request shall be handled in the same manner as a request from a new applicant with a service charge per sign for reinstallation.

10. The department reserves the right to cover or remove any or all business signs in the conduct of its operation or whenever deemed to be in the best interest of the department or the traveling public without advance notice thereof. The department reserves the right to terminate this program or any portion thereof by furnishing the business written notice of such intent not less than 30 calendar days prior thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 11:782 (August 1985), amended LR 18:784 (July 1992), LR 19:352 (March 1993), LR 22:227 (March 1996).

§115. "RV Friendly" Program

A. Purpose. The purpose of this rule is to establish policies for the installation of "RV Friendly" symbols on qualifying Specific Services (LOGO) Signs.

B. Definitions

"*RV Friendly*"—those businesses that can accommodate large recreational vehicles by meeting specific facility and access criteria.

C. Criteria

1. Roadway and Parking Surfaces

a. Roadways and parking lots must be all-weather hard surface. Road surface types can include concrete, asphalt, and aggregate such as gravel, limestone, and rap material.

b. Roadway shall be free of ruts and potholes.

c. Lane widths shall be a minimum of 11 feet.

d. A minimum turning radius of 35 feet shall be used on all connections and turns.

2. Parking Spaces

a. Facilities must have two or more spaces that are 12 feet wide and 65 feet long.

b. A turning radius of 35 feet is required at both ends to enter and exit the spaces.

c. All designated parking spaces must be clearly marked with the "RV Friendly" logo.

d. Gas stations without restaurants are exempt from this requirement.

3. Vertical Clearance

a. Facility with canopies or roof overhangs must have 15-foot minimum clearance.

b. Tree limbs and power lines must have a 15-foot minimum clearance.

4. Fueling Stations

a. Facilities selling diesel fuel to RVs must have at least one pump with non-commercial nozzle.

b. Fueling stations must have a turning radius of 35 feet at both ends to enter and exit the fuel islands.

c. All designated fuel pumps must be clearly marked with the "RV Friendly" logo.

5. Campgrounds

a. Campgrounds must have two or more camping spaces that are 18 feet wide and 50 feet long.

D. "RV Friendly" Symbol

1. Description:

a. The "RV Friendly" marker shall be a bright yellow circle with a crescent smile under the letters "RV." The yellow background sheeting will be AASHTO Type III Sign Sheeting (High Intensity). The letters and crescent smile shall be approved non-reflective black.

b. If necessary for mounting the sheeting may be attached to an aluminum circle.

2. Dimensions

a. For mainline installations, the symbol shall have a 12-inch diameter yellow circle with 5 1/2-inch black block letters.

b. For ramp and trailblazer installations the symbol shall be a 6-inch diameter yellow circle with 2 3/4-inch black block letters and a crescent smile.

3. Attachment and Placement

a. The symbol shall be located within the business logo panel. On new signs it shall be designed and fabricated as part of the logo panel.

b. On existing logo panels, the symbol sheeting may be directly applied to the sheeting of the logo panel or it may be attached to an aluminum circle that can then be attached to the logo panel with approved fasteners.

c. On existing logo panels, the placement location of the symbol will be determined by the department. If placement of the symbol is not possible because of a lack of space between existing legends, the business will not be allowed to participate in the program until new logo panels that are designed and fabricated with the symbol are supplied to the department.

E. Administration

1. Application

a. Facilities that already participate in the LOGO program will submit an "RV Friendly" application form to the department.

b. Facilities that do not belong to the LOGO program will submit a LOGO application as well as an "RV Friendly" application.

c. The facility may be inspected by the department to assure that the facility meets the "RV Friendly" qualifying criteria.

d. Facilities that have qualified for "RV Friendly" signs, but at a later date no longer meet the criteria listed in Subsection C above will be removed from the "RV Friendly" program and will be required to cover the "RV Friendly" symbols with their business signs.

2. Fees and Special Requirements

a. For a business to participate in the "RV Friendly" program, all of its logo panels must be fabricated or modified to include the "RV Friendly" symbol.

b. No additional fees will be charged to new facilities that include the "RV Friendly" symbol in their business logo panels.

c. Facilities that already participate in the Logo program will be charged a one-time processing, material, and installation fee of $25 for each "RV Friendly" symbol.

d. Facilities that have qualified for "RV Friendly" signs, but at a later date no longer meet the criteria listed in Subsection C above will be removed from the "RV Friendly" program, must have their business signs cover the "RV Friendly" symbols and shall be charged $25 for each symbol that must be covered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:2266 (September 2005), amended LR 35:271 (February 2009).

Subchapter B. Outdoor Advertising Visibility Maintenance

§117. Purpose

A. Establish policy and procedures relating to location of trees, shrubs or other vegetation and traffic signs that impair the visibility of outdoor advertising display or on-premise business identification signs or devices adjacent to highway right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:269 (May 1981).

§119. Policy

A. Traffic signs as determined by the department shall be placed so as to avoid obscuring exiting off-premise or on-premise outdoor advertising displays, provided the traffic sign can be legally, safely and effectively erected in an adjacent location which does not obscure such displays.

B. Trees, shrubs or other vegetation plantings shall not be placed so as to purposely obscure existing off-premise or on-premise outdoor advertising displays. Where existing plantings do obscure displays that were in place prior to the planting, judicious trimming, relocation, removal or replacement will be considered as warranted by local conditions. It is emphasized that this policy relating to plantings will not apply to landscaped segments of highway, or to illegally placed signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:269 (May 1981).

§121. Procedure

A. The right-of-way permits engineer will be responsible for the implementation and coordination of these procedures.

B. Any request for visibility improvement for an off-premise or on-premise advertising display will be made using the supplement and application for Project Permit Form DOTD 03-41-0593 below, copies of which will be maintained in each district office.

Three (3) copies of the application and drawing are required for Project Permit.

Four (4) copies of the application and drawing are required for Interstate Project Permit.

DOTD 03-41-0593
REV. 11/87

Serial No. _____

Entered in Computer File _____
Initial and Date

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
PROJECT PERMIT
(Required by State Law)

DISTRICT APPROVAL

By _____ Date _____

Control _____ Unit _____

_____ , hereinafter termed
Name of Applicant

the applicant, requests a permit for the use and occupancy of the right-of-way of State Highway

No. _____ in _____ Parish, located as follows:

_____

_____

_____

for the installation, operation and maintenance of the following described project:

_____

_____

_____

_____

SIGNED: _____ DATE: _____
Owner

_____
Owner's Name (Typed or Printed)

_____
Street or P.O. Box

_____
City or Town State Zip Code

_____
Telephone No.

DO NOT WRITE IN THIS SPACE
(For use by Federal Highway Administration
for permits on Interstate only)

NOTES: This permit shall be available at the site where and when work is being done.

Applicant must notify District Permit Specialist, Phone Number: _____ ,
prior to beginning work and after work is completed.

DATE ISSUED: _____

EXPIRATION DATE: _____

_____
DOTD MAINTENANCE ENGINEERING ADMINISTRATOR

BY: _____
UTILITY AND PERMIT ENGINEER or DISTRICT ADMINISTRATOR

C. The application for permit with request form shall be sent to the right-of-way permits unit in Baton Rouge for further handling and in sequence as per the following:

1. headquarters traffic and planning section for verification, location and legal status;

2. right-of-way permits unit for transmittal to and review by the district administrator;

3. review by roadside development specialist:

a. to determine if area affected in a designated landscaped portion of the right-of-way or under vegetation management by maintenance forces;

b. protect the aesthetic value of right-of-way vegetation and determine what the permittee intends to do;

4. transmittal to headquarters right-of-way permits unit by district administrator for final processing.

D. The traffic operations engineer will verify the location of the display and will forward the request to the right-of-way permits unit with information about the display's legal status.

E. Legal status will include any available and pertinent information that should be considered by the district administrator. Legal information could include:

1. Is this display under active citation?

2. Is the display subject to imminent removal?

3. Is the sign illegally placed?

4. Is the display nonconforming to state beautification criteria?

F. The traffic operations engineer will determine whether or not the display is currently under contract with the state to be removed or is required to be removed within one year.

G. The cost of all work to be performed will be borne by the applicant and the necessary trimming, relocation, removal or replacement will be performed by a bona fide, bonded tree care service. The department will then, through the right-of-way permits unit, review the permit, and if satisfactory, issue same to the service for it to enter upon the highway right-of-way and do the work in accordance with the preapproved plan.

H. Prior to issuance of the permit, the tree care service shall furnish bond or deposit in the amount of $2,500 as security.

I. The permit shall contain:

1. language requiring the permittee to have said permit in its possession at all times at the work site;

2. a "hold-harmless" clause wherein the permittee agrees to hold the department harmless for any damage to person or property arising out of its operation under the permit.

J. In the following situations, visibility improvement will not be undertaken:

1. the request will involve highway landscaping in a designated landscape section of the highway;

2. the display is illegally placed;

3. the display is currently under contract with the state to be removed;

4. the display is required to be removed within one year;

5. the display is on state property;

6. a right-of-way take is imminent within one year;

7. the trees or shrubs to be trimmed, relocated or removed are over 500 feet measured along the highway from the display or business;

8. the trimming, relocation or removal will affect the purpose of the plantings;

9. the trimming, relocation or removal will result in permanent damage to the structure or character of the plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:269 (May 1981).

§123. Other Issuances Affected

A. This directive supersedes EDSM Number IV.2.1.6 issued September 26, 1980. All directives, memorandums or instructions issued heretofore in conflict with this directive are hereby rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:270 (May 1981).

§125. Implementation

A. This directive will become effective immediately upon receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:270 (May 1981).

Subchapter C. Regulations for Control of Outdoor Advertising

§127. Definitions

Centerline of Highway—a line of equal distance from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a non-divided interstate highway or the centerline of each of the main-traveled ways of a divided highway separated by more than the normal median width or constructed on independent alignment.

Controlled Areas—within urban areas, the applicable control area distance is 660 feet measured horizontally from the edges of the right-of-way along a line perpendicular to the centerline of the Interstate and/or Federal Aid Primary Systems or National Highway System. Outside urban areas, the control area extends beyond 660 feet to include any sign within visibility of the Interstate and/or Federal Aid Primary System or National Highway System.

Day Care Facility—for purposes of outdoor advertising, a day care facility is considered a school when it includes a comprehensive child development program such as Early Headstart and Headstart.

Destroyed Sign—that 50 percent or more of the upright supports of a sign structure are physically damaged so that normal repair practices would require:

1. In the case of wooden sign structures, replacement of the broken supports, or,

2. In case of metal sign structures, replacement of a least thirty percent of the length above ground of each broken, bent or twisted support.

Erect—to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

Grandfathered Non-Conforming Sign—an outdoor advertising sign in place at the time that a roadway became part of the National Highway System or Federal Aid Primary Highway System, subject to control of outdoor advertising rules, which could not obtain a permit due to regulations in effect at the time that the roadway became subject to outdoor advertising control.

Illegal Sign—one which was erected and/or maintained in violation of state law or local law or ordinance.

Inventory of 1966—the record of the survey of outdoor advertising signs in existence along Interstate and Federal-Aid Primary Highways as of the date of the inventory compiled by the State Highway Department (now Department of Transportation and Development) pursuant to FHWA Instructional Memorandum No. 50-1-66 dated January 7, 1966.

Landscaped Area—landscaped areas of the commercial and industrial activity shall be areas within 50 feet of the commercial or industrial building/structure(s) that are planted and maintained in good health with commercially available ornamental and/or natural vegetation for the beautification of the commercial or industrial activity.

Lease—an agreement, license, permit or easement, oral or in writing, by which permission or use of land or interest therein is given for a special purpose and which is a valid contract under the laws of Louisiana.

Legal Non-Conforming Sign—an outdoor advertising sign which when permitted by the department met all legal requirements, but does not meet current requirements of law.

Main-Traveled Way—the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposing directions is a main-traveled way. The main-traveled way does not include such facilities as frontage roads, turning roadways, or parking areas.

Maintenance—to allow to exist. The dimensions of the existing sign are not to be altered nor shall any additions be made to it except for a change in message content. When the damage to the upright supports of a sign is 50 percent or more (see definition of destroyed sign), it shall be considered new construction and shall be subject to all requirements pertaining to new construction.

Safety Rest Area—an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

Sign—any outdoor sign, light, display, figure, painting, drawing, message, placard, poster, billboard or other device which is designed, intended or used to advertise or inform, and any part of the advertising or informative content which is visible from any place on the main-traveled way of the Interstate or Federal Aid Primary Highway System, whether the same be a permanent or portable installation.

Traveled Way—the portion of a roadway designed for the movement of vehicles, exclusive of shoulders.

Turning Roadway—a connecting roadway for traffic turning between two intersecting portions of an interchange.

Unzoned—for purposes of R.S. 48:461 et seq., that no land-use zoning is in effect. The term does not include any land area which has a rural zoning classification, or which has land uses established by zoning variance, nonconforming rights recognition or special exception.

Urban Area—an urbanized area or an urban place as designated by the Bureau of Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the United States Secretary of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of Census.

Visible—for purposes of R.S. 48:461 et seq., capable of being seen, whether or not readable, without visual aid by a person of normal visual acuity.

Zoned Commercial or Industrial Areas—those areas which are zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation. A zone in which limited commercial or industrial activities are permitted as an incidental to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:187 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April

2002), LR 31:944 (April 2005), LR 33:530 (March 2007), LR 37:916 (March 2011).

§129. Purpose Test

A. Any sign meeting the following criteria shall be presumed to have been erected with the purpose of being read from the main traveled way of a controlled highway. Where a sign is read from the main traveled way of two or more highways, one or more of which is controlled, the more stringent of applicable control requirements will apply.

B. Signs erected in such a manner as to be visible from either direction of travel on subject controlled highway.

C. Signs whose lettering is 1 inch or more in height or width for each 50 feet in distance from the sign to the main traveled way of the subject controlled highway.

D. Signs which can be readily viewed for a time of five seconds or more from the main traveled way of the subject controlled highway while traveling at the posted speed limit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:187 (June 1976).

§131. Landmark Signs

A. In accordance with Title 23, United States Code and in accordance with R.S. 48:461.20 (1975 Supp.), those signs lawfully erected and maintained prior to October 22, 1965, which are determined by the Louisiana Department of Highways, subject to the approval of the United States Secretary of Transportation to be landmark signs, and which would otherwise be subject to removal shall be allowed to remain. Such include signs, displays, and devices on form structures or natural surfaces which are of historic or artistic significance, the preservation of which is consistent with the Louisiana and Federal Highway Beautification Acts. The Louisiana Department of Highways will submit a one-time list of such landmark signs to the Federal Highway Administration for approval. Such signs may have reasonable maintenance, repair and restoration; however, a substantial change in size, lighting, or message content will terminate the exempt or permitted status of such sign. Permits shall be required for each such landmark sign and will be issued by the Louisiana Department of Highways upon appropriate application by the owner thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:188 (June 1976).

§132. Off-Premise Changeable Message Signs

A. *Changeable Message Sign*—any outdoor advertising sign which displays a series of advertisements, regardless of technology used, including, but not limited to, the following:

1. rotating slats;

2. changing placards;

3. rotating cubes;

4. changes in light configuration or light colors;

5. LED (light emitting diodes)/video displays.

B. Qualifying Criteria

1. Message changes must be accomplished within four seconds and the message must remain stationary for a minimum of eight seconds.

2. The message change must be accomplished in such a manner that there is no appearance of movement of the message or copy during the change. This rule is not intended to prohibit movement of the structure in sequence in order to effect a change in message.

3. The sign may not contain flashing, intermittent or moving lights.

4. The use of such technology is limited to conforming signs only. Application of such technology to nonconforming signs is prohibited.

5. Any such sign shall contain a default design that will freeze the sign in one position if a malfunction occurs.

6. Such signs shall not use animated, scrolling or full motion video displays.

7. A changeable message sign which meets these criteria shall be considered an outdoor advertising sign.

8. On stacked sign structures, changeable message signs shall be allowed one per side.

9. Changeable message signs shall not exceed 672 square feet.

C. This rule is not applicable to on-premise outdoor advertising signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 25:2463 (December 1999), LR 37:916 (March 2011).

§133. New Signs

A. Any structure or device which has never displayed advertising or informative message content is subject to control or removal when any advertising content or message visible from the main traveled way of a controlled highway is added thereto. When such message or informative content is added, a new outdoor advertising sign has been erected which must comply with state law and all regulations in effect on such occasion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:188 (June 1976).

§134. Spacing of Signs

A. Interstate, Federal-Aid Primary Highways and National Highway System signs may not be located in such

a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic.

B. Interstate Highways and Freeways on the Federal-Aid Primary System and National Highway System (Control of Access Routes)

1. No two structures shall be spaced less than 1000 feet apart.

2. Outside of incorporated villages, towns and cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area.

C. Freeways on the Federal-Aid Primary System or National Highway System (Control of Access Routes)

1. Outside of incorporated villages, towns and cities, no two structures shall be spaced less than 500 feet apart.

2. Outside of incorporated villages, towns and cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection, intersection at grade or safety rest area.

D. Non-Freeway Federal-Aid Primary highways or National Highway System

1. Outside of incorporated villages, towns and cities, no two structures shall be spaced less than 300 feet apart.

2. Within incorporated villages, towns and cities, no two structures shall be less than 100 feet apart.

E. The above provisions applying to the spacing between structures do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time. This exception does not apply to vegetation.

F. Official and "on-premise" signs, as defined in §139, and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April 2002), amended LR 33:530 (March 2007), LR 37:916 (March 2011).

§135. Measurements for Spacing

A. Distance from the edge of the right-of-way to a subject sign for control purposes is measured horizontally along a line perpendicular to the centerline of the said highway.

B. Centerline of the highway means a line of equal distance from the edges of the median separating the main traveled ways of a divided highway or the centerline of the main traveled way of a non-divided highway.

C. The minimum distance between structures shall be measured horizontally along a line perpendicular to the edge of the main traveled way between points directly opposite the center of the sign~~s~~ along each side of the highway and shall apply only to structures located on the same side of the highway.

D. For continuous ramps which start at one entrance and end at the next exit, the allowable spacing shall be measured from the intersection of the edge of the mainline shoulder and the edge of the ramp shoulder; or in the case of bridges, the measurement would be taken where the mainline and the ramp bridge rails meet. This provision shall apply to §134.B.1 and 2 and §134.C.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:188 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), LR 33:530 (March 2007), LR 37:917 (March 2011).

§136. Erection and Maintenance of Outdoor Advertising in Unzoned Commercial and Industrial Areas

A. Definitions

Unzoned Commercial or Industrial Areas—those areas which are not zoned by state or local law, regulation, ordinance and on which there are located one or more permanent structures within which a commercial or industrial business is actively conducted, and where the area along the highway extends outward 800 feet from and beyond the edge of the activity.

B. Qualifying Criteria

1. Primary Use Test

a. The business must be equipped with all customary utilities and must be open to the public regularly or be regularly used by employees of the business as their principal work stations.

b. The primary use or activity conducted in the area must be of a type customarily and generally required by local comprehensive zoning authorities in this state to be restricted as a primary use to areas which are zoned industrial or commercial.

c. The fact that an activity may be conducted for profit in the area is not determinative of whether or not an area is an *unzoned or commercial area.* Activities incidental to the primary use of the area, such as a kennel or a repair shop in a building or on land which is used primarily as a residence, school, church or assisted/extended living facilities do not constitute commercial or industrial activities for the purpose of determining the primary use of an *unzoned* area even though income is derived from the activity.

d. If, however, the activity is primary and local comprehensive zoning authorities in this state would customarily and generally require the use to be restricted to a

commercial or industrial area, then the activity constitutes a commercial or industrial activity for purposes of determining the primary use of an area, even though the owner or occupant of the land may also live on the property.

e. The actual land use at the sign site cannot be agricultural or farming.

2. Visibility and Measurement Test

a. The area along the highway extending outward 800 feet from and beyond the edge of such activity shall also be included in the defined area.

b. The purported commercial or industrial activity must be visible from the main-traveled way within the boundaries of that unzoned commercial or industrial area by a motorist of normal visual acuity traveling at a maximum posted speed limit on the main traveled way of the highway. Visibility will be determined at the time of the field inspection by the department's authorized representative.

c. Each side of the highway will be considered separately. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage, processing, or landscaped areas of the commercial or industrial activity and shall not be made from the property lines of the activities. The measurement shall be along or parallel to the edge of the pavement of the highway.

3. Structures and Grounds Requirements

a. Area. Any structure to be used as a business or office must have an enclosed area of 600 square feet or more.

b. Foundation. Any structure to be used as a business or office must be affixed on a slab, piers or foundation.

c. Access. Any structure to be used as a business or office must have unimpeded access from a roadway to an adequate customer parking lot adjacent to business building.

d. Utilities. Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include business telephones, electricity, water service and waste water disposal, all in compliance with appropriate local, state and parish rules. Should a state, parish or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the department's authorized representative.

e. Identification. The purported enterprise must be identified as a commercial or industrial activity which may be accomplished by on-premise signing or outside visible display of product.

f. Use. Any structure to be used as a business or office must be used exclusively for the purported commercial or industrial activity.

g. Limits. Limits of business activity shall be in accordance with the definition of *Unzoned* commercial or industrial areas as stated in §136.B.2.

h. Activity requirements. In order to be considered a commercial or industrial activity for the purpose of outdoor advertising regulation, the following conditions shall be taken into consideration by the department. The department shall make a determination based upon a totality of the circumstances.

i. The purported activity enterprise is open for business and actively operated and staffed with personnel on the premises a minimum of eight hours each day and a minimum of five days each week. However, some businesses may not require staffing, such as a laundry mat, car wash, etc. The department has the discretion to determine whether the business requires staff to operate the business.

ii. The purported activity or enterprise maintains all necessary business licenses, occupancy permits, sales tax and other records as may be required by applicable state, parish or local law or ordinance.

iii. A sufficient inventory or products is maintained for immediate sale or delivery to the consumer. If the product is a service, it ~~is~~ must be available for purchase on the premises.

iv. The purported activity or enterprise is in active operation a minimum of six months at its current location prior to the issuance of any outdoor advertising permit.

C. Where a mobile home, manufactured building, or a recreational vehicle is used as a business or office, the following conditions and requirements also apply.

1. Self-propelled vehicles will not qualify for use as a business or office for the purpose of these rules.

2. All wheels, axles, and springs must be removed.

3. The vehicle must be permanently secured on piers, pad or foundation.

4. The vehicle must be tied down in accordance with minimum code requirements. If no code, the vehicle must be affixed to piers, pad or foundation.

D. Non-Qualifying Activities

1. Outdoor advertising structures;

2. agriculture, forestry, ranching, grazing, farming and related activities, including but not limited to, wayside fresh produce stands;

3. transient or temporary activities;

4. activities more than 660 feet from the nearest edge of the right-of-way;

5. activities conducted in a building principally used as a residence, school, church or assisted/extending living facility.

6. railroad tracks and minor sidings;

7. residential trailer parks, apartments, rental housing and related housing establishments intended for long term residential uses;

8. oil and mineral extraction activities;

9. junkyards;

10. schools, churches or cemeteries;

11. recreational facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 25:880 (May 1999), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006), amended LR 37:917 (March 2011).

§137. Nonconforming Signs

A. In addition to all other laws, regulations and rules, the following conditions and requirements apply to continue and maintain a nonconforming sign.

1. The sign must remain substantially the same as it existed on the effective date of the state law, regulation, rule or local ordinance which caused said sign to be nonconforming.

2. Reasonable repair and maintenance of the sign includes a change of advertising message, repainting of the structure, sign face, or trim, and replacing electrical components after failure. Reasonable maintenance also includes replacement of stringers, platforms and worker supports. The type of sign face may not be changed, except that a wood or steel face may be wrapped with a vinyl wrap containing the message or the face may be replaced with a panel free frame for hurricane protection. Lighting cannot be added to the sign structure or placed on the ground with the intention of illuminating a previously unilluminated nonconforming sign. Replacement of 50 percent or more of the upright supports is prohibited. (See definitions of "Destroyed Sign" in §127).

3. A substantial change in the subject sign which will terminate the status of legal but nonconforming usage occurs when:

a. there has been an addition of 25 percent or more of the square footage of the sign (excluding trim);

b. there has been a any change in the material composition of the sign super-structure or sign facing. The cost of which exceeds the cost of replacement or repair of the original materials. other than reasonable maintenance as defined in Section 137.2 (wooden poles must be replaced by wooden poles. I-beams, pipe or other metal poles must be replaced or repaired with the same materials.)

4. When and if nonconforming use rights in and to a sign structure are acquired by the Louisiana Department of Transportation and Development through the exercise of eminent domain, just compensation will be based upon the original size and material of the sign when it became a nonconforming structure and not upon any enlarged size, improvement or betterment to the sign.

5. When any sign which loses its nonconforming use status by reason of any substantial change, including those changes prohibited above, the subject sign will be considered a new advertising device and subject to all current regulations and prohibitions as of the time of the change.

6. Destruction. Nonconforming signs are considered destroyed when 50 percent or more of the upright supports of a sign structure are physically damaged such that normal repair practices would call for:

a. in the case of wooden sign structures, replacement of the broken supports; or

b. in case of metal sign structures, replacement of at least thirty percent of the length above ground of each broken, bent or twisted support; or

c. any signs so damaged by intentional, criminal conduct may be re-erected within 180 days from the date of destruction to retain nonconforming status; however such re-erection must occur at the identical location and the size, lighting and spacing must be identical to the prior circumstances;

d. nonconforming signs cannot be modified or repaired unless the requirements of this Section are met. Prior to repair or modification, authorized district personnel must review the damages and approve the repairs. If the sign is repaired prior to approval by the department's authorized personnel, the sign shall become illegal and the permit shall be revoked. The request and documentation of what is to be repaired must be made to the outdoor advertising program manager by certified mail. The department shall respond to the request within 14 business days of receipt of the certified letter. The department's failure to respond within 14 business days of receiving the repair request will allow the owner to repair the sign without the department's approval.

8. Abandonment

a. If an existing, nonconforming sign ceases to display a bona fide advertising message for a period of 12 months or more, then, the sign shall be considered abandoned and its nonconforming use rights are thereby terminated.

b. The said 12 month period may be interrupted for the period of time during which the controlled highway relative to such sign is closed for repairs adjacent to said sign or the sign owner is able to demonstrate that the sign has been the subject of an administrative or legal proceeding preventing the owner from displaying copy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:188 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2855 (December 2003), LR 37:917 (March 2011).

§138. Erection and Maintenance of Outdoor Advertising in Areas Zoned Commercial and Industrial

A. *Areas Zoned Commercial or Zoned Industrial*—those areas in a comprehensively zoned political subdivision set aside for commercial or industrial use pursuant to the state or local zoning regulations, but shall not include areas which reflect strip zoning, spot zoning or variances granted by the local political subdivisions strictly for outdoor advertising.

B. To determine whether a zoning action, past or present, is an attempt to circumvent outdoor advertising laws and/or rules, the following factors shall be taken into consideration:

1. expressed reason for zoning change;

2. zoning for the surrounding area;

3. actual land use;

4. existence of plans for commercial or industrial development;

5. availability of utilities (water, electricity, sewage) in the newly zoned area;

6. existence of access roads or dedicated access to the newly zoned area; and

7. documentation that property has been assessed in accordance with zoning.

C. If a combination of the factors set forth in Subsection B demonstrate that the zoning action is taken primarily to allow outdoor advertising devices (billboards) in areas that have none of the attributes of a commercial or industrial area, the department may deny a permit for the erection of outdoor advertising devices.

D. If outdoor advertising permits have been issued for existing devices in zoned areas which do not meet the requirements of Subsections B and C, such outdoor advertising devices will be considered "legal non-conforming."

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:1610 (July 2005).

§139. Determination of On-Premise Exemptions

A. Section 131(c) of Title 23, United States Code and R.S. 48:461.2, specifically exempt "signs, displays and devices advertising activities conducted on the property upon which they are located" and "signs, displays and devices advertising the sale or lease of property upon which they are located." Such signs are hereinafter referred to as "on-premise" signs. The regulations hereinafter following set forth the rules by which the Louisiana Department of Highways shall determine whether or not an advertising sign, display or device comes within the exempt categories set forth by R.S. 48:461.2. It is the purpose of the following rules to prevent abuses or obvious attempts to erect and maintain illegal outdoor advertising in the guise of on-premise advertising.

B. Criteria. A sign, display or device will be considered to be an on-premise sign and exempt from controls, if it conforms to the following standards.

1. Premises. The sign must be situated on the same premises, as the principal or accessory activities, products, or services offered, or upon the property or land area advertised to be for sale or for lease. The structure or office housing the principal or accessory activities, products or services must meet the following requirements.

a. Area. Any structure to be used as a business must have an enclosed area of 600 square feet or more. For any structure containing multiple offices, each office may have an on-premise sign if the individual office has an enclosed area of 120 square feet or more.

b. Foundation. Any structure to be used as a business or office must be affixed on a slab, piers, or foundation.

c. Access. Any structure to be used as a business or office must have unimpeded access from a roadway to an adequate customer parking lot adjacent to the business building.

d. Utilities. Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include business telephones, electricity, water service disposal, all in compliance with appropriate local, state and parish rules. Should a state, parish or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the department's authorized representative.

e. Identification. The name of the business must be displayed on premises.

2. Activity Requirements

a. The purported activity enterprise is open for business and actively operated and staffed with personnel on the premises a minimum of eight hours each day and a minimum of five days a week. However, some businesses may not require staffing, such as a laundry mat, carwash, etc. The department has the discretion to determine if staffing is required in order to operate the business.

b. The purported activity or enterprise must maintain and display all necessary business licenses, occupancy permits, and other records as may be required by applicable state, parish or local law or ordinance.

c. A sufficient inventory of products is maintained for immediate sale or delivery to the consumer. If the product is a service, it must be available for purchase on the premises.

3. Purposes. The sign must have as its purpose:

a. the identification of the principal or accessory activities, products or services offered; or

b. the sale or lease of the property on which the sign is located, rather than the purpose of general advertising.

4. Premises Test. For purposes of determining whether outdoor advertising is exempt from control as on-premise advertising, the following definitions of property or premises shall apply.

a. The property or land upon which an activity is conducted is determined by physical facts rather than boundaries of ownership. Generally, premises are defined as the land area occupied by the buildings or other physical uses that are necessary or customarily incident to the activity, including such open spaces as are arranged and designated to be used in connection with such buildings or uses.

b. The following will not be considered to be a part of the premises on which the activity is conducted, and any signs located on such land areas will not be "on-premise" signs which are exempt from control.

i. Any land which is not used as an integral part of the principal activity. Such would include, but is not limited to, land which is separated from the activity by a public roadway or other obstruction and not used by the activity, and extensive undeveloped highway frontage contiguous to the land which is actually used by the commercial or industrial facility, even though such undeveloped land is commonly owned with the land area comprising the premises of the activity.

ii. Any land which is used for or devoted to a separate purpose unrelated to the advertised activity. For example:

(a). land adjacent to or adjoining an automobile service station, but which is devoted to raising of crops;

(b). residential use;

(c). farm stead uses; or

(d). another commercial or industrial use having no relationship to the service station activity would not be part of the premises of the said service station even though under common ownership or lease.

iii. Any land which is:

(a). developed or used only in the area of the sign site, or between the sign site and the principal activity; and

(b). occupied solely by structures or uses which are only incidental to the principal activity, and would serve no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for advertising purposes. For example:

(i). such inexpensive facilities as a picnic, playground, or camping area;

(ii). dog kennels;

(iii). golf driving ranges;

(iv). common or private roadways or easements;

(v). walking paths;

(vi). fences; and

(vii). sign maintenance sheds.

(c). Narrow Strips. Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is: nonbuildable land, such as a swampland or wetland; or which is a common or private roadway; or held by easement or other lesser interest than the premises where the advertised activity is located.

c. Purposes Test. For purposes of determining whether an advertising sign display or device shall be exempted from control as an "on-premise" advertising, the following standards shall be used for determining whether a sign, display or device has as its purpose:

i. the identification of the activity conducted on the premises where the sign is situated or the products or services sold on said premises; or

ii. the sale or lease of the land or property on which the subject sign, display or device is situated, rather than the business of outdoor advertising:

(a). any sign, display or device which consists exclusively of the name of the activity conducted on the premises is an on-premise sign;

(b). any sign which exclusively identifies the principal or accessory products or services offered on the premises is an on-premise sign. An example of an accessory product would be a brand of tires offered for sale at a service station, but would not include products merely incidental such as cigarettes or beverages;

(c). when a sign brings rental income to the landowner or other occupant of the land; consists of brand name or trade name advertising, and the product or service advertised is only incidental to the principal activity, it shall be considered the business of outdoor advertising, and such signs shall be subject to control;

(d). a sign, display or device which does not exclusively advertise activities conducted upon the premises or services and principal and accessory products offered on the premises or exclusively advertise sale or lease of the premises or land whereon situated shall not be considered on-premise advertising which is exempt from control; but, rather, shall be considered and shall be outdoor advertising subject to control and regulation.

C. Public Facility Sign Restrictions

1. Signs on the premises of a public facility, including but not limited to the following: schools, civic centers, coliseums, sports arenas, parks, governmental buildings and amusement parks, that do not generate rental income to the owner of the public facility may advertise:

a. the name of the facility, including sponsors of the public sign; and

b. principal or accessory products or services offered on the property and activities conducted on the property as permitted by 23 CFR 750, 709, including:

i. events being conducted in the facility or upon the premises, including the sponsor of the current event; and

ii. products or services sold at the facility and activities conducted on the property that produce significant income to the operation of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:189 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006), amended LR 33:531 (March 2007), LR 37:918 (March 2011).

§141. Destruction of Trees and Violations of Control of Access

A. The Louisiana Department of Transportation and Development shall not issue a permit for any sign which cannot be erected or maintained from private property without violating control of access boundaries. A permitted sign shall not be serviced, repaired or replaced from highway right-of-way.

B. The Louisiana Department of Transportation and Development shall not issue permits for any signs, the visibility of which will be obscured by existing vegetation, trees or landscaping on the highway from which subject sign is intended to be read.

AUTHORITY NOTE: Promulgated in accordance with R.S.48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191 (June 1976), amended by Department of Transportation and Development, Office of Highways/Engineering, LR 33:532 (March 2007).

§143. Procedure and Policy for Issuing Permits for Controlled Outdoor Advertising

A. Applications shall be made by the person who is the contemplated owner of the subject sign to be permitted.

B. Applicants for a permit shall execute an application form furnished by the Louisiana Department of Transportation and Development and shall forward such application form properly and completely executed as to all information requested to the district office of the Louisiana Department of Transportation and Development situated within the highway district where said sign is to be located.

C. All permits for the erection of outdoor advertising shall be conditioned upon compliance with state law, and any action by or on behalf of the permit holder or sign owner contrary to state law and regulations shall be grounds for voiding any subject permit heretofore or hereafter issued.

D. The department shall void the permit for the sign wherein the violation took place and the department shall not issue future permits within the district where the violation occurred to the permit holder and/or sign owner and/or landowner until the illegal sign is removed.

E. The department must be notified in writing by the original permittee upon any change or transfer of ownership of the permitted installation. Such notification may be done by submittal of the sales agreement.

F. An original signature of the landowner or a copy of the current lease agreement shall be submitted with each application.

G. Every applicant who seeks to situate a controlled advertising structure in a commercial or an industrial zone shall furnish evidence of the restrictive zoning of the subject land on the department's zoning supplement form which shall be completed by the appropriate state or local authority.

H. Permit applications which are properly completed and executed and which are accompanied by all other required documentation shall be thereafter submitted by the district office to the appropriate permit office in Baton Rouge, Louisiana, for review. Permit~~s~~ applications which are not in proper form or which are not complete or not accompanied by required documentation or do not meet the requirements of state law at the time of the submittal of the application shall be returned to the applicant by the district office with reasons for its return. Applications may be resubmitted at any time.

I. The appropriate permit-issuing officer designated by the department shall review all permit applications. Thereafter, permits shall be issued or the application rejected and returned to the applicant with reasons for denial of the permit.

J. ...

K. Each permit shall specify a time delay of 12 months within which to erect the subject advertising device. The district office shall determine whether or not the device has been erected within the specified time delay.

L. If a sign has not been erected within the delay provided by the subject permit, the permit may be voided by the department and the applicant or permittee so notified. On the day following the posting of notice to any such applicant or permittee of the voiding of the permit to the last known address as furnished by the applicant, the subject sign location shall be available to any other applicant.

M. If a sign has been erected within the delays allowed by the permit, but the subject sign does not conform to the specifications of the permit, the Louisiana Department of Transportation and Development shall notify the applicant or permittee in writing to cause the sign to conform to the

permit. The applicant or permittee shall have 30 days to cause the sign to conform to the permit. The time delay begins on the day following the posting of written notice to said applicant or permittee at the last known address as furnished by the applicant or permittee. Extensions of time within which the applicant or permittee may bring the sign into legal conformity may be granted by the department when the department determines that good cause has been demonstrated. The department will void any permit when the permittee fails to conform the sign within the time delay or extentions provided. Thereafter the sign must be removed at the sign owner's expense. The sign owner may prevent such removal only by securing a new permit for the subject sign, which did not conform to the previous permit. A new permit may be obtained upon appropriate application including payment of all fees in connection therewith. Nevertheless, once a permit has been voided the sign location is available to any applicant.

N. If a sign is erected without first obtaining a permit from the department and the department notifies the owner that the sign is illegal, the owner of the sign will have a period of 30 days from the date of receipt of the department's letter to bring the sign into legal compliance and make proper application for the permit. Extensions of time within which the applicant or permittee may bring the sign into conformity may be granted by the department when the department determines that good cause has been demonstrated.

O. When a permitted outdoor advertising sign or device is knocked down or destroyed, or modified, the sign or device cannot be reinstalled or rebuilt without first obtaining a new outdoor advertising permit pursuant to the procedures established in this part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191 (June l976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2856 (December 2003), LR 31:945 (April 2005), LR 33:532 (March 2007), LR 37:918 (March 2011).

§144. Penalties for Illegal Outdoor Advertising Signs

A. An outdoor advertising sign is deemed to be illegal for the purpose of issuing penalties if:

1. the owner has received a certified letter from the department under the provisions of R.S. 48:461.7 and has failed to respond within the time allotted; or

2. the owner has received a certified letter from the department provided for in R.S. 48:461.7; received a permit review as provided for hereafter, with a ruling of illegality by the permit review committee; and failed to appeal to a court of competent jurisdiction;

3. the owner replied to the certified letter provided for in R.S. 48:461.7; received a permit review as provided for hereafter; received a ruling of illegality by the permit review committee; appealed said ruling to a court of competent jurisdiction and a final ruling of illegality was rendered by the court.

B. Penalties

1. If the owner fails to reply to the notice within 30 days, as set forth in §144.A.1, then the owner shall be assessed a penalty of $100 per day for each day that the violation continues to occur, said fine to begin on the date specified in said notice.

2. If the owner requests and receives a permit hearing as provided for in §144.D, and the hearing results in a finding that the owner's device is illegal, and he fails to appeal said finding to a court of competent jurisdiction, the owner shall be assessed a penalty of $100 per day for each day that the violation occurred and continues to occur following the 30-day written notice of the ruling of the permit hearing.

3. If the owner receives and appeals the ruling of the permit hearing to a court of competent jurisdiction and receives a final ruling of illegality rendered by a court of competent jurisdiction, then the owner shall be assessed a penalty of $100 per day for each day that the violation occurred and continues to occur. Said penalty shall be retroactive to the date 30 days after written notice of the ruling of the permit hearing.

C. An applicant who requests an outdoor advertising permit for a sign erected without a permit (even though permittable) shall be assessed a surcharge in addition to the permit fee in a sum equal to three times the permit fee.

D. There is hereby created within the Department of Transportation and Development a permit review process which is available to permit applicants who have received notification that the department intends to remove their outdoor advertising signs or deny future permits.

1. Composition of the Permit Review Committee. The permit review committee shall be composed of representatives of the following divisions within the Department of Transportation and Development:

a. Traffic Services and/or Maintenance Division;

b. Legal Division;

c. Office of District Traffic Operation Engineer (office of particular district in which the sign is located) (nonvoting);

d. Traffic Engineering or their designated representative.

2. Authority of the Permit Review Committee. The committee, pursuant to a majority vote, may arbitrate and resolve disputes which arise during the permit process and grant or deny relief to petitioning permittees.

3. The permittee shall bring his complaint before the permit review committee no later than 30 days after notification to remove the illegal sign, or no later than 30 days after receipt of a permit denial, whichever is applicable, in order to receive a permit review.

4. Duties of the Permit Review Committee. The permit review committee must meet in a timely fashion to review all protests filed by permittees. The permit review committee must give each protester due notice of meeting time and place. The permit review committee must notify the permittee of its action with 14 working days of its meeting.

5. Rights of the Protesting Permittee. The permittee shall submit, in writing, his protest and all pertinent exhibits. Such submittal must be received five days before the review committee meeting. The committee, in its discretion, may waive these requirements in particular circumstances in order to provide a fair hearing. The permittee may appear before the permit review committee to offer a brief explanation of his grievance.

6. Permittee's failure to submit an appeal in a timely manner shall constitute a waiver of the permit review process.

E. Section 144 shall apply to any illegal sign installed prior or subsequent to its promulgation as a final rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 24:960 (May 1998), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2856 (December 2003), LR 37:919 (March 2011).

§145. Directional Signs

A. *Directional signs* are those containing directional information about public places owned or operated by federal, state or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or areas naturally suited for outdoor recreation.

B. Standards for Directional Signs

1. The following criteria apply only to directional signs.

a. General. The following signs are prohibited:

i. signs advertising activities which are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those advertised activities;

ii. signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic;

iii. signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features;

iv. obsolete signs;

v. signs which are structurally unsafe or in disrepair;

vi. signs which move or have any animated or moving parts;

vii. signs located in rest areas, on park land or in scenic areas.

b. Size. No sign shall exceed the following limits:

i. maximum area—150 square feet;

ii. maximum height—20 feet;

iii. maximum length—20 feet;

iv. All dimensions include border and trim, but exclude supports.

c. Lighting. Signs may be illuminated, subject to the following provisions:

i. signs which contain, include or are illuminated by any flashing, intermittent or moving light or lights are prohibited;

ii. signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited;

iii. no sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

d. Spacing

i. Each location of a directional sign must be approved by the department.

ii. No directional sign may be located within 2000 feet of an interchange or intersection at grade along the Interstate system or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.)

iii. No directional sign may be located within 2000 feet of a safety rest area, parkland or scenic area.

iv. No two directional signs facing the same direction of travel shall be spaced less than one mile apart.

v. Not more than three directional signs pertaining to the same activity and facing in the same direction of travel may be erected along a single route approaching the activity.

vi. Signs located adjacent to the Interstate system shall be within 75 air miles of the activity.

vii. Signs located adjacent to the primary system shall be within 50 air miles of the activity.

e. Message Content

i. The message on the directional signs shall be limited to the identification of the attraction or activity and

directional information useful to the traveler in locating the attraction, such as mileage, route numbers or exit numbers.

ii. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited.

f. Selection Method and Criteria

i. Privately owned activities or attractions eligible for directional signing are limited to the following:

(a). natural phenomena;

(b). scenic attractions;

(c). historic, educational, cultural, scientific and religious sites; and

(d). outdoor recreational area.

ii. Privately owned attractions or activities must be nationally or regionally known and of outstanding interest to the traveling public, as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:192 (June 1976), amended LR 37:919 (March 2011).

§147. General

A. The foregoing regulations are considered supplementary and not exclusionary except to the extent that the provision of such newer regulation is in conflict with a prior regulation by its purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:192 (June 1976).

Subchapter D. Outdoor Advertising Fee Schedule

§148. Issuance of Outdoor Advertising Permits for Grandfathered Nonconforming Signs

A. Applications shall be made by the person who is the owner of the sign which is the subject of the permit.

B. Applicants for a permit shall execute an application form furnished by the department and shall forward the properly and completely executed application form to the appropriate district office of the department. The "appropriate district office" shall be the district office where the sign to be permitted is located.

C. The appropriate permit issuing officer designated by the department shall review all permit applications. Thereafter, permits shall be issued and a copy of the permit shall be sent to the applicant.

D. Copies of all permits shall be transmitted to the district where the sign is located for subsequent surveillance by the district office.

E. The department must be notified in writing by the original permittee upon any change or transfer of ownership of the permit. Such notification shall be by submittal of the sales agreement.

F. An original signature of the landowner or a copy of the current lease agreement shall be submitted with each permit.

G. The request and documentation of what is to be repaired must be made to the outdoor advertising program manager by certified mail. The department shall respond to the request within 14 business days of receipt of the certified letter. The department's failure to respond within 14 business days of receiving the repair request will allow the owner to repair the sign without the department's approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:920 (March 2011).

§149. Permit Fee

A. The following permit fee schedule is applicable to new and replacement outdoor advertising signs beginning on the effective date of this rule change:

a. one to 100 square feet—$75 (per sign face) for a 12 month period until installation. Annual renewal fee after erection is $7.50 (per sign face);

b. 101 to 300 square feet—$125 (per sign face) for a 12 month period until installation. Annual renewal fee after erection is 12.50 (per sign face);

c. 301 square feet and up—$250 (per sign face) for a 12 month period until installation. Annual renewal fee after erection is $25 (per sign face).

B. Annual Renewal Due Dates and Extensions

1. Annual renewal fees are due by July 1 of each year. The department shall provide notice of the amount due for each permit no later than April 30 of each year.

2. A permit shall expire and the sign structure will become illegal if the annual renewal fees are not paid by July 31 of each year. This applies to all permits, including but not limited to legal, nonconforming and grandfathered signs.

3. Extensions may be granted for 30 days provided that a request is made prior to July 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.1, et seq.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 12:602 (September 1986), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2857 (December 2003), LR 37:920 (March 2011).

§150. Removal of Unlawful Advertising

A. If the owner of any sign erected in violation of this Part fails to comply with the provisions listed herein within 30 days of receipt of notice issued by the Louisiana

Department of Transportation and Development, as provided in R.S. 48:461.7, that sign shall be removed by the department or its agent at the expense of the owner, except if said sign is within highway right-of-way, in which case the provisions of R.S. 48:347 shall apply.

B. Upon removal of the device by the department, the sign owner, landowner or other person responsible for erecting the sign shall pay the cost of removal to the department. The department shall store the sign for 30 days immediately following removal, during which time the sign may be claimed upon payment of the cost of removal and any costs associated with the removal and storage of the sign and collection of the cost of removal.

C. A sign which is not claimed within 30 days after removal shall be deemed the property of the department and may be disposed of by the department.

D. Any money received from the disposal of the device will be credited first to the cost of removal and storage of the device. Revenue in excess of such costs will be deposited by the secretary of the department in the state treasury.

E. If the revenue generated from disposal of the device does not meet or exceed the cost of removal and storage of the device, then the owner of the device, the landowner or other person responsible for erecting the device shall pay the remaining costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:946 (April 2005).

Subchapter E. Seasonal Agriculture Product Outdoor Advertising Devices

§151. Definitions

Federal Aid Primary System—that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the Department of Transportation and Development, and approved pursuant to the provisions of Title 23, United States Code.

In Season—that period of time that an agricultural product produced in this state is commonly harvested and sold here.

Right-of-Way—that area dedicated for use as a highway.

Seasonal Agricultural Signs—outdoor signs of a temporary nature, erected for the purpose of notifying the public of the sale of agricultural products which are in season at the time the sign is displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 20:795 (July 1994).

§153. General Requirements

A. This Subchapter pertains only to signs placed within 660 feet of the nearest edge of the right-of-way of federal aid primary system highways. To qualify under the provisions of this Subchapter, signs shall meet the following requirements:

1. signs shall not be larger than 32 square feet in surface area;

2. signs shall advertise only the sale of seasonal agricultural products grown by the person who erects and maintains said signs, or the person who directs that the signs be erected;

3. the grower of the agricultural product advertised shall be responsible for maintenance and removal of the sign, even if the grower contracted to have the sign erected by a third party;

4. seasonal agricultural products advertised on the signs shall be offered for sale at the location where they are grown;

5. signs shall be erected only during the period of time that the products advertised are in season and shall be removed by the owner of the sign within seven days of the end of that time;

6. signs shall be placed on private property only with the permission of the landowner and shall not be placed in the highway right-of-way;

7. signs shall not be placed closer that 500 feet to an intersection;

8. all signs must be erected within a 60-mile radius of the location where the agricultural product advertised is grown; and

9. no more than one sign in each direction shall be placed within 500 feet of the interchange leading from the highway to the place where the products advertised are to be sold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 20:795 (July 1994).

Chapter 3. Policy, Procedure and Control of Junkyards along Interstate and Primary Systems

§301. General

A. The rules and regulations contained in this manual shall apply to all junkyards located within 1,000 feet of the nearest edge of the right-of-way on all interstate and federal aid primary highways in Louisiana. These rules do not apply to junkyards in zoned industrial areas, zoned by an authorized zoning commission or those which exist in an unzoned industrial area as defined by the Louisiana Department of Highways and which was approved by the Federal Highway Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

§303. Authority

A. The applicable law authorizing the state to regulate the establishment of junkyards and authorizing the screening or removal of junkyards is R.S. 48:461-461.15 (Act 474 of 1966) and in particular §461.9 through §461.15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.1 5.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

§305. Organization

A. The provisions of the Beautification Act regarding junkyards will be carried out by the traffic and planning division through its beautification and permits unit. The beautification sub-unit consists of one steno clerk and one engineering specialist who heads up the sub-unit and is stationed in the central office. In addition, there are two engineering aides whose duties entail field investigation encompassing inventory, surveillance, site location review, and other designated duties. The traffic and planning division, as the need arises, will rely on the services of other specialized sections of the department for assistance in carrying out these provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

§307. Program Priorities

A. Predicated on the assumption that adequate funding for initiating screening, relocation, or removal projects will be provided, the department will attempt to first have illegal junkyards screened, relocated, or removed along the interstate and federal aid primary highways. This will be followed by the screening, relocation, or removal of legally established nonconforming junkyards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

§309. Inventory and Control

A. The beautification and permits unit will have the responsibility of maintaining a current inventory of all junkyards, conducting a continuing surveillance program to discover illegally established or maintained junkyards, and to initiate procedures to obtain compliance with the Highway Beautification Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

§311. Legally Established Nonconforming Junkyards

A. Junkyards which were in existence at the time of the passage of the state law in 1966 and which were not established in violation of any other law, ordinance, or valid regulatory standard, will be screened or removed on a site by site basis by the Department of Highways. In screening nonconforming junkyards, the department's landscape architect in the location and design section shall prepare the necessary plans which will be submitted to the Federal Highway Administration for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

§313. Unlawful or Illegal Junkyards

A. Junkyards not lawfully established shall be screened or removed by the junk owner. If the junkyard is to be screened, detailed plans including a plan and profile view of the proposed screening in addition to a description of the materials to be used shall be submitted to the Louisiana Department of Highways, Box 94245, Capitol Station, Baton Rouge, LA 70804, Attention: Permit Section, for approval.

B. If the junkyard cannot be effectively screened, then the junkyard shall be removed at the junk owner's expense.

C. In either event a notification to the junk owner by certified mail will be sent by the department advising him of the unlawful junkyard. The junk owner will then have 30 days in which to submit plans to the department at the aforementioned address.

D. Upon written acceptance by the department of the screening or removal plans, the junk owner will have 90 days in which to comply with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

§315. Screening

A. Fences

1. The fencing shall be of suitable material and constructed so it will be capable of remaining erect.

2. The fencing shall be high enough to screen all junk and junked cars from view of the traveled way of the highway. Should the junk piles be increased in height, the height of the fence must also be increased.

3. The fence shall extend along the frontage of the junkyard and along the sides of the junkyard to a distance so that all junk and wrecked cars within 1,000 feet will be screened from view of the traveled way of the highway. The fence shall be located on private property and will be maintained by the junkyard owner or operator. Should the fence become damaged, it must be repaired within 30 days.

4. The fence must be neat in appearance and of uniform color and height. If the fence is painted, it shall be of uniform color or neatly trimmed in another color. Distracting colors and designs will not be acceptable.

5. It is not necessary that the fence be solid. However, the open spaces must be small enough that the junk material is effectively screened.

B. Planting

1. If plantings are to be used for screening, they must be large enough and placed close enough to screen the junk and junked cars shortly after planting.

2. All plants must be of either the evergreen variety or bamboo in order to give year-round effective screening.

3. Plants must be located with the same stipulations as fences.

4. Except for extremely fast growing plants, the planting of young or sparse plants will not be allowed with the purpose that in time the screening will be acceptable.

5. Should the plants become diseased, die, or get damaged in any way so as to cause the junk not to be screened, they must be replanted within 30 days.

C. Natural Objects

1. Natural occurring woods, earth mounds, etc., may be utilized for screening if they are of a size such that the junk cannot be seen from the traveled way of the highway.

2. Natural objects may be used in conjunction with plantings, fences, or other appropriate objects to screen junkyards.

D. Other Appropriate Objects for Screening. Subject to prior approval by the Louisiana Department of Highways, other objects for screening such as buildings, houses, and occupied house trailers may be used entirely or in part to screen junkyards provided the objects are neat in appearance and properly maintained so as not to mar the natural beauty of the highway and its facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:446 (October 1975).

§317. Procedures Used in Determining the Practicality of Whether a Nonconforming Junkyard Should be Screened or Removed

A. An on-site inspection will be made of each location by the landscape architect of the location and design section and a representative of the right-of-way section to determine if the topography of the land will permit effective screening. If effective screening is possible, an economic survey will be conducted to determine the feasibility of screening versus removal. The final determination as to whether screening or removal will be effected is the responsibility of the beautification and permit engineer. After this decision has been made, the supporting data and justification shall be submitted to the division engineer of the Federal Highway Administration on a project by project basis for review and approval.

B. If the beautification and permit engineer determines that the most feasible method for compliance with state law and policies is by the screening of a junkyard, it will then be the responsibility of a representative of the right-of-way section to obtain permission for allowing the department's contractor to enter land outside of highway right-of-way to effectively screen the junkyard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:446 (October 1975).

§319. Programming and Authorization Screening Projects

A. Whether the screening of a nonconforming junkyard is along an interstate or a federal aid primary highway, the length of a given project will depend upon establishing terminal points of a control section with limitations to project size being imposed only by the number of, and cost of screening the junkyards.

1. The beautification and permit engineer will be responsible for determining the scope of a project. He will secure from the project control engineer the project number to be assigned and will provide the location and design section a list of the junkyards to be screened, their inventory number, location, and validation of their legal status. The location and design section will then furnish the beautification and permit engineer an estimated cost along with detailed plans and cross sections showing the type of screening.

2. The federal aid engineer of the project control section will then request federal participation by submitting to the division engineer of the Federal Highway Administration the following information which will be supplied to him by the beautification and permit engineer:

a. the zoning and validation of the legal status of each junkyard on the project;

b. plans or graphic displays indicating the location of the junkyard relative to the highway, the 1,000-foot control lines, property ownership boundaries, the general location of the junk or scrap material, and any buildings, structures or improvements involved;

c. the type of screening, and adequately detailed plans and cross sections or other adequate graphic displays which illustrate the relationship of the motorist to the screen, and the material to be screened at critical points of view;

d. estimated cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:447 (October 1975).

§321. Relocation and/or Disposal

A. Valuation. This method of junkyard control will be used only as a last resort. Moving costs will be determined by an appraiser or consultant on the basis of information obtained from salvage yard operators, contract carriers, and any other reliable source. The junk owner will be given the opportunity to accompany the appraiser or consultant during his inspection. The maximum moving cost will be that amount which is consistent with the most economical method of disposing of the junk material. All appraisals will be in accordance with state and federal regulations.

B. Negotiations. Negotiations with the owner of property rights involved in the junkyard will be conducted by right-of-way personnel. Negotiations will include a thorough investigation of all claims for compensation made by either the junk owner, the landowner, or any other person. Formal written offers will be made. Such letters will set out the property rights to be acquired or damaged and the amount to be paid therefor. The time allowed for the removal of the junk and other personal property will be negotiated, but the 90-day notice process will be followed. Controls will be established to insure that the junk is not moved to any location which would violate the provisions of the Beautification Act, or any other law or ordinance.

C. Acquisition by Expropriation. If the written offer to any party which has a compensable interest is not accepted within a reasonable time, acquisition by expropriation to acquire the necessary property interest will be initiated by the state.

D. Programming and Authorization of Relocation or Disposal Projects

1. When a project is to be let for the relocation or disposal of non-conforming junkyards along interstate and federal aid primary highways, the beautification and permit engineer will be responsible for determining the scope of the project. The length of a given project will depend upon the number and cost of relocation or disposal of the junkyards.

2. After obtaining a project number from the project control engineer, the beautification and permit engineer will provide the right-of-way section with a list of the junkyards to be relocated or disposed of, their inventory number, location and validation of their legal status. The right-of-way section will then furnish the beautification and permit engineer the junkyard owner, parcel numbers, location of replacement site, if applicable, and the real property interest to be acquired in order to implement the control measures.

3. The federal aid engineer of the project control section will then request federal participation by submitting to the division engineer of the Federal Highway Administration the following information which will be supplied to him by the beautification and permit engineer:

a. the zoning and validation of the legal status of each junkyard on the project;

b. the control measures proposed for each junkyard including, where applicable, information relative to permanent disposal sites to be acquired by the state;

c. the real property interest to be acquired in order to implement the control measures;

d. project and parcel number;

e. landowner;

f. junkyard inventory number;

g. estimated cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:447 (October 1975).

§323. Documentation

A. Documentation for federal participation will be as prescribed in the most current federal publications regarding junkyards. The department will use before and after photographs on the junkyard site and the screened or relocated site.

B. Definitions

1966 Inventory—the record of the survey of junkyards in existence along interstate and federal aid primary highways as of the date of the inventory, compiled by the State Highway Department pursuant to Federal Highway Administration Instructional Memorandum 50-1-66, dated January 7, 1966.

Automobile Graveyard—any establishment or place of business which is *maintained*, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Ten or more such dismantled vehicles will constitute an automobile graveyard.

Centerline of the Highway—a line equidistance from the edge of the median separating the main-traveled ways of a divided highway, or the centerline of the main-traveled way of a nondivided highway, or the centerline of each of the main-traveled ways of a divided highway separated by more than the normal median width or constructed on independent alignment.

Effective Screening—the planting, architectural screen barrier, earth grading, inventory reduction, shifting of the storage area on the same property, and any combination of these that eliminates the visibility of the junk.

Federal-Aid Primary Highway—any highway within that portion of the state highway system as designated, or as may hereafter be so designated by the state, which has been approved by the secretary of Transportation pursuant to Subsection (b) of Section 103, Title 23, United States Code.

Illegal Junkyard—one which was established and/or maintained in violation of state law or local ordinance or other valid regulatory standard.

Industrial Activities for Purposes of Classifying Unzoned Industrial Areas—those permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the state, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the state, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the state, except that none of the following shall be considered industrial activities:

a. outdoor advertising structures;

b. agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;

c. activities normally and regularly in operation less than three months of the year;

d. transient or temporary activities;

e. activities not visible from the traffic lanes of the main-traveled ways;

f. activities more than 300 feet from the nearest edge of the main-traveled ways;

g. activities conducted in a building principally used as a residence;

h. railroad tracks, minor sidings, and passenger depots;

i. junkyards, as defined in Section 136, Title 23, United States Code.

Junk—old or scrap metal, rope, rags, batteries, paper, trash, rubber debris, waste, or junk, dismantled, or wrecked automobiles or parts thereof.

Junkyard—an establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary landfills.

a. Activities for purposes of classifying junkyards include:

i. scrap metal processors, auto-wrecking yards, salvage yards, scrap yards, auto-recycling yards, used auto parts yards, and similar facilities;

ii. temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises.

b. Activities not included in classifying junkyards include:

i. litter, trash, and other debris scattered along or upon the highway;

ii. temporary operations and outdoor storage of limited duration not falling within Subparagraph b above.

Landscaping—planting and related work.

Maintain—allow to exist.

Main-Traveled Way—the traveled way of the highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadway, or parking areas.

National System of Interstate and Defense Highways and Interstate Systems—the system presently defined in and designated, or as may hereafter be so designated, pursuant to Subsection (d) of Section 103, Title 23, United States Code.

Non-Conforming Junkyard—one which was lawfully established, but which does not comply with the provisions of state law or state regulations passed at a later date or which later fails to comply with state regulations due to changed conditions.

Sanitary Landfill—a method of disposing of refuse on land without creating a nuisance or hazards to public health or safety by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary. Sanitary landfills which meet this definition will not be required to be screened, but will be required to be landscaped when the fill has been completed and the operations have ceased.

State Law—a state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a state agency or political subdivision of a state pursuant to a state constitution or statute.

Unzoned Area—an area where there is no zoning in effect. It does not include areas which may have rural zoning classification or land uses established by zoning variances or special exceptions.

Unzoned Industrial Area—land occupied by the regularly used building, parking lot, storage, or processing area of an industrial activity, and that land within 1,000 feet thereof which is located on the same side of the highway as the principal part of said activity, not predominantly used for residential or commercial purposes, and not zoned by state or local law, regulation, or ordinance.

Visible—capable of being seen without visual aid by a person of normal visual acuity.

Zoned Industrial Area—those districts established by zoning authorities as being most appropriate for industry or manufacturing. A zone which simply permits certain industrial activities as an incident to the primary land use designation is not an industrial zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:448 (October 1975).

Chapter 4. Placing of Major Shopping Area Guide Signs on Interstate Highways

§401. Definitions

Eligible Urban Highway—an interstate highway.

Gross Building Area—square footage of usable area within a building, or series of buildings under one roof, that is considered usable by the retail businesses and the public; if a building is multi-level, this includes the square footage available on each level.

Major Shopping Area—a geographic area that:

1. consists of 30 acres or more of land;

2. includes an enclosed retail shopping mall that contains 500,000 square feet or more of gross building area;

3. includes strip-style outdoor shopping plazas and outlet shopping centers that contain no less than 240,000 square feet of gross leasable space;

4. is located within 3 miles of an interchange with an eligible urban highway.

Major Shopping Area Guide Sign—a rectangular sign panel imprinted with the name of the retail shopping area as it is commonly known to the public and containing directional information.

Major Shopping Area Ramp Sign—a sign with the common name of the retail shopping mall, directional arrows, and/or distances placed near an eligible urban highway exit ramp.

Retail Shopping Mall—retail businesses located within a building, or a series of buildings, connected by a common continuous roof and walls, and enclosing and covering all inner pedestrian walkways and common areas.

Supplemental Guide Sign—the major shopping area guide signs shall meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs Section and Manual on Uniform Traffic Control Devices. Only one supplemental guide sign assembly with a maximum of two supplemental guide sign destinations shall be allowed per exit. Other existing and new traffic generators which qualify for supplemental guide signs shall be given priority over major shopping guide signs, including permitted and installed shopping area guide signs.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:873 (April 2002).

§403. Specifications for Major Shopping Area Mainline Guide Signs

A. A major shopping area sign shall:

1. have a green background with a white retroreflective legend and border;

2. meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs and the Manual on Uniform Traffic Control Devices;

3. have background, legend, and border material which conforms with department specifications for reflective sheeting;

4. not be illuminated externally or internally; and

5. be fabricated, erected and maintained in conformance with department specifications and fabrications details.

B. A major shopping area guide sign shall:

1. contain the name of the major shopping area as it is commonly known to the public;

2. be a maximum of 20 characters in length; and

3. contain the exit number or, if exit numbers are not applicable, other directional information.

C. Subject to approval of the department, a major shopping area guide sign shall be installed or placed:

1. independently mounted, or if approved by the department, attached to existing guide signs;

2. to take advantage of natural terrain;

3. to have the least impact on the scenic environment;

4. to avoid visual conflict with other signs within the highway right-of-way;

5. with a lateral offset equal to or greater than existing guide signs;

6. for both directions of travel on the eligible urban highway;

7. without blocking motorists' visibility of existing traffic control and guide signs; and

8. in locations that are not overhead unless approved by the department.

D. The department reserves the right to terminate permits and cover or remove any or all shopping center guide signs under the following conditions:

1. failure of a business to meet the minimum criteria;

2. failure to pay renewal fees within 30 days of invoice;

3. during roadway construction and maintenance projects; or

4. the department determines that new or existing traffic generators have a higher priority.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:873 (April 2002).

§405. Major Shopping Area Ramp Signs

A. A major shopping area ramp sign shall:

1. have a green background with a white reflective legend and border;

2. meet the applicable provisions of the Engineering Directives and Standards Memorandum for Interstate Supplemental Guide Signs and the Manual on Uniform Traffic Control Devices;

3. have background, legend, and border material which conforms with department specifications for reflective sheeting;

4. be fabricated, erected, and maintained in conformance with department specifications and fabrication details; and

5. not be illuminated internally or externally.

B. A major shopping area ramp sign shall contain:

1. the name of the major shopping area as it is commonly known to the public; and

2. directional arrows and distances.

C. Subject to approval of the department, the major shopping area ramp sign(s) may be placed along an exit ramp or at an intersection of an access road and crossroad if the retail shopping mall driveway access, buildings, or parking areas are not visible from the exit ramp, access road, or intersection.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:874 (April 2002).

§407. Application

A. Applications for Major Shopping Area Guide Signs shall be made utilizing the department's "Major Shopping Area Guide Sign Permit" form and shall be submitted to the Department of Transportation and Development, Traffic Services and Engineering Section, 7686 Tom Drive, Baton Rouge, LA 70806.

B. Applications will be accepted on a "first come, first served" basis. The department will notify the public 30 days in advance of the date, time and location of acceptance of applications by publication of a notice in the newspapers statewide which are designated as "official journals."

C. All permitted major shopping area guide signs shall be fabricated and installed according to departmental standards by a private contractor employed by the permit applicant and shall be installed at locations pursuant to departmental approval and according to a traffic control device permit issued by the department. The cost of design, fabrication, and installation shall be the responsibility of the permit applicant.

D. An annual fee of $3,600 per interchange shall be payable to the department prior to installation or renewal. The interchange fee includes $1,200 for each mainline sign and $600 for each ramp or trailblazer sign. This fee represents the department's cost to administer the program. A portion of the fee is also associated with maintenance of the highway right-of-way being utilized, as well as the cost associated with anticipated maintenance of the shopping center guide sign.

E. Upon completion of installation, all major shopping area guide signs and mountings become the property of the department and shall then be maintained by the department.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:274.3.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:874 (April 2002).

§409. Department Contracts

A. The department may enter into a contract or contracts for the administration, installation, maintenance, accounting and marketing of the shopping center guide sign program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:274.3.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:874 (April 2002).

Chapter 5. Installation of Tourist Oriented Directional Signs (TODS)

§501. Purpose

A. The purpose of this directive is to establish policies for the installation of Tourist Oriented Directional Signs (TODS) within state highway rights-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation Section, LR 19:1596 (December 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:228 (March 1996).

§502. Definitions

A. Except as defined in this paragraph, the terms used in this rule shall be defined in accordance with the definitions and usage of the Louisiana Manual on Uniform Traffic Control Devices (MUTCD).

Conventional Highway—any state maintained highway other than interstate.

Department—all references to *department* shall be interpreted to mean Louisiana Department of Transportation and Development.

Local Road—any roadway which is not part of the state maintained system.

Tourist Activities—publicly or privately owned or operated; natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of national beauty

or areas naturally suited for outdoor recreation, the major portion of whose income or visitors are derived during the normal business season from motorists not residing in the immediate area of the activity.

Tourist Oriented Directional Signs (TODS)—official signing located within the state rights-of-way giving specific directional information regarding tourist activities.

AUTHORITY NOTE: Promulgated in accordance with R. S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation Section, LR 19:1596 (December 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:229 (March 1996), LR 37:920 (March 2011).

§503. General Eligibility Requirements

A. General. Tourist activities shall be open to all persons regardless of race, color, religion, ancestry, national origin, sex, age or handicap; be neat, clean and pleasing in appearance; maintained in good repair; and comply with all federal, state, and local regulations for public accommodations concerning health, sanitation, safety, and access.

B. Types of attractions may include, but will not be limited to the following:

1. national historical sites, parks, cemeteries, monuments;

2. state historical sites, parks, monuments; cultural attractions;

3. aquariums, museums, zoos, planetariums, and arboretums;

4. lakes and dams, recreational areas, beaches;

5. Indian sites, historical homes/buildings, gift/souvenir shops;

6. bed and breakfast establishments; and

7. hotels, motels and restaurants only if they are listed on the National Register of Historic Places.

C. Admission Charges. If general admission is charged, charges shall be clearly displayed so as to be apparent to prospective visitors at the place of entry.

D. Parking. Off-street parking adequate to handle the demand.

E. Hours. Tourist activities shall maintain regular hours and schedules and be open to the public at least five days each week and a minimum of eight months of the year.

F. Illegal Signs. TOD sign applications will not be accepted if the tourist activity has any illegal advertising signs on or along any state highway.

G. Insufficient Space. Preference will always be given to the erection of standard traffic signs (e.g., regulatory, warning, and guide signs) which may preclude the authorization of TODS since a space of 200 feet is required between all signs on conventional roads.

H. On-Premise Sign. The tourist activity shall have on-premise sign identifying the name of the facility. If the attraction's on-premise sign is readily visible from the highway, a TOD sign is not normally required in front of the attraction.

I. Trailblazing. Trailblazing needs will be determined by the department. The activity must provide all trailblazing signs on local roads.

J. Return in Same Direction of Travel. TOD signs will not be authorized for facilities if motorists cannot readily return to the highway in the same direction of travel.

K. Onto Freeways. TOD signs will not be authorized to direct traffic onto a freeway or expressway.

L. Sign Design. TOD signs will be designed as follows.

1. Each sign should have one or two lines of legend. All signs shall have directional arrow with mileage. If the distance to the attraction is over 1/2 mile, the distance to the attraction to the nearest whole mile shall be included below the arrow. The content of the legend shall be limited to the name of the attraction and the directional information. If space exists on the second line, additional directional information may be indicated, e.g., 1/4 mile on left, left on second street, etc. The maximum number of letters and spaces on a given line will be about 18. Legends shall not include promotional advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation Section, LR 19:1596 (December 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:229 (March 1996), LR 37:920 (March 2011).

§504. Location and Number of TODS on Conventional Highways

A. General. On conventional highways, TODS may be authorized for eligible attractions, directing motorists from the nearest arterial highway from each approach to the attraction for a distance not to exceed 15 road miles.

B. Sign Location. Sign assemblies should be placed far enough in advance of the intersection to allow time for the necessary maneuver. A minimum of 200 feet should be maintained between all signs.

C. Maximum Number of Signs. A maximum of six attractions will be authorized for signs on any approach to an intersection.

D. Sign Assemblies. TOD signs should normally be installed as independent sign assemblies as follows.

1. Signs shall be installed on one sign assembly with the signs with arrows pointing to the left above those pointing to the right. If any straight ahead arrows are authorized, as in the case where the road turns and the

attraction's access is straight ahead, the sign for that attraction shall be installed above any signs for attractions to the left or right.

2. If more than six attractions qualify at a given location priority will be given to the closest attraction. Once an attraction has been signed it has priority over subsequent attractions which are closer.

3. If more than one attraction exists in a given direction, the signs for the closer attraction should be above the more distant attractions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation Section, LR 19:1597 (December 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:229 (March 1996).

§505. Application Procedure

A. Applications for TODS shall be submitted to the LA DOTD Office of the Traffic Services Administrator.

B. Personnel assigned to the Office of DOTD traffic services administrator or their agent will review the application and a field check will be made by the district traffic operations engineer or its agent to verify information provided and to collect additional data on existing conditions, including whether a location for a TODS exists at the requested intersection and what trailblazing will be necessary.

C. Applications shall then be submitted to the DOTD TODS manager or its agent for further review.

D. The DOTD traffic services administrator or its agent shall then forward the application with information to the Assistant Secretary of the Louisiana Office of Tourism.

E. The DOTD outdoor advertising program manager section 45 or its agent will determine if the applicant qualifies as a tourist activity and make a report of its finding to the assistant secretary of the Louisiana Office of Tourism.

F. TODS applications will be accepted on a "first-come" basis.

G. All TODS signs shall be furnished by the businesses at no cost to DOTD or its agent and shall be manufactured in accordance with DOTD Standards or Special Specifications and/or supplements thereto, for both materials and construction. Signs not meeting these requirements shall not be installed.

H. Applicants must submit a layout of professional quality or other satisfactory evidence indicating design of the proposed TODS sign for approval by DOTD or its agent before the sign is fabricated.

I. Applicant must supply all signs within 90 days of approval. Failure to do so may cause DOTD or its agent to void the application.

J. Applicant will be limited to two mainline signs and a minimal number of trailblazer signs, the number deemed necessary to be determined by the department or its agent.

AUTHORITY NOTE: Promulgated in accordance with L.R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation Section, LR 19:1597 (December 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:230 (March 1996), LR 26:2330 (October 2000), LR 37:921 (March 2011).

§506. Fees and Agreements

A. The fees and renewal dates shall be established by the department. Notification will be given 30 days prior to changes in fees.

1. The permittee will be invoiced for renewal 30 days prior to the renewal date. The fee shall be remitted by check or money order payable to the Louisiana Department of Transportation and Development or its agent. Failure of a business to submit the renewal fee(s) by the annual renewal date shall be cause for removal and disposal of the TOD signs by the department or its agent. The initial fee shall be prorated by the department to the annual renewal date to cover the period beginning with the month following the installation of the TOD signs. Service fees will be charged for the removal and reinstallation of delinquent applicants.

2. When requested by the applicant, the department or its agent, at its convenience, may perform additional requested services in connection with changes of the TOD sign, with a service charge per sign. A service fee will be charged for removal and reinstallation of seasonal signs.

3. The department or its agent shall not be responsible for damages to TOD signs caused by acts of vandalism, accidents, natural causes (including natural deterioration), etc. requiring repair or replacement. In such events the business shall provide a new or renovated business sign together with payment of a service charge fee per sign to the department or its agent to replace such damaged business sign(s).

4. Tourist attractions requesting placement of TOD signs shall submit to the department or its agent a completed application form provided by the department or its agent. A business which would not typically qualify for a sign may be permitted if the business is a building listed on the National Register of Historic Places. However, the name to be placed on the sign shall be determined by the DOTD TODS manager, section 45 or its agent.

5. No TOD sign shall be displayed which, in the opinion of the department, does not conform to department standards, is unsightly, badly faded, or in a substantial state of dilapidation. The department or its agent shall remove or replace any such TOD signs as appropriate. Removal shall be performed upon failure to pay any fee or for violation of any provision of these rules.

6. When a TOD sign is removed, it will be taken to the district office of the district in which the activity is

located or to the permitted business. The applicant will be notified of such removal and given 30 days in which to claim the sign or signs, after which time, the sign or signs shall be disposed of by the department or its agent.

7. Should the department or its agent determine that trailblazing to a tourist attraction is warranted, it shall be done with an assembly (or series of assemblies) consisting of trailblazing signs. The attraction will be responsible for having the signs installed on all local roads by the parish or municipality in which the signs are to be located.

8. Should an attraction qualify for TOD signs at two locations, the TOD sign(s) will be erected at the nearest location. If the applicant desires signing at the other location also, it may be so signed provided it does not prevent another attraction from being signed.

9. When it comes to the attention of the department or its agent that a participating activity is not in compliance with the minimum criteria, or does not meet the general eligibility requirements, the applicant will be notified that it has a maximum of 30 days to correct any deficiencies or its signs will be removed. If the applicant applies for reinstatement, this request will be handled in the same manner as a request from a new applicant.

10. The department reserves the right to cover or remove any or all TOD signs in the conduct of its operations or whenever deemed to be in the best interest of the department or the traveling public without advance notice thereof. The department reserves the right to terminate this program or any portion thereof by furnishing the applicant, a written notice of such intent not less than 30 calendar days prior thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation Section, LR 19:1596 (December 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:228 (March 1996), LR 37:921 (March 2011).

§507. Other Issuances Affected

A. All directives, memoranda or instructions issued heretofore that conflict with this rule are hereby rescinded. All existing supplemental guide signs which qualify under this rule, but are not TODS, shall be removed by the department within two years, and may be replaced with TODS in accordance with these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation Section, LR 19:1596 (December 1993), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 22:228 (March 1996).

Chapter 7. Display of American Flags within Highway Right-of-Way

§701. Conditions

A. The Department of Transportation and Development will allow the display of American flags within its right-of-way under the following conditions.

1. Permanent flag poles shall be located behind barriers or beyond the designated clear zone of the highway. Clear zone distances are to be in accordance with the current approved design standards of DOTD at the time the application is made and a copy is to be attached to the permit. In cases where the right-of-way width is less than the clear zone distance, the flag pole may be installed within 1 foot of the right-of-way.

2. Design of the flag poles are to conform with the standards as set forth in the Standard Specifications for Structural Supports for Highway Signs Luminaries and Traffic Signals as prepared by the American Association of State Highway and Transportation Officials (AASHTO). Maximum height of flag poles shall be 30 feet with an approximate maximum flag size of 5 feet x 9 feet. A 6-foot diameter concrete mowing apron shall be installed around the base of the flag pole in a typical installation.

3. Yard arm or outrigger flag poles may be mounted on light standards providing their placement does not degrade the light standards' structural integrity or interfere with traffic and maintenance of the light fixtures. In those cases where the light standards are owned by local government agencies and are maintained by them or private power companies, additional approval shall be obtained from the local government agency and/or power company. Minimum mounting heights for yard arms or outriggers shall be 20 feet above the natural grade. Maximum length of the yard arm or outrigger shall be 6 feet and the maximum flag size shall be approximately 3 feet x 5 feet.

4. Yard arms or outrigger flag poles may be mounted on utility poles providing their placement does not create a hazard or degrade the poles' structural integrity. Approval from the poles' owner must be obtained by the permittee prior to applying for a permit. Minimum counting heights for yard arms or outriggers shall be 20 feet above the natural grade. Maximum length of the yard arm or outrigger shall be 6 feet and the maximum flag size shall be approximately 3 feet x 5 feet.

5. Temporary flag poles may be erected along the right-of-way for holidays such as Memorial Day, Independence Day, etc. These poles shall have a maximum diameter of 1 1/2 inches and be located in such a manner that if they should fall they will not interfere with traffic. These temporary flag poles should be erected in a sleeve mounted flush with ground and shimmed to project the pole in a vertical, stabilized position. They shall be constructed of a material which will allow them to collapse when struck by a vehicle.

6. Flags will not be allowed to be mounted on the superstructure of bridges since they could cause a distraction to the motorists thus creating a traffic hazard. Flags may be flown from the substructure of bridges providing they are mounted in such a manner as not to allow the wind to blow the flag into the travel lanes of the bridge. Positive tie down or sufficient weight is to be added to the trailing edge of the flag to prevent the uplift of the flag.

7. Flags are to be displayed as outlined in Public Law 94-344.

8. Location of existing underground utilities shall be verified by the permittee or his agent prior to digging the foundation hole for the flag pole.

9. Purchase, installation cost, removal cost, and maintenance of the flag pole shall be the responsibility of the permittee.

10. The installation or removal of flags shall be accomplished in a manner that will not interfere with the normal flow of traffic.

11. Uplighting shall be allowed providing that the light is shielded and will not interfere with drivers' vision; and further providing that there is sufficient space to allow placement of the lighting within the right-of-way.

12. Prior to erecting a flag pole or poles, yard arms or outriggers, or the display of flags from the substructure of bridges it shall be necessary to obtain a permit from the local DOTD District Office, on Project Permit Form 593, describing the location, type and method of erecting the poles and displaying the flags.

13. Flags and/or flag poles installed without permit, or not installed in accordance with the conditions of the permit, shall be immediately removed at the expense of the party responsible for the installation.

14. Issuance of flag permits shall be at the discretion of the DOTD, and only governing bodies or nonprofit organizations may obtain them.

15. Drawings of the flag pole, footings and other structural features shall be attached with each permit request, and stamped by an engineer licensed by the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, LR 17:678 (July 1991), amended LR 19:359 (March 1993).

Chapter 8. Advertising on Department of Transportation and Development-Owned Assets

§801. Purpose

A. The purpose of this Rule is to establish a policy within the Department of Transportation and Development for allowing certain limited types of advertising on high-visibility assets owned by the Department of Transportation and Development for the sole purpose of raising revenue to defray some costs of departmental services.

B. The establishment of this policy is not for the purpose of creating a public forum, but is for the purpose of allowing tasteful, visually appealing and inoffensive content for the department's customers while simultaneously supplementing departmental revenues.

C. The display of advertising on departmental assets will not constitute an endorsement by the department of any of the products, services or messages advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21-26 and 48:274.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 37:3533 (December 2011).

§803. Requests for Proposals

A. The department may issue requests for proposals in order to secure bidders for advertisement spaces on state-owned assets.

B. The requests for proposals will be reviewed by a committee appointed by the secretary and the most suitable proposal, as determined by the committee, shall be selected.

C. The committee has the discretion to make reasonable choices concerning the types of advertising that may be displayed and shall utilize the criteria which follow in this Rule.

D. The department may limit the number of assets available for advertising displays.

E. The department may limit the term of the contract with the advertiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21-26 and 48:274.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 37:3533 (December 2011).

§805. Guidelines for Content of Advertising

A. Only commercial advertising will be accepted. It should have content which promotes a commercial transaction.

B. No content promoting illegal activity or obscene, vulgar or offensive conduct shall be allowed.

C. No content that demeans or disparages individuals or groups shall be allowed.

D. No political advertising shall be allowed.

E. No advertising of adult oriented products shall be allowed. Exception: advertising of gambling facilities shall be allowed.

F. The advertising should not be so controversial that it can promote vandalism of advertising materials and associated departmental property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21-26 and 48:274.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 37:3533 (December 2011).

§807. Guidelines for Placement of Advertising on Assets

A. For advertising which requires a power source, such as electronics or LED lighting, the advertiser will be required by the department to submit and maintain detailed plans and provisions. The use of the powered advertising devices shall not have any adverse effect on the safety and functionality of the asset. If the safety and functionality of the asset is compromised after installation, the advertising shall be removed.

B. On ferries or vehicles, advertising may be placed on the inside or the outside of the ferry or vehicle. However, the advertising shall not be erected in such a manner that it impedes current lines of sight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21-26 and 48:274.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 37:3533 (December 2011).

§809. Advertising Standards Committee

A. The secretary shall establish a three member Advertising Standards Committee. Such committee shall be independent and its determinations shall constitute final departmental determinations.

B. The committee shall review all requests for proposals and shall review all content of advertisement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:21-26 and 48:274.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 37:3533 (December 2011).

Title 70
TRANSPORTATION
Part V. System Management

Chapter 1. Flight Operation Manual Revision Number 1

Subchapter A. Provisions

§101. General

A. Pursuant to the authority vested in the Office of the Secretary by R.S. 2:6 and 36:509F(3), the Department of Transportation and Development (DOTD) will publish a revision to the State of Louisiana Flight Operations Manual, in order to establish new procedures for use of the DOTD aircraft pool.

B. The previous rule published by the Office of the Governor, Division of Administration, entitled "Fiscal Policy and Procedure Memorandum Number 67, Uniform Policy for Travel in State Owned Aircraft," is superseded and canceled by this revision to the Flight Operations Manual. The contents of this are reflected Subchapter B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509F(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 12:116 (February 1986).

Subchapter B. Scheduling Procedures

§103. Authorized Use of Aircraft

A. For State Benefit. Aircraft shall be used only when the interest of the state of Louisiana is being served.

1. Official State Business. Any state officer or state employee may utilize the aircraft operated by the DOTD for general transportation purposes in the conduct of official state business, in connection with the function of the department of the state officer or employee.

2. Any statewide elected official who determines that personal or political usage of state-owned or operated aircraft is necessary in performing the duties of his/her office and should, therefore be conducted at public expense will be billed for such service at the published rate. All provisions and policy shall be applicable to travel in state operated aircraft.

3. In order to effect the provisions described above, all passengers in DOTD operated aircraft will provide specific information on the purpose of their travel at the time of reserving space and/or during check-in procedures.

B. Classes of Travelers

1. State Officer

a. Statewide elected officials, governor, lieutenant governor, attorney general, secretary of state, state treasurer, superintendent of education, commissioner of agriculture, commissioner of elections, commissioner of insurance.

b. Duly elected members of the Louisiana Legislature.

c. Department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, undersecretary, and the equivalent positions in higher education and the offices of elected officials). For the purpose of this policy, the speaker of the House of Representatives and the president of the senate shall be considered as being equivalent to secretary of their respective chambers. No additional levels of the chambers shall assume department head status for the legislature without prior written approval of the commissioner of administration.

2. State Employee. All employees below the level of state officer.

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

4. Members of boards, commissions, and advisory councils required by federal or state legislation or regulation.

5. Sponsored Travelers

a. Industrial inducement prospects, when accompanied by a sponsoring state officer or employee when engaged in official state business.

b. Spouses of state officials, to the level of secretary of departments, when accompanied by the sponsoring state officer, and when engaged in official state business. Spouses may only be transported on DOTD operated aircraft on a space-available basis. The provisions of this Subparagraph shall not apply to the spouse of the duly elected governor of the state of Louisiana, when same is performing travel instead of, or on behalf of the governor, and thus is engaged in official business of the state.

c. Other persons performing official state business who have prior written approval for travel from a sponsoring state traveler or from the commissioner of administration.

6. Sponsoring State Traveler. The state officer or employee that assumes the responsibility and charges for the travel of a sponsored traveler in DOTD operated aircraft.

C. Executive Transport Aircraft

1. The primary purpose of the state executive transport aircraft fleet is to assist state officials, both elected and appointed, and others involved with appropriate business matters of the state, by easing the burden of travel. State aircraft can provide transportation when travel is required to locations which are difficult to reach or which involve time-consuming ground transportation or other problems. Travel to locations where direct commercial service is available should be scheduled only when there is significant savings in travel time or where there are other important advantages. The executive transportation fleet is to augment, rather than compete with, commercial services.

2. Agency or department heads (sponsors) may request the usage of the executive transport aircraft and they may also authorize other state employees to use the aircraft when they deem it serves an appropriate purpose. If approved by the sponsor, passengers other than state employees may travel on state aircraft in connection with appropriate business matters.

3. Reservations of executive transport aircraft should be made through the designated agency or department air transportation scheduler. If state executive transport fleet aircraft are to be used, the sponsor's scheduler or representative will coordinate travel needs with the Department of Transportation and Development (DOTD), Office of Flight Operations (OFO) flight scheduler.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509F(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 12:117 (February 1986).

§105. Appointment of the Agency Schedulers

A. Each agency or department that anticipates use of DOTD/OFO aircraft for air transportation services will designate a responsible individual as the permanent air transportation scheduler and a second responsible individual as the alternate scheduler. These internal agency schedulers are to coordinate with the DOTD/OFO scheduling section to help achieve the most effective use of the state fleet of aircraft and helicopters. The primary reasons for assigning an internal scheduler for each agency are to reduce the number of parties contacting the DOTD/OFO schedulers, to promote flight coordination within agencies, to simplify the scheduling procedure, and to assure proper authorization of flight requests. Ideally, the air transportation scheduling assignments should be given to two individuals who are centrally located in the agency and within the same office. These scheduling duties would be additional duties assigned to established positions with the current organization.

1. Responsibility of the Agency Scheduler

a. The permanent scheduler will be the agency's primary contact with the DOTD/OFO on the subject of flight scheduling and availability. He/she will be responsible for arranging flights, forwarding alterations or cancellations, assigned internal priorities, maintaining records and keeping the alternate scheduler well versed on the system's operations. On the other hand, the alternate scheduler should be prepared to fill in for the permanent scheduler in the case of sickness, personal leave, vacation or any similar circumstances.

b. Each agency scheduler will be responsible for obtaining and permanently recording the information on the Internal Flight Request Form provided by DOTD/OFO for each flight reservation.

c. This information is necessary for completion of the trip ticket and passenger manifest and will be given to the DOTD/OFO scheduler when requesting a flight.

2. Flight Scheduling Guidelines

a. Sufficient notice should be given to allow optimum aircraft utilization. As a basic guideline, all flights should be requested not later than 24 hours in advance of the desired departure time. All flights should be requested before 12 noon on the preceding business day. Normally, flights and crews are scheduled by the DOTD/OFO during the afternoon of the preceding business day. Exception: Saturday through Monday flights are scheduled on Thursday. Exceptions to the guidelines will be subject to the availability of an aircraft and crew. Pilots cannot be scheduled for duty over 14 hours in a 24-hour period and must have a minimum of 10 hours rest since the termination of the previous flight duty period.

b. For the sponsor's consideration, the best available commercial alternative will be provided by the DOTD/OFO scheduler when a trip involves a significant repositioning of the aircraft without payload or a location that is well served by airlines. A few minutes difference in travel between office and state hangar vs. office and commercial flight should not be considered justification to opt for state aircraft. Also in the interest of optimum fleet utilization, spare seats will be filled upon coordination with the trip sponsor, who should make every reasonable effort to accommodate.

c. When scheduling conflicts exist, priority will be given to travel locations where there is infrequent or no commercial service or locations that are otherwise difficult to reach. Prior to a flight request, a conscientious determination of priority by all users is imperative if the system is to accomplish the desired scheduling objectives.

d. The following definitions explain the various classification of priority.

Emergency—response by state aircraft is mandatory; e.g., disaster, emergency medical service, etc.

Priority—alternative means of public air transportation are not available.

Routine—alternative means of public air transportation are not available within 30 minutes of the requested departure times.

Top Priority—response by state aircraft is essential.

e. If an internal priority is not declared at the time the flight is requested, the requirement will be considered to be routine.

f. All conflicts will be discussed and settled with the trip sponsors or their designated scheduler. sponsors should be alert to the needs of others and plan their travel needs to best use the aircraft and crews.

3. Flight Scheduling Procedures

a. All flight requests will be made to the DOTD/OFO flight scheduler at (225) 342-7912 or 7913, who will enter the request along with the agency internal priority on a tentative schedule. This tentative schedule will be confirmed the afternoon of the last business day prior to the flight. If an adjustment in time is necessary to accommodate flight scheduling, the DOTD/OFO scheduler will advise the agency scheduler of the necessary changes at that time. A passenger manifest will be prepared prior to each flight. The sponsor or his representative must sign the manifest/trip ticket and is responsible for verifying the flight purpose thereon. At the conclusion of the flight, disposition of manifests/trip tickets will be determined by the agency of department operating the aircraft.

b. All passengers are requested to be present at the aircraft at least 10 minutes prior to planned departure time. This will allow the pilot to depart on schedule and meet all subsequent schedules on time. The cooperation of each passenger is needed in order to avoid inconvenience to other passengers. If a passenger is unavoidably delayed in arriving at the airport, a call to the DOTD/OFO scheduler, or the pilot if away from home base, is requested prior to scheduled departure time. If no contact is received from the passenger, the standard procedure for the pilot will be to proceed (if all other passengers are present or if passengers are scheduled to be picked up at the next stop) not later than 30 minutes after scheduled departure time.

c. In order to provide a means of confirming flight requests a week or more in advance, the following applies: request early confirmation from the DOTD/OFO scheduler; verify the agency internal priority under §105.A.2.c; understand that there is a possibility that an aircraft may be chartered to meet the flight request if a state aircraft is not available; the charges for use of charter aircraft will be billed directly to the user agency.

d. Flight Cancellation

i. Flight Canceled by DOTD/OFO. On some occasions, it may be necessary to cancel scheduled flights. The DOTD/ OFO scheduler will immediately contact the agency scheduler and attempt to arrange alternate transportation. If the agency so desires, the DOTD/OFO scheduler can usually arrange for a charter flight.

ii. Flight Canceled by the Passenger. Cancellations of reserved flights shall be made, at least 24 hours in advance of scheduled departure time. Later cancellations may result in a cancellation charge of $50 being assessed against the agency unless sufficient justification for the late cancellation is provided to the undersecretary of DOTD.

e. Phone Contacts

During normal business hours:	(7:45 a.m. to 4:30 p.m.)
DOTD/OFO Scheduler	(225) 342-7912
Flight Operations Manager	(225) 342-7913
Nights and Weekends:	Home Phone Pager
OFO Scheduler	(225) 774-2149
Director of Flight Operations	(225) 292-4394
	(225) 377-0917

4. Rate Structure and Billing Procedures

a. In order to ensure full disclosure and complete accountability of the use of state aircraft, each agency must identify the purpose of the flight.

b. Official state business travel is defined as travel via state aircraft to conduct business for the state of Louisiana.

c. Rate schedule for DOTD/OFO aircraft. Users of aircraft operated by DOTD/OFO shall be charged in accordance with the following rates as recommended by the secretary of transportation and approved by the governor.

i. Twin Engine Turbo Prop—$200 per agency flight hour to destination and return.

ii. Twin Engine (Reciprocating Engine)—$120 per agency flight hour to destination and return.

iii. Single Engine $60—per agency flight hour to destination and return.

iv. Rotary Wing Single Engine—$200 per agency flight hour to destination and return.

v. A minimum charge of $100 per agency flight will be collected for all flights which generate less than $100 in per hour charges. A $15 per hour, per pilot, per agency charge will be collected for ground waiting times.

vi. A cancellation charge of $50 may be assessed against the agency if the agency does not notify the DOTD scheduler of a cancellation at least 24 hours prior to scheduled departure time.

d. Routing. For maximum utilization of aircraft, a user may be routed via points other than those requested, but will not be charged for other than the point to point flight hours of the route requested. Since more than one user may travel on the same flight, each user will be billed according to their respective requested routings.

e. Billing

i. The DOTD/OFO will bill each user on a monthly basis. Each user will receive an invoice which will identify the date of the flight, aircraft number, manifest number, passenger names, point of origin and point of destination, any special changes, the total flight hours and the respective charges.

ii. It is the responsibility of each agency to expeditiously handle any charges for air travel. Failure by an agency to meet its payment obligations shall result in the loss of flight privileges on DOTD aircraft.

iii. Make all checks payable to: State of Louisiana, Department of Transportation and Development, Box 94245, Capitol Station, Baton Rouge, LA 70804-9245.

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:6 and 36:509F(3).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 12:117 (February 1986).

Title 70
TRANSPORTATION
Part VII. Offshore Terminal Authority

Chapter 1. Licensing Offshore Terminal Facilities for Dry Bulk Cargoes

§101. Statutory Provisions

A. Section 3101(A) of Louisiana Act 444 of 1972, as amended by Act 358 of 1974 (hereinafter called the "Act"), states that one of its objects and purposes is to "license, regulate, (and) supervise offshore terminal facilities within the jurisdiction" of the authority in order to promote the economic welfare of the citizens of Louisiana.

B. Section 3101(B)(6) of the Act states that a purpose of the authority is to "assert and protect Louisiana's economic, social and environmental interest in the development of any offshore terminal facilities outside the state of Louisiana where such development may have an impact upon the state of Louisiana."

C. Section 3103(A) of the Act provides that "the authority shall have exclusive jurisdiction over the authority development program within the coastal waters of Louisiana, the areas of the state extending seaward thereof to the extent of the state's rights thereto, and over such other waters, water bottoms, wetlands and lands within the territorial boundaries of the state necessary to effectuate the purposes" of the Act.

D. Section 3103(C) of the Act grants the authority "exclusive power to own, operate, license or otherwise regulate all offshore terminal facilities within its jurisdiction."

E. Section 3109(A)(4) empowers the authority to "take such actions, promulgate such rules and regulations, and issue such orders, as necessary or appropriate" to carry out the provisions of the Act.

F. Section 3109(A)(6) of the Act empowers the authority "to issue licenses, certificates and permits for the construction of facilities or use of services or facilities subject to the authority's jurisdiction, pursuant to the rules and regulations promulgated by the authority."

G. Section 3109(C)(6) of the Act empowers the authority "to collect tolls and fees."

H. Section 3109(G) of the Act gives the authority "exclusive and plenary power to issue licenses, certificates and permits, and otherwise regulate all phases of the construction and operation by any person of offshore terminal facilities within the jurisdiction of the authority."

I. Section 3114(A) of the Act prohibits any person from constructing or operating, or causing to be constructed or operated, offshore terminal facilities within the jurisdiction of the authority without first obtaining a license or other appropriate authorization from the authority.

J. Section 3114(B) of the Act provides that a license shall issue only if the authority finds that the applicant "is qualified, and that the facilities or operations conform to the provisions" of the Act and "the rules and regulations of the authority and will be consistent with the public interest" declared in the Act. It is further provided that any license so issued or transferred "shall be subject to and contain such reasonable conditions as necessary to carry out the purposes" of the Act.

K. Section 3114(C) of the Act directs the authority to establish qualifications for applicants, including evidence of financial responsibility, as will insure an applicant's ability to comply with the Act and the rules and regulations of the authority.

L. Section 3114(D) of the Act empowers the authority to establish the procedures for submission of applications for the issuance of licenses and shall determine what information must be submitted by the applicant. The authority is further authorized to "impose reasonable filing fees and may require the applicant to reimburse the authority for all expenses incurred in processing the application."

M. Section 3114(E) of the Act provides that the authority "shall determine the length of timing during which a license shall be valid, and the conditions upon which it may be revoked." It is also provided that licenses "may be revoked, suspended, annulled or withdrawn in accordance with the procedures set forth in the Louisiana Administrative Procedure Act."

N. Section 3116 of the Act provides that it is the policy of the Act that the authority development program be pursued so that there is "full coordination and cooperation between agencies and groups that have complementing or overlapping interest and the authority."

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:423 (June 1983).

§103. Applicability of Existing and Prior Rules

A. These rules and regulations shall be applicable to offshore terminal facilities for dry bulk cargoes within the jurisdiction of the authority.

B. The rules and regulations adopted by the authority on September 30, 1975 as amended by the authority on the third day of August, 1976 shall be applicable to Offshore Terminal

Facilities other than Offshore Terminal Facilities for dry bulk cargoes within the jurisdiction of the authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:424 (June 1983).

§105. Definitions

A. As used in these rules:

Act—Act 444 of 1972, as amended by Act 358 of 1974 (R.S. 34:3101 et seq.), which established the Offshore Terminal Authority, and any amendments thereto.

Administrative Costs—

a. the wages and salaries of the authority's staff and employees;

b. the engineering, legal and operation costs incurred by or on behalf of the authority;

c. the equipment, supplies and overhead required for the authority to carry on its functions; and

d. any other similar administrative costs reasonably required for the operation and management of the authority.

Applicant—any person who makes an application for a license pursuant to these rules and regulations.

Application—an application submitted under these rules and regulations:

a. for a license to construct or operate offshore terminal facilities for dry bulk cargoes within the jurisdiction of the authority;

b. for transfer or renewal of any such license; or

c. for any substantive change in any of the conditions or provisions of any such license.

Application Processing Fees—all fees or charges imposed by the authority pursuant to §1117 of these rules and regulations.

Authority—the Offshore Terminal Authority as established by the Act.

Economic Costs—but not be limited to, costs for facilities and services related to transportation, education, health, highways, roads and streets, police protection, fire protection, sewerage and water facilities and services, sanitation, flood protection, parks and recreation, libraries and other similar types of community services.

Environmental Costs—those costs described as environmental costs in the authority's Environmental Protection Plan.

Environmental Protection Plan—identical meaning given that term in the Act.

Executive Director—the executive director of the authority chosen by the board of commissioners as provided for in the Act.

License—a license issued by the authority, pursuant to these rules and regulations, to any person to construct or operate offshore terminal facilities for dry bulk cargoes within the jurisdiction of the authority.

Licensee—the holder of a valid license.

Offshore Terminal Facilities—identical meaning given that term in the Act.

Person—identical meaning given that term in the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:424 (June 1983).

§107. Applications

A. General. No person shall construct or operate, or cause to be constructed or operated, offshore terminal facilities within the jurisdiction of the authority without first filing an application and obtaining a license from the authority pursuant to the provisions of these rules and regulations.

B. Contents of Application

1. An application shall contain the following general information:

a. a brief summary of the entire application suitable for use by the authority in giving the notices required by Section V(A)(3) of these rules and regulations;

b. the name, address, citizenship and telephone number of the applicant and of each person having an ownership interest in the applicant;

c. the ownership interest of each person having an interest in the applicant. A description of the agreements establishing such interest shall be included in the application;

d. the name, address, citizenship and telephone number of any person owning a controlling interest in any person having an ownership interest in the applicant;

e. the name and address of the person designated by the applicant to receive formal notices or documents;

f. a statement at the end of the application, subscribed and sworn to before a notary public, that the person who signs the application represents that he is authorized and empowered to sign the application on behalf of the applicant and that the contents of the application are true;

g. if the applicant is a corporation, a copy of the applicant's charter or certificate and articles of incorporation certified by the appropriate official of the state of incorporation.

2. An application shall contain the following information relating to the financial responsibility of the applicant:

a. the applicant's most recent certified financial statements;

b. the most recent certified financial statements of each person having an ownership interest in the applicant;

c. estimates of the minimum annual dry bulk cargo throughput required for the proposed offshore terminal facilities to break even financially. Throughput required to break even financially means the throughput required to cover operating, debt retirement and other costs, but shall not include throughput required to provide a reasonable return on investment;

d. an estimate of capital expenditures and operating costs, tariffs, and projected. Revenue based on estimated dry bulk cargo throughput;

e. plans for financing capital expenditures and operating costs, including sources of financing, and the type, amount and percentage of equity, short-term and long-term financing;

f. a general projection of the use of the proposed offshore terminal facilities during the anticipated life of the project;

g. a description of any guarantees, options, nominations, agreements, commitments or representations by specific companies which are relied upon in determining that the proposed offshore terminal facilities will be economically viable at all times.

3. An application shall contain an analysis of:

a. the extent to which the construction and/or operation of the proposed offshore terminal facilities may increase the demand on the state of Louisiana and its political subdivisions for public services and facilities, including, but not limited to, schools, parks, transportation facilities, wharfs, docks, electricity, water, and sewerage facilities, flood protection, police and fire protection, and other physical and social services;

b. an estimate as to the direct and indirect economic, environmental and administrative costs attributable to the construction and operation of the proposed offshore terminal facilities. An application shall contain a separate analysis of the nature and amount of each of such costs which pertain to the state and its political subdivisions;

c. all relevant facts showing the extent to which the construction and operation of the proposed offshore terminal facilities will contribute to increased employment and employment benefits in Louisiana;

d. the projected temporary and permanent demographic effect of the construction and operation of the proposed offshore terminal facilities;

e. the projected demand for support services related to the proposed offshore terminal facilities, with emphasis on the duration and location of such services. Support services as used in these rules and regulations include, but are not limited to skilled and unskilled labor, boat services, contractors, fabricators, engineering and other professional consultants, suppliers, divers, surveyors and repair and maintenance services and personnel and living accommodations.

4. An application shall contain all pertinent information with respect to dry bulk cargoes as required by the Environmental Protection Plan.

5. An application shall contain a statement by the applicant that:

a. there will be no substantial changes from the plans, operational system, and methods, procedures and safeguards set forth in his application, as approved, without prior approval in writing from the authority; and

b. he will comply with all reasonable conditions the authority may prescribe in accordance with the provisions of the Act or the authority's rules and regulations.

6. An applicant shall designate those portions of any information submitted to the authority as part of an application, which concern or relate to trade secrets or which are by nature confidential.

7. An applicant shall:

a. furnish the authority, as part of an application, a listing or description of all studies, reports and analyses performed by or on behalf of the applicant which were used by the applicant in preparing an application; and

b. make such studies, reports and analyses available to the authority upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:424 (June 1983).

§109. Filing and Processing of Applications

A. General Procedure

1. Thirty copies of an application shall be filed with the executive director of the authority.

2. After the filing of an application, the executive director shall determine as promptly as reasonably possible, whether or not such application contains all of the information required by these rules and regulations.

3. If the executive director determines that an application appears to contain the information required by these rules and regulations, he shall publish notice of the filing of the application and a summary of the application immediately in the Official Journal of the State of Louisiana, and a newspaper of general circulation in each parish in which the proposed offshore terminal facilities are to be located. A copy of the notice and summary shall also be mailed to all interested parties who have made written request of the authority for such information.

4. If the executive director determines that all the required information is not contained in the application, the executive director shall promptly notify the applicant and, if

appropriate, take no further action with respect to the application until such deficiencies have been remedied.

B. Processing

1. The authority may hold such investigatory or adjudicatory hearings as it deems necessary for a proper review and consideration of an application.

2. All outside agency reviews shall be completed not later than 30 days after the filing of the application.

3. The authority's processing of the application shall be approved or disapproved by the authority as soon as possible but not later than 120 days after receipt of the recommendations of the three directors as defined in the Environmental Protection Plan.

4. At any time during an application proceeding, the authority may require an applicant to submit such additional information as the authority deems necessary in order to meet the requirements of these rules and regulations and other applicable law, and to enable the authority to carry out its responsibilities thereunder.

5. An application may be amended or withdrawn at any time before the authority renders a final decision thereon, by submitting 30 copies of the amendment, or a written request for withdrawal, to the executive director. If information in an application becomes inaccurate or incomplete after it is filed but before a final decision is rendered on the application, the applicant shall furnish the correct or additional information.

C. Public Access to Applications

1. All documents filed with the authority as part of an application shall be subject to the provisions of the Louisiana Public Records Law (R.S. 44:1 et seq) and other applicable laws.

2. Appropriate provision will be made, in accordance with applicable law, to protect information that concerns or relates to trade secrets or which is by nature confidential. The environmental assessment and data appendices filed with an application shall be held confidential by the authority for the period of time during which other applications for the same application area may be filed under the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:425 (June 1983).

§111. Licenses

A. Issuance of a License

1. No license shall issue authorizing unconditionally the construction or operation of offshore terminal facilities within the authority's jurisdiction unless the applicant has obtained the environmental approvals required by the Environmental Protection Plan for such construction or operations.

2. No license shall issue unless the authority determines that:

a. the construction and operation of the proposed offshore terminal facilities will promote the economic and industrial well being of the state of Louisiana, and will be consistent with the public interest as declared in the Act;

b. the proposed offshore terminal facilities will be constructed and operated in conformance with the Act, the rules and regulations of the authority, other applicable law and conditions of the license;

c. the applicant has furnished sufficient evidence of financial responsibility as will insure his ability to comply with the Act and rules and regulations of the authority;

d. the applicant has reimbursed the authority for all costs incurred by or on behalf of the authority in processing the application and has paid to the authority any other sums due the authority under these regulations or applicable law.

B. Contents of a License

1. A license shall contain the name and address of the licensee, and the licensee's agent for service of process in the state of Louisiana.

2. A license shall contain a description of the offshore terminal facilities licensed.

3. A license shall describe all activities authorized by the license.

4. A license shall be subject to and contain such reasonable conditions as the authority deems necessary to carry out the purpose of the Act and the authority's rules and regulations, including, but not limited to conditions requiring that the licensee:

a. comply with all applicable laws and regulations, now in effect or hereafter adopted or amended, including specifically the Environmental Protection Plan;

b. construct and operate the offshore terminal facilities in accordance with the description of such construction and operation in the license;

c. promptly provide the authority with the name, address, citizenship and telephone number of any person with whom the applicant has made, or proposes to make, a significant contract for the design, construction or operation of offshore terminal facilities within the authority's jurisdiction, and a description of any such contract;

d. notify the authority of any substantive changes in any data submitted to the authority;

e. cooperate with the authority in monitoring the construction and operation of the offshore terminal facilities licensed;

f. submit detailed construction drawings, plans and specifications to the authority for all components of the offshore terminal facilities sufficiently in advance of commencement of construction of such components to enable the authority to properly review such drawings, plans

and specifications for conformance with the provisions and conditions of a license, the authority's rules and regulations and other applicable law;

g. promptly provide the authority with copies of any plans, reports, studies, or analyses of proposals approved by the licensee to make any modifications to the offshore terminal facilities which would not constitute a substantive change in the conditions or provisions of a license;

h. afford reasonable access, at reasonable times, to licensed offshore terminal facilities to representatives of the authority for the purposes of inspection of relevant records, files, papers, processes, controls, operations, and facilities for the purpose of ascertaining the state of compliance with the license, the Act, and the rules, regulations, and orders of the authority.

C. Specific Undertakings of Licensee

1. At the time of issuance of a license by the authority, the authority and the licensee shall enter into a written agreement which shall provide that:

a. a licensee which exercises its rights under the license shall pay to the authority reasonable fees and charges lawfully recoverable by the authority to compensate for cost incurred by the authority since its inception and which pertain to offshore terminal facilities for the handling of dry bulk cargoes; and

b. a licensee which exercises rights under the license shall indemnify and hold harmless the authority from and against any and all liability, loss, demands, claims, costs, damages, expenses and attorney's fees, and any and all liability therefor, which the authority may sustain or incur, arising from or connected with acts or omissions of the licensee, its agents, servants, employees or contractors with respect to the location, design, construction or operation of offshore terminal facilities licensed to the licensee; provided however, that the licensee shall not be required to indemnify the authority for damages resulting solely from negligent acts or omissions on the part of the authority or its agents, servants, employees or contractors.

D. Term of License. Except as otherwise provided in these rules and regulations, a license shall be for a term not to exceed 20 years.

E. Suspension, Modification or Revocation of License

1. A license may be revoked, suspended, or modified by the authority for the following reasons:

a. the willful making of a false statement or willful misrepresentation of a material fact in connection with securing or maintaining such license;

b. the failure of a licensee to qualify as financially responsible;

c. the failure of a licensee to comply with or respond to, lawful inquiries, rules, regulations, or orders of the authority or the conditions of any license issued by the authority;

d. a material change regarding a licensee or the subject matter covered by a license issued by the authority.

2. The authority may not revoke, suspend, annul, modify, or withdraw a license unless, prior to the institution of authority proceedings, the authority gives notice by certified mail to the licensee of facts which warrant the intended action, and the licensee is given an opportunity at a hearing to show compliance with all lawful requirements for the retention of the license. If the authority finds that public health, safety, or welfare imperatively require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for suspension, revocation or other action. These proceedings will be promptly instituted and a decision promptly rendered. All hearings held on the suspension, revocation, annulment, or withdrawal of a license will be governed by the authority's general rules and regulations concerning adjudications.

F. Transfer of License. Upon the filing of an application by a licensee, a license issued to such licensee under these rules and regulations shall be transferred, if the authority finds that such transfer will be consistent with the public interest as declared in the Act and that the transferee meets all requirements of the Act, the authority's rules and regulations, and other applicable law.

G. Changes of License Conditions or Provisions

1. The authority may make clerical corrections in a license upon written request by the licensee demonstrating clearly a need for such changes.

2. Before the authority may approve any change by a licensee to the offshore terminal facilities licensed which would constitute a substantive change in any condition or provision of a license, a licensee shall file an application therefore with the authority and the authority shall give such application full consideration as provided in these rules and regulations.

H. Renewal of License

1. Licenses may be renewed by following the procedures herein for obtaining issuance of a license.

2. When a licensee has made timely and sufficient application for renewal of a license with reference to any activity of a continuing nature, his existing license shall not expire until the application has been determined finally by the authority, and, in case the application is denied or the terms of the renewal license limited, until the last day for seeking review of the authority's order, or a later date fixed by order of the reviewing court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:425 (June 1983).

§113. Application Processing Fees

A. Any person who files an application with the authority shall reimburse the authority, in accordance with these rules and regulations, for all costs incurred by or on behalf of the authority in processing any such application.

B. Any person who files an application with the authority for a license to construct or operate offshore terminal facilities for dry bulk cargoes within the authority's jurisdiction shall remit to the authority at the time such application is filed an initial application processing fee of $25,000, represented by a certified or cashier's check drawn on a bank or trust company doing business under the laws of the state of Louisiana or the United States, payable to the board of commissioners of the authority.

C. The application processing fee provided for in the preceding Subsection, and all interest accrued thereon, shall be used by the authority to compensate the authority for cost incurred by or on behalf of it in processing the application. An applicant shall also reimburse the authority in accordance with these rules and regulations for all costs incurred by or on behalf of the authority in processing such application, which are not covered by the initial application processing fee.

D. Should the application be withdrawn by the applicant before issuance by the authority to the applicant of a license to construct or operate offshore terminal facilities for dry bulk cargoes, the authority shall refund to the applicant any portion of the application fee remaining after payment by the authority of all costs incurred by or on behalf of it in processing such application through the date of such withdrawal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:427 (June 1983).

§115. Procedure for Determination and Assessment of Application Processing Fees

A. The authority shall periodically make a determination of the amount of all costs incurred by or on behalf of the authority in processing the application.

B. The authority shall assess, as application processing fees, all such costs against the person or persons whose application(s) has given rise to the costs incurred and sought to be recovered, and shall serve on each such person a "notice of assessment." Such person or persons shall thereafter make full payment of such fees to the authority within 30 days from receipt of the notice of assessment.

C. Any person on whom a notice of assessment is served under these regulations shall be entitled to a hearing before the authority on such assessment provided a written request for a hearing is filed with the authority within 30 days after receipt of the notice of assessment.

D. The authority's general rules and regulations and the Louisiana Administrative Procedure Act (R.S. 49:951 et seq.) shall apply to any hearing held in connection with any notice of assessment under these rules and regulations.

E. Should any person fail to pay any application processing fees when due, such person shall pay interest at the legal rate per annum on the unpaid balance of such assessment from the date the assessment is due until paid.

F. The authority shall maintain such records as may be necessary in order to identify, determine and recover all application processing fees pursuant to these rules and regulations, and the authority shall make such records available to interested persons in accordance with applicable law.

G. Application processing fees recovered by the authority pursuant to these rules and regulations shall be limited to the amount necessary to compensate the authority for the actual costs incurred by or on behalf of it in processing the application.

H. These rules and regulations shall not be interpreted to preclude the state of Louisiana or any political subdivision thereof, including the authority, from imposing any otherwise valid fee, charge or toll permitted under applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:427 (June 1983).

§117. Compensation Fees for Administrative and Environmental Costs

A. The authority may impose on a licensee reasonable compensation fees for the use of any offshore terminal facilities and directly related land based facilities subject to the authority's jurisdiction as compensation for the administrative and environmental costs of the authority attributable to the construction and operation of such offshore terminal facilities and directly related land based facilities. Such compensation fees shall be fixed, assessed and collected by the authority in accordance with these rules and regulations.

B. Such compensation fees may not exceed the actual administrative and environmental costs of the authority as determined in accordance with the Act and regulations and orders issued pursuant thereto.

C. In no event shall the authority recover administrative or environmental costs which are otherwise reimbursed by application processing fees paid to the authority pursuant of these rules and regulations.

D. The authority shall maintain such records as may be necessary in order to determine, assess and collect any administrative and environmental costs.

E. The provisions of the authority's general rules and regulations and the Louisiana Administrative Procedure Act shall apply to any hearings held in connection with the imposition of compensation fees under the regulations.

F. This Section shall not be interpreted to enlarge or diminish the right of the state of Louisiana or any political subdivision thereof, to impose any other valid tax, fee or charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:427 (June 1983).

§119. Procedure for Determination, Assessment and Collection of Administrative and Environmental Costs

A. Compensation Fees for Administrative Costs

1. Prior to the commencement of each fiscal year, the authority shall determine, to the fullest extent practicable, the total amount of administrative costs to be incurred by the authority during such fiscal year which it intends to recover hereunder, and the authority shall thereafter immediately give written notice to the licensee of such determination.

2. After receiving notice of the authority's determination of administrative costs, the licensee shall be afforded an opportunity to confer with representatives of the authority to review the amount of such costs and the basis for the authority's determination.

3. The licensee shall thereafter reimburse the authority quarterly for such actual costs as have been incurred by or on behalf of the authority upon presentation by the authority to the licensee of an appropriate invoice or statement therefore.

B. Compensation Fees for Environmental Costs

1. After the issuance of a license by the authority, but prior to the commencement of construction of the licensed facilities, if required by the authority the licensee shall pay an initial compensation fee of $50,000 to the authority to be used only for the purposes of expenditures for "environmental costs" as defined in the Environmental Protection Plan for the licensed offshore terminal facilities for dry bulk cargoes.

2. Payment of the initial compensation fee provided in the preceding Paragraph, if requested by the authority, shall be made sufficiently in advance of commencement of construction to permit appropriate environmental monitoring programs, conducted by or on behalf of the authority, covering the offshore terminal facilities and related land based facilities to be in operation at the time construction of such facilities begins.

3. The licensee shall thereafter reimburse the authority on a quarterly basis for expenditures for "environmental costs" for licensed offshore terminal facilities for dry bulk cargoes upon presentation by the authority of the licensee of an appropriate invoice or statement therefore.

4. Except in the case of an emergency, the authority shall make no expenditure of monies for "environmental costs" for which the authority intends to seek reimbursement from the licensee, without first giving the licensee written notice of such proposed expenditure, as affording the licensee an opportunity to confer with representatives of the authority to review the amount of the proposed expenditure and basis for the authority's determination of its necessity or reasonableness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:427 (June 1983).

§121. Coordination and Cooperation

A. The authority shall coordinate, consult and cooperate with any federal or state agencies, or political subdivisions of the state, having an interest in the construction and operation of offshore terminal facilities for dry bulk cargoes within the authority's jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:428 (June 1983).

§123. Remedies and Enforcement

A. Whenever enforcement of any provision of these rules and regulations is warranted, the authority may initiate and pursue appropriate administrative procedures and may issue such orders and decrees as may be necessary and authorized by the authority's general rules and regulations, and the authority may initiate and pursue all appropriate judicial remedies to assure compliance with these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 9:428 (June 1983).

Title 70
TRANSPORTATION
Part IX. Intermodal Transportation

Chapter 1. Aeronautics in Louisiana

§101. General

A. The Louisiana Department of Transportation and Development (formerly the Department of Public Works) as provided under Title 2 of the Louisiana Revised Statutes of 1950, as regulates aeronautics in Louisiana.

1. Section 2.8 of the Title provides that:

> "All proposed airports, landing fields, air schools, flying clubs, air beacons, or other navigation facilities, shall first be approved by the department before they are so used or operated. No airport, landing field, air school, flying club, air beacon, or other navigation facility, except airports and landing fields constructed and operated prior to July 28, 1936, shall be used or operated without the approval of the department, and no aircraft except in case of emergency, shall land upon or take off from any area other than an airport, landing field, or landing strip. No license, rule, order, or regulation promulgated under the authority of this Section or of this Chapter shall apply to airports, landing fields, air beacons, air markings, or other air navigation facilities owned or operated by the government of the United States or by this state. The department may issue a certificate of its approval in each case and make reasonable charges therefore."

2. Section G of the statute provides that the department may prescribe such reasonable rules and regulations as it deems necessary and advisable for the public safety and for the promotion and aeronautics governing the designing, laying out, location, building, equipping, operation, and use of all airports, landing fields, or landing strips, and for the safety of those engaged in aeronautics. It is for this purpose that this rule is promulgated. A public hearing was held in the Department of Transportation and Development Auditorium, first floor of DOTD Headquarters, 1200 Capitol Access Road, Baton Rouge, LA, on Tuesday, June 17, 1980, at 7 p.m. No objections were received.

B. Landing Area Registration Procedures. Pursuant to these statutory provisions, all landing area proponents will provide the Louisiana Department of Transportation and Development, Aviation Section with the following information prior to use of the area for landing or take-off of aircraft.

1. Completed Environmental Questionnaire. This form addresses general environmental considerations.

2. Completed Landing Area Location Sketch. This sketch shows the relationship of the proposed site to other prominent centers of activity within an area of several miles.

3. Completed Landing Area Immediate Vicinity Sketch. This sketch shows the relationship of the proposed site to structures within the immediate vicinity.

4. A location drawing of the proposed landing area on the United States Geological Survey topographic quadrangle series map covering landing area proponent's location. These can usually be obtained at blueprint supply companies, or one can be sent upon request if none are available from commercial sources.

5. One copy of the Form 7480-1 which was submitted to the Federal Aviation Administration showing landing area proponent's intention to establish a landing area.

6. One copy of the Federal Aviation Administration's notification of its favorable or unfavorable airspace findings. Instructions for registration along with copies of all appropriate forms are combined in OAPT Information Publication Number 5000, a copy of which may be obtained at no charge from: Louisiana Department of Transportation and Development, Aviation Section, Post Office Box 94245, Baton Rouge, LA 70804, Attention: Aviation Safety/Compliance Officer.

C. Classifications of Louisiana Airports, Seaplane Bases and Heliports

1. The classification of airports is necessary to assure an orderly method of administration by establishing a coded identity for each airport which relates to the role it plays in the Louisiana Airport Systems Plan (LASP), what guidelines should be followed in its development, and what special funds may be available for scheduled improvements.

2. Airports. The airports in the LASP are classified according to a simplified version of the Federal Aviation Administration's National Plan of Integrated Airport Systems (NPIAS) classification system. Essentially, this involves identifying the airport according to the type of aircraft which it will principally serve. Although the LASP classification is less complicated than that of the FAA NPIAS, there is no conflict between the NPIAS classification of an airport and the LASP classification. The classification of each publicly-owned airport is listed on the individual airport data sheets in Volume Two of the State Plan. Additional classifications were necessary to complete the System Plan: Landing Strip; Seaplane Base; and Heliport. The letter codes used are as follows:

a. LS—Landing Strip. Air strips to be used as emergency, recreational, agricultural or other private business operations at the pilots own risk. Will accommodate about 75 percent of the propeller airplanes under 12,500 pounds gross weight. No special activity criterion for this type airport, and the facility cannot be approved as "open to the public."

b. BU—Base Utility. The distinction between Stages I and II has been eliminated. This type of facility will

accommodate about 95 percent of the general aviation propeller fleet under 12,500 pounds. There is no special activity criterion required for this type of airport. However, it is primarily intended to serve as the basic airport development unit open for use by the public.

c. GU—General Utility. This type of airport accommodates substantially all general aviation propeller aircraft under 12,500 pounds. It is primarily intended to serve the majority of a city's aeronautical needs (other than a metropolitan area) for other than business-jet aircraft.

d. BT—Basic Transport. These airports accommodate all general aviation aircraft up to 60,000 pounds maximum gross weight (MGW), including propeller transport and business or executive jets.

e. GT—General Transport. These airports generally accommodate transport category aircraft between 60,000 pounds and 175,000 pounds MGW. Generally, the GT airport serves scheduled jet commercial service operators.

3. Seaplane Bases. These facilities can be either natural waterways, or man-made seaways used on a regular basis for take-off and landing of amphibious aircraft.

4. CU—Seaplane Utility. Based upon level of commercial activity.

5. CT—Seaplane Transport. Based upon level of commercial activity.

6. Helicopter Landing Site. A location used for helicopter takeoffs and landings on a one-time, temporary, or infrequent basis, which have not been specifically prepared for helicopter operations. A helicopter landing site is typically an area used for emergency evacuation, or a rural site used in agricultural spraying operations. Helicopter landing sites need not be registered with the state.

7. Heliport. Any area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters, which has been specifically prepared for use by helicopters, any area for use by helicopters which is "open to the public", or any area, other than those used for agricultural operations, which may have three or more takeoffs or landings in a 30-day period. All heliports must be registered with the state in accordance with the Department of Transportation and Development, Aviation Section.

8. Heliport Service Facilities. Those facilities such as major maintenance facilities, or fueling facilities which may be used in conjunction with a heliport. Such facilities must receive approval from the Aviation Section prior to their construction or use. Registration of a heliport is not to be understood as approval for heliport service facilities.

D. Interim Standards. The following facility standards will be utilized by the Louisiana Department of Transportation and Development when reviewing registration information supplied by proponents.

E. Review of Landing Area Proposals. Upon receipt of the required information, the Aviation Section, following a reasonable period for review, will provide the proponents with a statement of its findings and issue a notice of no objection to the establishment and use of the proposed landing area, if such is appropriate. The review may include:

1. review of site in comparison with FAA and/or state minimum safety standards as appropriate to the type of use intended;

2. the solicitation of comments by the local governing bodies and local residents;

3. the holding of formal public hearings, or informal gatherings of concerned interests;

4. site inspections, or any other lawful means of gathering needed information.

F. Administrative Remedy for Rejection of Application. Section 13 of the statute (Title 2) provides that where the department rejects an application for permission to operate or establish an airport or landing field or in any case where the department shall issue any order requiring certain things to be done, it shall set forth its reasons therefore and shall state the requirements to be met before such approval will be given or such order modified or changed. In any case where the department may deem it necessary it may order the closing of any airport or landing field until it shall have complied with the requirements laid down by the department. To carry out the provisions of this Chapter, the secretary of the DOTD or any person designated by him and any officers, state, parish, or municipal, charged with the duty of enforcing this Chapter, may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where such airports or landing fields are operated. Any order made by the department pursuant to this Chapter shall be serve upon the interested person by registered mail or in person before such order shall become effective.

G. Failure to Comply. Failure to comply with appropriate directives of the Louisiana Department of Transportation and Development may result in penalties. State law (R.S. 2:12) provides that the department, its members and employees, and every state, parish, and municipal officer charged with the enforcement of state and municipal laws, shall enforce and assist in the enforcement of this Chapter. The department is further authorized in the name of the "State of Louisiana" to enforce the provision of this Chapter by injunction in the district courts of this state.

FAA GENERAL AVIATION AIRPORT STANDARDS
LOUISIANA ACCEPTABLE RANGE

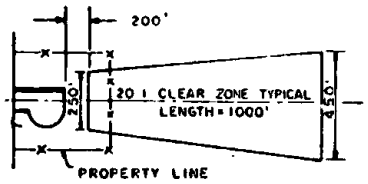
ITEM	Landing Strip (LS)	Basic Utility (BU)	General Utility (GU)	Basic Transport (BT)	General Transport (GT)	ILS
R/W and T/W Slopes:						
Shoulder - R/W	3%-5% for 10 ft. then 1.5%-5% to edge of safety area					
- T/W	3%-5% for first 10 ft. then engineering design for grading and drainage will dictate					
Longitudinal	0%-2%					
Transverse	1%-2%					
Taxiway:						
C_L to Bldg. Line	50 ft. for primary T/W, 37.5 ft. (for T/W between Hangars)			50-75	100	200
C_L to Parallel T/W C_L	50	50	50	150	200	300
C_L to Obstruction	50	50	50	50-75	100	200
C_L to Aircraft Tiedowns	75	75	75	75-100	175	250
Safety Area Beyond Runway End:	200	200	200	200	200	200
Apron Slope	1%-2%	1.5% is optimum considering both drainage and aircraft operations				
Radius of Fillet	50-100					
Landing Area (acres)	27	35	53	64		
Approach Area (acres)***	21	21	25	25		
Building Area (acres)	8	12	24	24		
Total Area (acres)	56	68	102	113		

*** Note: Acreage assumes rectangular land acquisition

1/ Runway minimum length calculated for the weight group of the probable using aircraft for each airport type based on the State average normal maximum temperature (°F) in the hottest month of the year.

( ) = Louisiana Minimum

FAA GENERAL AVIATION AIRPORT STANDARDS
LOUISIANA ACCEPTABLE RANGE

ITEM	Landing Strip (LS)	Basic Utility (BU)	General Utility (GU)	Basic Transport (BT)	General Transport (GT)	ILS
Clear Zones						
Visual Trapezoid Size	250x450 x 1000 @20:1 = 8 acres	250x450 x 1000 @ 20:1 = 8 acres	250x450 x 1000 @ 20:1 = 8 acres	500x700 x 1000 @ 20:1 = 14 acres	500x700 x 1000 @ 20:1 = 14 acres	
	Non-prec.	Non-prec.	Non-prec.	Non-prec. +3/4 mile	Non-prec. + 3/4 mile	Prec.
Instrument	500x800 x 1000 @ 20:1 =15 acres	500x800 x 1000 @ 20:1 = 15 acres	500x800 x 1000 @ 20:1 = 15 acres	1000x1510 x 1700 @ 34:1 = 49 acres	500x1010 x 1700 @ 34:1 = 30 acres	1000x1700 x 2500 @ 50:1 = 79 acres
Transitional Surfaces	3:1	3:1	7:1	7:1	7:1	7:1

Note: 1) Practicalities of land acquisition may dictate rectangular configuration
2) Length of Approach Zones for Utility Runways and Visual Approaches equal distance to obtain 50 ft. vertical clearance.
3) 3:1 Transitional Surfaces recommended in accordance with proposed revision to FAR Part 77 as submitted by NASAO to the FAA October 14, 1974

Figure 2

FAA GENERAL AVIATION AIRPORT STANDARDS
LOUISIANA ACCEPTABLE RANGE

ITEM	Landing Strip (LS)	Basic Utility (BU)	General Utility (GU)	Basic Transport (BT)	General Transport (GT)	ILS
Obstacle Removal	All objects except for frangible-mounted air navigational aids which, because of their function, must be located near the runway should be cleared to ground level within the area 125 ft. laterally either side of the runway centerline and extending 200 feet beyond the runway ends. (100 feet min.)					
Part 77 Clearances	17 ft. for interstate highway 15 ft. for any other public roadway 10 ft. or the height of the highest mobile object that would normally traverse the road whichever is greater for a private road 23 ft. for a railroad and for a waterway or any other traverse way not previously mentioned, or amount equal to the highest mobile object that would normally traverse it. These dimensions measured from nearest existing or planned pavement edge.					

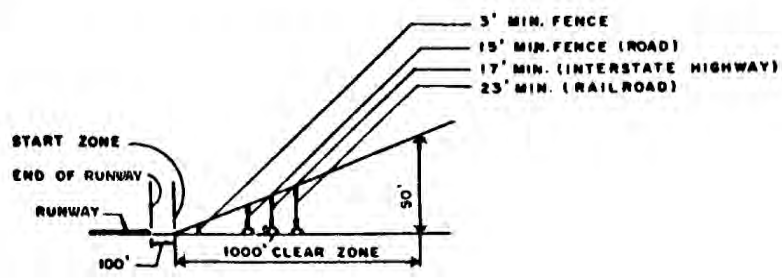


Figure 3

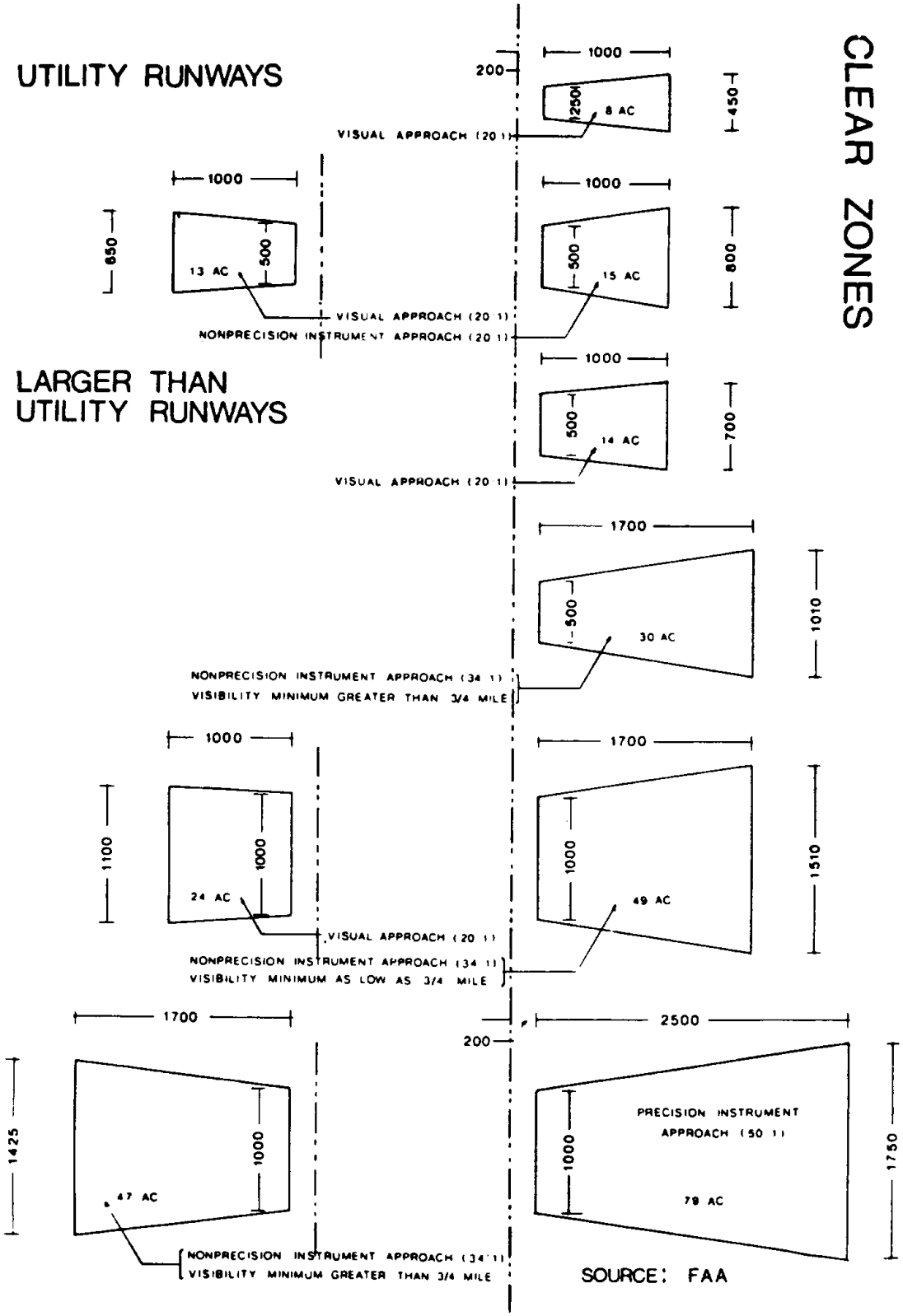

CLEAR ZONES
UTILITY RUNWAYS
1000
200
1250
8 AC
450
VISUAL APPROACH (20 1)
1000
1000
650
500
13 AC
500
15 AC
800
VISUAL APPROACH (20 1)
NONPRECISION INSTRUMENT APPROACH (20 1)
LARGER THAN
UTILITY RUNWAYS
1000
500
14 AC
700
VISUAL APPROACH (20 1)
1700
500
30 AC
1010
NONPRECISION INSTRUMENT APPROACH (34 1)
VISIBILITY MINIMUM GREATER THAN 3/4 MILE
1000
1700
1100
1000
24 AC
1000
49 AC
1510
VISUAL APPROACH (20 1)
NONPRECISION INSTRUMENT APPROACH (34 1)
VISIBILITY MINIMUM AS LOW AS 3/4 MILE
1700
2500
200
1425
1000
47 AC
1000
PRECISION INSTRUMENT
APPROACH (50 1)
79 AC
1750
NONPRECISION INSTRUMENT APPROACH (34 1)
VISIBILITY MINIMUM GREATER THAN 3/4 MILE
SOURCE: FAA

Figure 4

STATE OF LOUISIANA

RECOMMENDED HELIPORT DESIGN STANDARDS

GEOMETRIC CRITERIA	DESIGN CRITERIA	COMMENTS
Length of Landing Area		
Class I (Private)	1.5 times overall helicopter length	To preclude premature obsolescence, the size of future aircraft must be considered and planned for. Special consideration must be given elevated heliports.
Class II (Public) 1/	1.5 times overall helicopter length (FAA current Design Guide recommended 2x - for Class II)	
Width of Landing Area		
Class I	1.5 times overall helicopter length	Note: At some sites the areas available can be less than the recommended dimensions.
Class II	1.5 times overall helicopter length	
Touchdown Pad 2/		
Class I	1.5 times the tread and	
Class II	1.5 times the wheel base (or skid/float contact length)	Same as above
Length and Width of Touchdown Area		
Class I	One rotor diameter	
Class II	One rotor diameter	Same as above
Width of Peripheral Area		
Class I	.25 times overall helicopter length 10 ft. minimum	This area constitutes a safety zone related to the landing area. Any fencing should be on the outside edge of the peripheral area. Also, no aircraft should be parked here.
Class II	.25 times overall helicopter length 10 ft. minimum	
Taxiway Width		
Class I	20 feet	Hover taxiing may eliminate the need for a taxiway at Class I heliports.
Class II	20 feet	

1/ FAA Class III has been eliminated

2/ Not in present FAA Design Guide

NOTE: FAA Heliport Design Guide to be revised to incorporate above notes.

Figure 5

STATE OF LOUISIANA

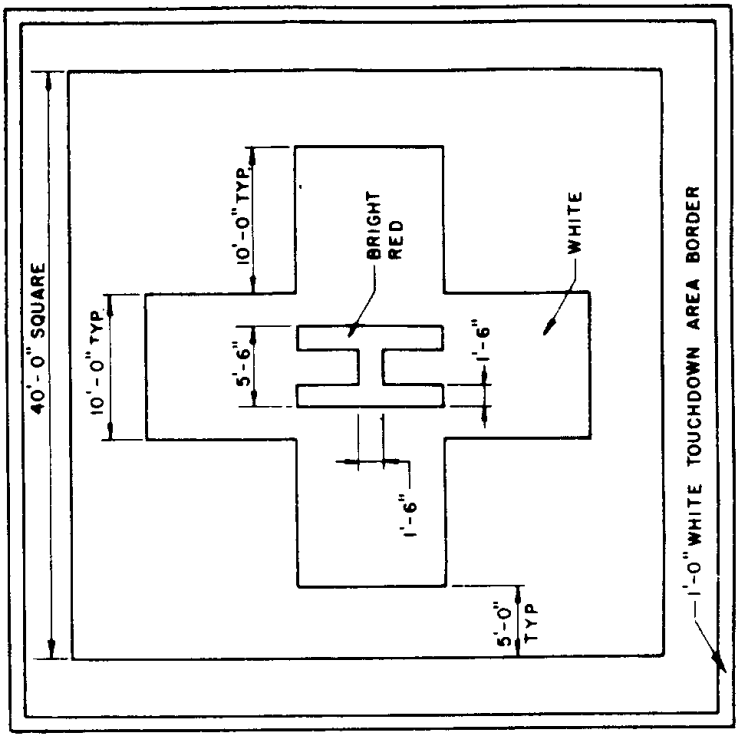
RECOMMENDED HELIPORT DESIGN STANDARDS (Continued)

GEOMETRIC CRITERIA	DESIGN CRITERIA	COMMENTS
Pavement Slopes	2.0 percent maximum	
Shoulder Slope	5.0 percent maximum for 1st 10 ft. 3.0 percent thereafter	These are preferred slopes.
Radius of Pavement Fillet	25 feet, minimum	Fillets may be omitted at Class I heliports
Shoulder Width for Touchdown Area		
Class I	Varies	
Class II	10 feet	
Shoulder Width for Taxiways and Aprons		
Class I	Varies	
Class II	10 feet	

NOTE: Rooftop heliports require special engineering and architectural considerations of structural design strength requirements, static loading and dynamic loading.

Figure 6

HOSPITAL HELIPORT MARKING



HELIPORT MARKING

The triangular marker should be placed in the approximate center of the touchdown area. The letter "H" shall be centered in the triangle as shown. The triangle should be oriented so that solid apex is pointed to magnetic north. All marking should be white. Where necessary or desirable to confine the actual touchdown area of the helicopter landing area to a comparatively small area, as on roof tops, or specific portions of landing areas, the touchdown area should be clearly defined by a solid or segmented border at least one foot wide.

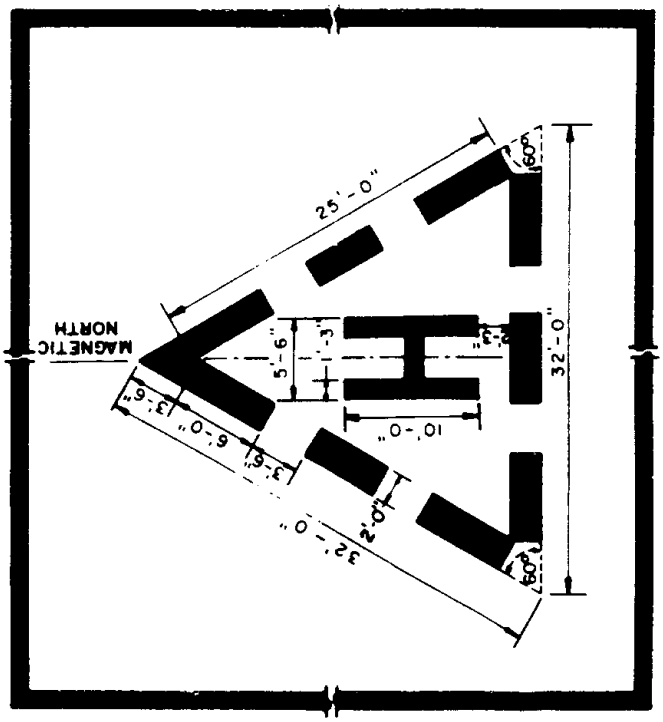


Figure 7

STATE OF LOUISIANA
RECOMMENDED SEAPLANE FACILITY STANDARDS

Classification	Lane length in ft. at Sea Level	Lane width in ft. Constructed/Natural	Depth in ft.	Turning Basin in ft.-Diameter	Remarks
Seaplane Utility	3,000	100/200	3	None	Minimum for limited small float plane operation. Approaches should be 20:1 or flatter for a distance of at least 2 miles on natural sites.
Seaplane Utility	3,500	150/200	4	None	Minimum for limited commercial operation. Approaches should be 40:1 or flatter for a distance of at least 2 miles.
Seaplane Transport	5,000	150/250	10	1,000	Minimum for extensive commercial operation. Approaches should be 40:1 or flatter for a distance of at least 2 miles.
Seaplane Transport	8,000	200/350	12	1,000	Unlimited. Approaches should be 40:1 or flatter for a distance of 2 miles.

Notes:
1) Approach clearances stated in Remarks apply to natural sites - constructed sites have same clear zone criteria as land airports.
2) Above widths are single lane no water taxiways.
3) The recommended lengths indicated above are for glassy water, no wind, sea level conditions at standard temperature of 59 degrees Fahrenheit.
4) Utility classification refers to limited commercial operation. Transport classifications refers to extensive commercial operation.

Figure 8

TABLE VI-2
FAA GENERAL AVIATION AIRPORT STANDARDS
LOUISIANA ACCEPTABLE RANGE

ITEM	Landing Strip (LS)	Basic Utility (BU)	General Utility (GU)	Basic Transport (BT)	General Transport (GT)	ILS
Widths:						
Runway (R/W)* (ft.)	50-75	60-75	75-100	75-100	100	150
Taxiway (T/W)* (ft.)	20-40	30-40	40	40	40-60	40-60
Safety Area (ft.)	100-150	120-150	150-300	150-300	300	500

*Note: When constructing a new airport consider use of minimums of next higher classification when practicable.

Figure 9

Runway:						
Strength (gross wt.-lbs.)	112,500	(12,500)	(12,500)	(60,000)	(175,000)	
Min. Length (ft.) 1/	2000-(2500)	(3,000)	(3,700)	(4,700)	Critical Aircraft	
C_L to T/W C_L	150-200	150-200	150-200	200	300	400
C_L to Obstacle	200-250	200-250	200-250	250-275	400	600
C_L to Apron	225-275	225-275	225-275	275-300	475	650
C_L to Bldg. Line	250-350	250-350	300-350	250-300	350	750-1250
C_L to Property Line	200-350**	200-350**	200-350**	250-1250	350-1250	750-1250
C_L to R/W C_L	300	500	500	500	700	4,300

Grade Change	0%-0.33% per 100 ft. of vertical curve and no vertical curve required if grade change is less than 0.4%
Site Distance	Without 24 hour tower - any 2 points 5 ft. above R/W C_L must be mutually visible for entire R/W length
Edge to Holding Line	50 ft.
Alignment	To provide at least 95% wind coverage

** Note: (250 ft. minimum on T/W side of R/W)

AUTHORITY NOTE: Promulgated in accordance with R.S. 2:8.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 6:163 (May 1980), amended LR 6:559 (September 1980), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:510 (March 2007).

Chapter 3. Airport Construction and Development Priority Program Process [Formerly Chapter 9]

§301. Introduction [Formerly §901]

A. The Louisiana Department of Transportation and Development (DOTD), Aviation Section is responsible for the development of public aviation facilities in the state. Assistance with the planning, design, and construction of facilities is provided to local governments which own the public airports. In addition, state funding is used in many cases to provide all or a portion of the local match requirement if the improvement is federally funded, receives 90 percent or more of project funds from sources other than state funds, or if most or all of the total funding is previously approved by the Legislature. The aviation portion of the Louisiana Transportation Trust Fund is known as the Aviation Trust Fund (ATF), which is funded by the collection of sales tax solely on aviation fuels, and is the only source of state funds for airport capital improvements or matching funds for federal airport improvement grants.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:803(B) and R.S. 2:6.

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§303. Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants [Formerly §903]

A. Federal funding for projects is received through grants from the Federal Aviation Administration directly to the recipient airport. Under the Airport Improvement Program (AIP) a minimum of 90 percent of project funds are federal. Occasionally, the FAA may offer a grant requiring a local match of more than 10 percent. For example, terminal building projects at commercial service airports are offered as 75 percent federal, 25 percent local match. Terminal buildings at commercial service airports may have a percentage of the project not eligible to receive funding. In most instances, the FAA determines what portion is or is not eligible. When the local sponsor requests state funding assistance for the local share, the project is evaluated through the priority system because of the use of state dollars. The local sponsor must coordinate the development of the project with the Aviation Section and the FAA in order to receive the matching funds through the priority system. When the required match is greater than 10 percent, the state will participate in no more than 10 percent of the project cost and the local sponsor must provide the additional matching funds. The FAA provides the AIP grants directly to the airport sponsor who is responsible for administering the grant.

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§305. Project Identification and Development [Formerly §905]

A. The primary objective of the priority system is to prioritize airport improvement projects. Nonprioritized projects are not included in the priority system as individual projects, but are funded through approved amounts for each category of project. Differences in the criteria for assessing these types of projects and the relatively small amount of state funding available make them impractical to include in the same process with airport improvement projects.

B. Potential projects for inclusion in the priority system are initiated by the airport sponsor or by the state Aviation Section. The need for the project may be identified in a master plan, action plan, system planning document, or as a result of a change in conditions or facilities at the airport.

C. Only airport development projects are subject to prioritization. Airport administration and operations are not included since they are the responsibility of the airport owner and are not within the purview of the prioritization process.

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§307. Project Prioritization Process [Formerly §907]

A. The prioritization of a project is a two-step process. The first step is to determine whether the project should be included in the priority process. The second step is to determine whether the information necessary for prioritization is available. Support documentation may include a project resolution from the local airport owner or sponsor requesting state assistance for that project, project scope and estimated cost, justification of the project, any environmental clearance documentation (if necessary), and information from the local sponsor necessary for prioritization of the project. Height limitation and land use zoning ordinances, operations manual, documentation that part 139 and 5010 inspection discrepancies have been corrected, pavement maintenance plan, and a certified copy

of the legal document creating the airport district or authority may also be requested before the process can continue. If any pertinent documentation is missing, the review process may cease and not continue until all information is made available to the Aviation Section. If all of the necessary documents are not received by the Aviation Section by November 1, the proposed project may not be allowed to compete for funding for that fiscal year being prioritized but may be considered for the following fiscal year.

B. Those projects which qualify for prioritization are then assigned point values to determine their relative priority. Those with insufficient information may be returned to the airport owner until required information can be provided. Once it has been determined that the project is eligible and all documentation has been provided, the next step is the assignment of point values. When point values are finalized, the project is placed into the priority system where it is ranked in relation to all other projects in the system.

C. The project components are also reviewed to determine if the project can be prioritized as one project or requires restructuring into more than one project. The project will be restructured into usable units if necessary. An example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway so these may be considered as two projects in the priority system. On the other hand, the extension of the runway's lighting system would be included with the runway extension as one project because the additional runway length cannot be used at night without the extended lighting. See §915.B for further details.

D. The structure of the priority rating system is based on an evaluation of four categories:

1. Category I—project type;
2. Category II—facility usage;
3. Category III—sponsor compliance;
4. Category IV—special considerations.

E. Points are awarded to a project based on evaluation criteria in each category and the total evaluation score for the project is the sum of points in each category. Based on priority ratings of projects, a prioritized program of projects is developed by the Aviation Section and submitted to the Joint Legislative Committee for Transportation, Highways and Public Works. This committee approves the program of projects which becomes the capital improvement projects that will be implemented by the Aviation Section in the next fiscal year. A project submitted after this approval with a ranking high enough to place the project on the program of projects cannot be added until a new program of projects is submitted to the committee the following year. However, a project receiving other than state funds may receive a state match in accordance with R.S. 2:803(B), if funds are available as determined by the Aviation Section.

F. The Transportation Trust Fund legislation requires a priority system to prioritize projects in some logical order for addressing documented needs in the state's public airport system. The priority system is a process that has been developed to allocate state aviation funding to address these needs. The system reflects the state's development policy for the airport system, assigning higher values to projects which are consistent with the policy.

G. The only projects that should appear on the prioritization list are those that have a chance of being implemented in the foreseeable future. Ideally, this would be within a three-year period from the time the project appears on the priority list. Prioritized projects which have been approved for state funding but which, for lack of federal matching funds or other reasons, do not have a signed construction contract within three fiscal years may be deleted from the program. Funds which had been approved for a deleted project will be reallocated to any other prioritized project as needed. Normally such funds will be used to cover project overruns, "up front" engineering costs (FAA reimbursable engineering costs incurred by the airport owner prior to the issuance of a federal grant in aid), or "up front" land purchase costs (FAA reimbursable costs associated with survey, real estate and title fees, and purchase of land by the airport owner prior to the issuance of a federal grant-in-aid).

H. These funds may also be used to fund the next-in-line project on the four-year unfunded portion of the priority list if that project has received funding or for projects funded by other than state funds not covered by the Future FAA Obligations funds. As a general rule, funds originally allocated to commercial service airports will, whenever practical, be used to fund projects on the commercial service airport four-year unfunded list. Funds allocated to general aviation airports will likewise be used to fund projects on the general aviation airport four-year unfunded list. In the event there are insufficient projects on either four-year unfunded list, funds originally allocated to one class of airport may be reallocated to the other class of airport.

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§309. Nonprioritized Programs [Formerly §909]

A. Through the legislative approval process for the Priority Program, the Aviation Section may specify on the Priority Program, nonprioritized programs as needed. Such statewide programs may include, but are not limited to Planning, Navigational Aids, Discretionary Projects, Maintenance Reimbursement, Obstruction Removal Safety programs, Future FAA Obligations, Statewide Marking Program, and Statewide Sealcoat Program. These programs are an integral element of the state's aviation program. Projects cannot reach the facility improvement stage without going through the planning phase. Navigational aid projects

enhance use of the overall state system. Discretionary projects provide the Aviation Section with the latitude to fund emergency or safety related projects on a real-time basis and to undertake projects which are too small to be eligible for funding through the priority program. The state's airport system would be stagnated without these types of projects. The Maintenance Reimbursement Program assists the general aviation airports in the high cost of maintaining an airport and allows the airport to maintain a safe and operational status. The Obstruction Removal Safety Program is needed to keep the state's airports safe from obstructions that penetrate the airports approach slopes, runway protection zones, FAR Part 77 and transitional surfaces. The Future FAA Obligations are needed to meet the funding requirements for the projects the Federal Aviation Administration (FAA) has funded after the priority program has been approved. This phenomenon is caused by the state's fiscal year being out of synchronization with the federal fiscal year by approximately three months. This special program precludes the loss of federal funds and improves the state's timely response. The Statewide Marking Program assists airports statewide in maintaining a safe visual marking aid environment on the airfield. The Statewide Sealcoat Program assists airports statewide in maintaining their pavement in good condition.

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§311. Commercial Service versus General Aviation Airports [Formerly §911]

A. One of the basic objectives of a priority process is to identify projects that benefit the highest number of aviation system users, however, it primarily identifies projects that have the greater need, even if the airport serves less users than another airport. When airports are compared on the basis of persons served, airports offering scheduled or unscheduled commercial air service to the public serve more persons than airports that support general aviation activity. Differences in the size, revenue generation capability, and usage of commercial service airports (those airports which enplane 2,500 or more passengers annually) as compared to general aviation airports make it difficult to compare the need for projects between the commercial service and general aviation airports.

B. Because of aircraft size, weight, speed, operational characteristics, and FAA design standards, facilities at commercial service airports have more demanding standards and thus more costly engineering and construction. Because of the significant differences between commercial service and general aviation airports project standards, each group's projects are prioritized separately.

C. The commercial service airports priority projects must have an established funding level, just as the general aviation priority projects must have an established funding level. To accomplish this, the total funds available for airport improvement projects in a given year are allocated between commercial service and general aviation airport projects in a ratio of 65 percent for commercial service airports and 35 percent for general aviation airports. This balance is adjusted, however, if there are insufficient projects in either category to fully utilize available funding. This 65 percent/35 percent allocation is based on past experience in the state's aviation program and the levels of state funding allocated to each type of airport. It also reflects the fact that commercial service airports have a far greater capability of generating revenue through means unavailable to general aviation airports such as: vendor leases, landing fees, airline contracts, passenger facility charges, and rental car lease agreements. Passenger facility charges (PFC) are charges passed on to a commercial service passenger, which can be collected by the airport to fund projects not otherwise funded. These projects are eligible to be approved by the FAA for 100 percent funding through the PFC collection. Therefore, PFC funds are not normally eligible to receive matching funds from the state.

D. The division of projects by commercial service or general aviation airport categories results in two project priority lists, one for each of the two types of airports. Each step of the prioritization process is identical for both commercial service and general aviation airport projects.

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§313. Preliminary Evaluation [Formerly §913]

A. The preliminary evaluation is used to screen potential projects and determine those which can realistically be implemented, assuming available funding.

1. The first step is to determine whether the project should be included in the priority process. There are three basic criteria:

a. project type;

b. project size;

c. eligibility for federal matching funds.

2. The second step is to determine whether the information necessary for prioritization is available.

B. A review committee consisting of, at a minimum, the aviation director, assistant aviation director, and the aviation program manager, for the airport concerned will make an initial determination of whether there is sufficient information to prioritize a project when a project request is

received. Some of the information considered by the committee is required by either Title 2 of the *Louisiana Revised Statutes*, the Louisiana Aviation Needs and Project Priority System, or DOTD and Aviation Section policy.

C. The DOTD Aviation Section is responsible for assigning priority values to projects and determining if they are consistent with development plans in the master plan or action plan for the airport. If insufficient data is sent to the Aviation Section, correct prioritization of the project will not be possible. When insufficient data is provided, a request will be made for the additional information needed. Therefore, project applications and necessary documentation should be sent to the Aviation Section early enough to allow time for processing and possible return for additional information before the program can be presented to the legislature for approval. Any document package not meeting all requirements or not in Aviation Section hands by the deadline may not be prioritized or included in the upcoming fiscal year's program.

D. Project Type. Generally, only airport improvement or preservation projects are included in the priority program. Some exceptions are:

1. land acquisition for obstruction removal or airport expansion;

2. aircraft rescue and firefighting (ARFF) vehicles and equipment;

3. airport noise studies; and

4. FAA AIP eligible projects when FAA is providing funding.

E. Some projects may be of a type in which the Aviation Section might not participate. For example, construction of roads and utilities for an air industrial park development and other such land side projects are not undertaken by the priority system and will not be funded by the Aviation Trust Fund.

F. Project Size. To be included in the priority system, a project must require the use of $25,000 (other than discretionary funds) or more in state funding. The $25,000 requirement only applies to projects which receive no federal funding. Some projects may be too costly to be funded from a single year's budget without denying funding to other needed projects at other airports. Therefore, no more than $3,000,000 in 100 percent state funding may be programmed to a single commercial service airport and no more than $1,000,000 in 100 percent state funding may be programmed to a single general aviation airport through the aviation priority program per fiscal year. Projects in excess of these amounts may be funded over two or more fiscal years. For example, a project for a commercial service airport may have a total cost of $9,000,000. The project may be prioritized in the upcoming budget cycle for no more than $3,000,000 but the remaining $6,000,000 will receive top priority in the following two yearly budgets to insure project completion. The same is true for a general aviation airport project except that the project maximum cost is $1,000,000 per budget year. This does not include projects that are prioritized as an FAA AIP grant unless it is known that the FAA will use a multi-year funding approach. Regardless of the project size, if the FAA uses multi-year funding, the state will also use a multi-year approach.

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§315. Project Support Documentation [Formerly §915]

A. Once it has been determined that a project is of the type and size to be considered in the priority system, an evaluation of required supporting documentation will be made. The project support documentation is a combination of documents and information necessary for the Aviation Section to determine if the project is developed sufficiently for inclusion in the priority listing. Documentation may include the following items:

1. Project Resolution. The initial document the Aviation Section needs for consideration of any project is a resolution from the public body operating the airport requesting assistance in the development of the project. Generally, the assistance requested would be for both funding and technical assistance. Any commitment from the local owner to participate in the cost of the project is also documented in the resolution. The resolution from the owner of the airport initiates an agreement between the two parties for joint sponsorship of the project and authorizes state participation in a local project pursuant to applicable provisions of state law. It is also a written commitment of support for the project by the owner. The Aviation Section requires a resolution (except from state-owned and operated airports) from the airport sponsor or owner before a project can receive state funds.

2. Funding Sources. Since available state funding historically falls far short of the requested airport needs, it is especially important to use every opportunity to take advantage of the FAA/AIP program which provides funding grants for eligible projects at eligible airports. A request for 100 percent state funding may be processed for a project that is eligible for AIP funding. Those projects that are requested as FAA/state matching funds will remain on the program as FAA/state matching funds until the airport requests the project be converted or the airport submits a new project request with resolution prior to November 1 of each year to have the project prioritized as a 100 percent state funded project. An airport may request in writing to the aviation section to have the project converted from a FAA matching funds project to a 100 percent state funded project.

B. Project Components. In the priority system, projects are prioritized on a generic basis. For example, projects that affect the primary runway are all considered under the heading "primary runway." This could include lengthening,

widening, lighting, grooving, etc., of the primary runway. Projects are defined on a usable basis or unit. This means that, if a runway is widened, the relocation of runway lighting and striping are all included in the project. Another example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway, so these may be considered as two projects in the priority system. Development of projects as a usable unit prevents projects of a lower priority being tagged onto a high priority project so they will be ranked higher. This focuses the priority system on those projects with the highest priority ranking, maximizing the effectiveness of aviation program funds. However, it is sometimes advantageous in terms of safety, operational effectiveness, and fiscal responsibility to include lower ranking projects along with otherwise unrelated higher projects. For instance, if there is a high priority project to overlay a runway, it may be appropriate to include a stub taxiway leading from the runway to a parking apron, or the apron itself if it is in especially poor condition. This can prevent damage to aircraft, provide a safe operational area for the necessary movement of aircraft, and take advantage of significant cost reductions for the lesser priority projects. This blending of otherwise nonrelated projects, is an exception which will be authorized only in exceptional cases. The aviation director is responsible for the organization of projects into usable units when projects are developed and for determining if special circumstances exist which would warrant combining unrelated projects.

C. Planning Data. The priority process depends heavily on planning data to evaluate the relative merits of a project. Usually the justification for a project is found in the master plan or action plan for the airport, but there are exceptions. Engineering inspections may identify the need for reconstruction of a runway, or a 5010 inspection may reveal a safety problem. Regardless of the means by which a project is identified, written documentation describing the need for the project and the justification for the action to be taken must be provided. The justification for the project should be brief and to the point.

1. Submitting a master plan or action plan document as sole justification is unacceptable. The pertinent section of the master plan or action plan should be submitted with a narrative to explain the project and demonstrate that it is consistent with the master plan or action plan recommendations.

2. The planning data for a project, at a minimum, must:

a. document the need for the project;

b. explain how the project meets the need;

c. give the estimated cost; and

d. include a sketch of the project on the airport's approved layout plan.

3. The documentation need not be lengthy but should focus on what is generating the need. For example, if an aircraft parking apron is to be expanded, the number of existing parking spaces versus the number of aircraft that need to be parked on the apron would be adequate documentation. A description of how large an apron expansion is proposed and how many additional parking spaces the expansion would create should be submitted. The expansion should also be shown on the airport's approved layout plan to illustrate how it fits in the overall master plan or action plan development recommended for the airport. If the expansion of the apron is not consistent with that shown in the master plan or action plan, an explanation for the proposed deviation is necessary.

D. Environmental Requirements. Some proposed projects, because of their potential environmental impact, may require environmental clearance before they can be constructed. During the preliminary evaluation of a project, a determination should be made whether or not environmental clearance is required. If the FAA Airports District Office or DOTD, Aviation Section indicates environmental clearance is required, any documents that are available to show that environmental requirements have been met should be provided. If some type of environmental document needs to be developed for the project, this should be done before the project is placed in the priority system unless the environmental delineation and/or mitigation is part of or included in the project to be funded. Environmental clearance of projects can be a lengthy process and allowing a project to be dormant in the priority system while waiting for clearance could preclude another project or projects from being implemented.

E. Local Sponsor Requirements. The priority system recognizes the responsibility of the local government owners of the airport to operate the airport in a safe, professional manner. A category is included in the rating system that assigns a value for sponsor responsibility. To be able to assign this value, certain information is required from the owner of the airport.

1. Two of the evaluation criteria in the "sponsor responsibility" category are whether the airport has height limitation zoning and land use zoning in effect at the airport. If the Aviation Section does not have a copy of the airport's zoning ordinances on file, the local owner is required to provide this. The lack of zoning at the airport will cause a lower ranking of the proposed project.

2. No airport may receive state funding from the DOTD, Aviation Section if officially declared in noncompliance with federal or state laws, regulations, rules, or policies by the FAA or DOTD, Aviation Section.

3. The presence of zoning ordinances, an implemented pavement maintenance plan, compliance with the airport operations manual, and adequate airport maintenance are evaluated in the preliminary evaluation of a project because if they are not being done at an airport, the local sponsor should be given an opportunity to rectify the situation before the project is prioritized. The airport owner will be advised of the corrective actions that can be taken to improve the project score. If the owner does not initiate and document corrective action that clearly shows that action is being taken

to address these items and correct deficiencies in these areas, the project will not receive points in this category.

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§317. Project Priority Rating System [Formerly §917]

A. There are four categories of evaluation, each addressing one of the general areas in §925.A.1-4. The categories are as follows:

1. Category I—project type;
2. Category II—facility usage;
3. Category III—sponsor compliance;
4. Category IV—special considerations.

B. Points are awarded to a project based on evaluation criteria in each category, and the total evaluation score for the project is the sum of the points in each category. The point values are designed to award points in a weighted manner. Each area of evaluation receives points in proportion to the relative importance as determined by Aviation Section policy.

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§319. Category I—Project Type (see Exhibit 1) [Formerly §919]

A. This category is designed to segregate projects by type defined by the primary purpose of the project. To accomplish this, four subcategories have been designated for project type. These subcategories are:

1. safety;
2. airside preservation;
3. airside improvements;
4. landside improvements.

B. The subcategories are listed in order of descending importance and point values have been assigned accordingly. Development of projects directly related to safety of aircraft operations is considered the highest priority because of the potential for loss of life and property should safety needs not be addressed. Preserving the existing airport system is next in importance because the existing facilities represent an investment of public dollars and there is a commitment to maintain those facilities that are in use. The airside improvement type of project is the next project priority and reflects a policy by the Aviation Section to develop facilities to the design standards established by DOTD and FAA to accommodate existing aviation activity at an airport. Projects for landside improvements at an airport are last in the project type priority because safety, airside preservation and airside improvements are all types of projects that need to be addressed in order to maintain a safe and operational airport.

C. Except for the "safety" subcategory, the general approach to assigning points to projects within these subcategories is to give highest priority to addressing needs of the primary runway first and then decreasing priorities the farther the project is removed from the primary airside facilities. As an example, a project on a primary runway has a higher priority than an apron project, but the apron project has a higher priority than a vehicle parking lot project. Safety projects, because of their importance, are addressed equally regardless of what area of the airport they impact.

D. It should be noted that project types listed are generic. For example, any project dealing with the primary runway that is designed to preserve its integrity falls under the "preservation of existing system" subcategory. This means that overlaying of the primary runway receives the same number of points as reconstructing the primary runway because both are designed to preserve the integrity of the runway. The subcategories in the "project type" category are shown in Exhibit 1. The type of project within each subcategory and its corresponding point value are displayed.

E. The Aviation Section may participate in revenue-generating projects such as fueling systems and hangars. Such projects are usually done after all other airside projects or issues have been completed. Certain areas of terminal buildings at general aviation airports may be eligible. Areas such as the airport manager's office, flight planning area, pilot's lounge, and a small conference room would be considered eligible for funding. Areas such as a location for rental car agencies, restaurants, and fixed base operators (FBO's) would not be considered eligible for funding. The size of the terminal building eligible for funding would also be limited to the needs for the size airport in which it would be located.

F. Safety (see Exhibit 1.A). Projects in this subcategory are limited to those that only affect aircraft operational safety. These are projects such as obstruction removal, runway grooving, aircraft rescue and firefighting (ARFF) equipment, and lighting. It can be argued that most aviation improvement projects increase safety at an airport, but caution is used to place only those projects in this subcategory that specifically affect the safety of aircraft using the airport. For example, lengthening of a runway improves safety, but its primary purpose is to allow utilization by larger or faster aircraft. Projects in the "safety" category are those developed specifically to address an unsafe condition and thus receive the highest evaluation points possible.

G. Airside Preservation (see Exhibit 1.B). Projects that are required to maintain the functional integrity of existing facilities are evaluated in this subcategory. Projects such as reconstruction of a runway or taxiway or rehabilitation of an existing lighting system are the types of projects included under this subcategory. The point values are assigned with the highest value to projects that maintain the integrity of the primary runway and decrease in value as the facility being maintained moves from preservation of existing facilities toward making improvements to airside facilities.

H. Airside Improvements (see Exhibit 1.C). Projects evaluated in this category are those the purpose of which is to upgrade a facility to a design standard based on current needs. The required design standards for facilities are determined by the role the airport plays in the state airport system and the Aviation Section facility development standards. The airport role and standards are found in the Louisiana Airport System Plan and in appropriate FAA and state airport design manuals and advisories.

I. Landside Improvements (see Exhibit 1.D). Projects in this subcategory are those that are designed to facilitate the handling of issues dealing strictly with landside improvements. These projects receive the least amount of points in the prioritization process due to the fact that emphasis must be put on airside needs in order to maintain a safe and operational airport. Projects in this subcategory may be addressed once the major airside issues have been addressed and resolved.

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§321. Category II—Facility Usage (see Exhibit 2) [Formerly §921]

A. This category weighs the use of an airport relative to the use of other airports in the system. The basic objective is to support projects that serve the most aviation users. This objective has to be balanced, however, with the Aviation Section's goal of maintaining a viable statewide system of public use airports and maintaining aviation and public safety.

B. As previously discussed, for this reason commercial service and general aviation airports are prioritized separately.

C. Points are awarded based on the number of aircraft based at the airport and/or the number of commercial enplanements. The point values have been developed to attempt to recognize higher use of an airport while not eliminating a low use airport from consideration for projects. Exhibit 2 shows the point rating structure for this category.

D. The number of based aircraft at an airport, as indicated in the latest 5010 inspection report, is used to determine the relative level of use at an airport by general aviation interests. There are some drawbacks to this approach. The number of operations for each based aircraft is not accounted for by using only the based aircraft numbers. Itinerant operations, which are very important to an airport, are not recognized by counting based aircraft. Other operations by aircraft not based on the field, such as agricultural and military aircraft, are also missed. All of these factors affect the overall number of operations at an airport which is a much more accurate measure of airport use than based aircraft, but reliable operations counts at all nontowered airports are not available for general aviation airports. Should the Aviation Section develop a systematic program for counting operations at nontowered airports, the relative number of operations at an airport may replace based aircraft as the indicator of facility use. Until such a system is developed, counts of based aircraft are the only consistent way to measure general aviation use at the airports.

E. For commercial service airports, points are also awarded in this category for the number of commercial service enplanements. The number of enplanements is taken from the FAA's annual enplanement data.

F. Airports that do not have enplanements, but are designated as reliever airports, receive points in this category also. Reliever airports are important in the system for diverting general aviation operations from commercial service airports with operational capacity problems and thus receive points in the category. The sum of points awarded for general aviation-based aircraft, commercial service passenger enplanements (commercial service airports), and reliever airports status constitutes an airport's score for the "facility usage" category of the priority rating system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1511 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:110 (January 2013).

§323. Category III—Sponsor Compliance (see Exhibit 3) [Formerly §923]

A. The "sponsor compliance" category evaluates how effectively the airport owners are operating the airport with respect to established standards and good management practices. Several areas are evaluated in this category that are critical to providing safe and efficient public services. Exhibit 3 shows the evaluation criteria and point values for this category.

B. Airports are affected by the use of the land surrounding them. Certain land uses in the vicinity of an airport can result in restrictions on use of the airport and, in extreme cases, in the total closure of the airport. Restrictions to prevent the penetration of tall objects into the approach surfaces for aircraft at an airport are very important. Generally referred to as "height hazard zoning," this type of

zoning prevents tall objects that affect the safety of aircraft operations from being built around the airport. Tall objects can cause the displacement of thresholds and the raising of "minimums" for instrument approaches at an airport, thus decreasing the utilization of the airport. The airport represents a substantial public investment and implementation of height hazard zoning by the appropriate local governing body protects the investment by allowing the airport to be used to its full capacity. Points are awarded in this category for having height hazard zoning ordinances in effect at an airport.

C. A related area evaluated in this category is compatible land use zoning. Height hazard zoning controls the height of objects but has no impact on the actual use of the land. Certain land uses around an airport are incompatible with airport operations because of safety considerations or impacts on landside activities. Noncompatible uses can create conflicts between the community and the airport which may create pressures to restrict use of the airport. Compatible land use zoning is necessary to protect the airport from restrictions placed on it when aviation uses conflict with surrounding land uses. For this reason, the presence of land use zoning is evaluated in this category.

D. The final evaluation area in the "sponsor responsibility" category is maintenance. The local owners of the airport are responsible for routine maintenance such as cutting the grass, changing light bulbs, maintaining proper drainage, sealing or filling pavement cracks, and refurbishing marking and painting stripes. If regular maintenance is not done, the airport will not receive full points in this category. If maintenance is cited as a problem, the airport will be notified by letter of the problem and the corrective action to be taken. Until the airport corrects the problem, all projects evaluated in the priority system for the airport will lose points.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1512 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:525 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:110 (January 2013).

§325. Category IV—Special Considerations (see Exhibit 4) [Formerly §925]

A. The first three evaluation categories cover those evaluation areas (project type, facility use, and sponsor compliance) for which all projects prioritized will receive an evaluation score. The "special considerations" category allows projects of special significance to receive additional evaluation points when being prioritized. The items evaluated in this category bear no relationship to one another and thus each project is evaluated with respect to each item to determine if it should receive bonus points in its prioritization score. Exhibit 4 shows the criteria and point values for bonus point evaluation.

B. The first area of evaluation is "special programs." At times, certain improvements at an airport may be mandated by federal or state law and thus require a higher prioritization. Also, as a matter of policy, the Aviation Section may determine that special emphasis should be placed on a certain type of project. All projects of the designated type will receive additional bonus points under these evaluation criteria. An example of this type of project would be a phased project. Additional points will be awarded to assure that a consecutive phase of a project receive a higher priority than a project that is not phased.

C. Economic development potential is another evaluation area under the "special considerations" category. While it is acknowledged that any construction project generates economic development, there are some projects that are designed to address a specific economic need at the airport or in the community. To receive points in this area, the economic development aspects of the project must to be well documented and clearly demonstrate the potential economic impact of the project. Facilities developed to accommodate the aviation needs of a business moving to the community is an example of an economic development type of project. The facilities would have to constitute a major factor in the business' decision to locate in the community. To receive bonus points in this area may require an economic impact study, the cost of which is the responsibility of the airport owner. Another example is a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business.

D. Commercial air service to a community is an important element in the community's overall economic development. Under the "special considerations" category, projects are evaluated to determine if their primary justification is to maintain or attract commercial air service to the airport. For a project to receive points under this category, it must be directly responsible for affecting commercial air service at the airport. Documentation of the project justification is essential for prioritization rating points to be awarded under this evaluation criteria.

E. Another "special considerations" category is the provision of local matching funds in excess of Aviation Section match requirements. Any project for which at least $5,000 in local funds are provided will receive bonus points in this category. For every $5,000 contributed by the airport owner, 5 bonus points will be awarded, up to a total to 20 bonus points for $20,000 contributed. Any amount above $20,000 contributed by the sponsor will only receive a maximum of 20 bonus points. This is designed to give higher preference to projects that are financially supported by the local owner in excess of that which is required; therefore, no matching funds from other state sources will qualify for bonus points. Commitment for local funding support should be included in the resolution submitted by the local owner requesting assistance from the Aviation Section for the project.

F. The last evaluation criterion under the “special considerations” category is the GA Entitlement Loan Program. Under this category a NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement (NPE) funds to another NPIAS GA airport. The airport receiving the loan will in turn, loan their future NPE funds to the airport which gave them the loan. The participating airport loaning the funds will be awarded additional bonus points for their next priority project.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:111 (January 2013).

§327. New Airports
[Formerly §927]

A. An airport that is constructed on a new site presents some different prioritization issues than improvements to existing airports. Generally, a new airport will fall into either of two categories.

1. The first is an airport that is proposed for an area of the state not served by a public airport.

2. The second is a new airport proposed to replace an existing public airport which, for any number of reasons, is not considered a suitable public airport.

B. Prioritization of projects for the development of a new airport requires a process slightly different than that for an existing airport. There are some special considerations that must be made in each of the four prioritization categories.

C. Initially, it must be determined if the project under consideration is for a "new" airport. At some point during its development, a new airport becomes an existing airport. For purposes of the priority process, an airport is considered "new" until land is purchased for the airport, a primary runway is constructed, and an apron for aircraft parking is constructed. This includes clearing of runway approaches. The completion of these elements allows aircraft to operate at the airport and thus, at this point, the airport is no longer considered "new" and future projects are prioritized using the standard prioritization process. Before this point is reached, however, the land acquisition, runway, and apron construction will be prioritized using the following special considerations in each category.

D. Under the "project type" category, new airport projects will be categorized in either of two project type categories. Those new airports that are replacing an existing airport are categorized as upgrade to standards type projects. This type of new airport allows construction of an airport that meets all DOTD design standards and allows for future expansion to meet these standards. It should be noted that land purchased for a new airport is often funded with state funds, but when the FAA begins funding other improvements such as the primary runway, the state is reimbursed for land acquisition costs. If this is the case, land acquisition should be treated as a federally-funded project and prioritized accordingly.

E. New airports constructed in areas of the state not being served by a public airport should be prioritized under the project type "capacity increases" subcategory. These airports are primarily to increase the capacity of the Louisiana public airports system and thus are prioritized in the "capacity increases" subcategory. As previously discussed, land acquisition costs are usually reimbursed by the FAA and these projects should be prioritized accordingly.

F. For the "facility usage" category, the based aircraft and enplanements numbers that determine the points awarded for the new airport project will be those cited in the supporting planning document for the first planning phase. This will usually be the numbers cited for the first year of operation.

G. Under the "sponsor responsibility" category, there are two areas that can be included in the prioritization process. The presence of height limitation zoning and land use zoning should be determined and points assigned accordingly. Most new airports will not have developed an operations manual for the airport. In cases where the airport has not developed an operations manual, the airport will be awarded five points based on the assumption that the elements of an operations manual will be in place when the airport is opened for operations.

H. In the "special considerations" category, a new airport can be assigned points in the same manner as an existing airport. If an airport is the first public airport in an area, a strong case can be made that the airport should receive bonus points for its economic development potential. The airport represents a totally new mode to the local transportation system and thus should have a significant long-term economic impact on the area served. The remaining bonus point areas can be assigned in the same manner they are assigned for existing airports.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1513 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:526 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:112 (January 2013).

§329. Prioritization of Projects
[Formerly §929]

A. Once a determination has been made by the Aviation Section that a project is eligible to be included in the prioritization system, the project will be prioritized using the rating system. The preliminary evaluation of the project should provide the information necessary to complete the process. If adequate information is not available, it will be requested before the project is prioritized. Prioritizing a project without sufficient information may cause a project to receive a higher or lower ranking than it deserves.

Subsequent questions about why the project received the evaluation score may be difficult to answer without the documentation to support the points assigned in each category.

B. Point values are assigned in each category using the worksheet that is included as Exhibit 5. The worksheet follows the priority rating system and provides the documentation of how the total score for a project was derived. The worksheet is maintained with the project file so that documentation of the value assigned in each category is available.

C. Occasionally, a change in a project or at the airport might occur requiring the point values for a project to be modified. The new values are put on the same worksheet with a note explaining the reasons for the change.

D. As part of the evaluation of the project, the eligibility of the project for federal funding is noted on the worksheet. If federal funds are already committed, this is also included on the worksheet. When the project is entered in the automated priority system, the eligibility or commitment of federal funding for the project is noted.

E. Some projects will have equal scores after they are evaluated. If these projects fall at a point in the ranking list where a break is necessary (funded program versus four-year unfunded program), projects with the same score will be ranked based on the highest score in Category I. The project with the higher score in Category I will be ranked higher. If the projects are tied in Category I, Category III is used to break the tie and, if still tied, Category II is used, etc. Should the projects still be tied after examining all four categories, the project at the airport with the largest number of based aircraft will be ranked higher.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:112 (January 2013).

§331. Priority Ranking System [Formerly §931]

A. After the total evaluation score for a project is determined, it is entered into a priority ranking system and its relative ranking is determined. This system ranks projects by descending score in the commercial service airport or general aviation airport priority program as appropriate.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:527 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013).

§333. Program of Projects [Formerly §933]

A. The lists of projects for commercial service and general aviation airports prioritized by evaluation score represent the program of projects that the Aviation Section will seek to implement through its development program. The actual number of projects from each list that will ultimately be constructed is primarily dependent upon the level of funding that the Aviation Section receives each year.

B. The priority system has been designed to allow inclusion of a cost estimate for each project. The estimate is broken down by federal share, state share, and local sponsor share. Since the system is designed to prioritize the use of state monies, the state funds required for a project are the key to developing a program of projects.

C. Most projects will require more than one year to design, acquire land (if necessary), and construct. When a project that is programmed to be funded over two or more fiscal years is included in the program, the phase of work (design, construction phase I, construction phase II, etc.) will be noted along with the cost of that phase. Subsequent phases may be shown at the top of the four-year unfunded list. As projects are constructed and more funding becomes available, remaining projects with the highest scores will be placed in the construction program to the extent that funding is available. This group of projects for which funding is available will not be changed until more funds become available. However, projects on the four-year unfunded list do not automatically move up to the funded list in the succeeding fiscal year. Rather, unfunded projects recompete for funding each fiscal year until they are either funded or dropped from the list after three years. Because needs, cost estimates, airport situation, and other data change regularly, after three years all projects which have not been started may be dropped from the program. If projects are dropped from the program, they must be resubmitted with updated information. They will then be reviewed and re-entered into the priority system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997, R.S. 2:802 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1514 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013).

§335. Project Available for FAA Funding [Formerly §935]

A. Special consideration for projects that will receive FAA funding is included in the priority system. The priority system is a listing of the projects in the order that the state considers implementation desirable based on the state's overall aviation development policies. Utilization of the FAA's priorities to set state priorities is sometimes inconsistent with a state prioritization process. This does not mean that the state should ignore potential FAA funding in its development program.

B. There are two decisions that the Aviation Section makes when seeking FAA funding for its program. Projects that are planned at National Plan of Integrated Airport Systems (NPIAS) airports and that are types in which FAA will participate are noted. This enables the Aviation Section to present a proposed program of projects to the FAA that are eligible for FAA funding and that reflect state priorities. The Aviation Section then negotiates with the FAA to secure federal funding for top ranked projects. The second consideration for FAA funding is that there will be projects the FAA will fund that do not appear in the implementation program based on priority rankings. Realistically, the Aviation Section cannot reject a project that will receive funding from the FAA. In these cases, a project that has received a commitment for federal funds is to be automatically included in the list of projects for implementation in the current year. If the current year program is already developed, the project is given top priority in the next year program or may be funded by future FAA obligation funds or funds available from cost underruns. Therefore, it is important that airports seeking federal funding for projects that are eligible for matching funds from the aviation program coordinate their application with both the FAA and the Aviation Section.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013).

§337. Exhibits [Formerly §937]

A. Exhibit 1

Exhibit 1	
Category I—Project Type	
A. Safety—Projects Directly Affecting Operational Safety	
Points	
50	Correction of runway failures severe enough to be an obvious safety problem. Runway friction surface or grooving or other action directly related to safety.
49	Repair of primary runway lighting system or approach lighting system which is not functional and is deemed to be a safety hazard.
48	Obstruction removal which is requiring the displacement of the runway threshold and relocation of runway lighting.
47	Obstruction removal to meet FAA Part 152 clear zone and FAR Part 77 imaginary surface requirements.
46	ARFF vehicles and equipment required at commercial service airports or minimum safety equipment at GA airports. Security fencing to correct a specific safety problem (does not include general perimeter fencing).
45	Safety condition identified by professional evaluation or accident statistics.
B. Airside Preservation—Preserving the Infrastructure of the Airport Dealing with Air Operations. Examples are preserving and maintaining the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
20	Primary runway
19	Taxiway serving primary runway
18	Apron
17	Secondary runway
16	Taxiway serving secondary runway
15	Stub taxiways and taxilanes
C. Airside Improvements—Improving the Infrastructure of the Airport Dealing with Air Operations. Examples are improving and upgrading the infrastructure of the runways, taxiways, aircraft aprons, airfield lighting, NAVAIDs, Fuel Farms, T-Hangars, etc.	
14	Primary runway
13	Primary taxiway
12	Apron
11	Perimeter fencing
10	Navigational Aids (NAVAIDS)
9	Secondary runway
8	Secondary taxiway
7	Agricultural loading area
6	Noise Mitigation / Terminal Building for Commercial Service Airports
5	New airport construction including runway, taxiway, and apron / Terminal Building for General Aviation Airports.
D. Land Side Improvements—Improvements That Enhance an Airport's Infrastructure Not Related to the Air Side.	
4	Land acquisition for future expansion
3	Primary vehicle access road
2	Primary vehicle nonrevenue-generating parking.
1	Other Land Side Improvements

B. Exhibit 2

Exhibit 2	
Category II—Facility Usage	
Based Aircraft*	**Points**
91 or More	20
81 to 90	18
71 to 80	16
61 to 70	14
51 to 60	12
41 to 50	10
31 to 40	8
21 to 30	6
11 to 20	4
1 to 10	2
Additional Points for Air Commercial Service Enplanements**	**Points**
500,000 or more	20
250,000 to 499,999	15
50,000 to 249,999	10
2,500 to 49,999 ***	5
If noncommercial reliever airport	10
*Taken from latest 5010 Inspection **Taken from Annual FAA Enplanement Data ***Less than 2,500 enplanement do not receive points	

C. Exhibit 3

Exhibit 3	
Category III—Sponsor Compliance	**Points**
Height Limitation Zoning	10
Land Use Zoning	5
5010 / Safety Inspection***	0 - 30
***Points are not awarded based solely on the number of deficiencies. Also taken into consideration are the timeliness and appropriateness of corrective actions. Points may be awarded on a sliding scale relative to the progress toward correcting deficiencies.	

D. Exhibit 4

Exhibit 4	
Category IV—Special Considerations	**Points**
Designated as Special Program*	15
Economic Development Potential**	10
Maintain or Attract Commercial Service	10
Local Funding in Excess of Requirements***	5-20
GA Entitlement Loan Program****	25

*Special Program—Certain types of projects mandated by Federal or State law or identified in a policy decision by DOTD. For example, if the EPA requires a certain kind of wash down facility, it could be given added priority with bonus points. If DOTD wishes to place emphasis on a particular type of project, e.g., hazard removal around the state, subsequent phase of a project continuation, these types of projects could receive Special Program points.

**Economic Development—Clearly demonstrated impact on economic development in an industrial airpark or around the airport locale. For example, a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business. To receive bonus points in this category an economic impact study may be required, the cost of which is the responsibility of the airport owner.

***Five points will be awarded for each $5,000 of matching funds provided by the airport owner up to a maximum of 20 points for $20,000. Any amount above $20,000 will only receive the maximum of 20 points. Funds may not come from other state sources.

****GA Entitlement Loan Program—A NPIAS GA airport may receive special program bonus points for a project by loaning their Non-Primary Entitlement funds to another NPIAS GA airport.

E. Exhibit 5

Project Priority Evaluation Worksheet	
Project Number*	**Date Evaluated**
Airport Name	
Description of Work	
Category I: Project Type	**Score**
Safety	
Airside Preservation	
Airside Preservation	
Airside Improvements	
Landside Improvements	
	Total
Category II: Facility Usage	
Based Aircraft	
Enplanements	
Reliever Airport	
	Total
Category III: Sponsor Responsibility	
Height Limitation Zoning	
Land Use Zoning	
5010 / Safety Inspection	
	Total
Category IV: Special Considerations	
Special Program	
Economic Development	
Commercial Service	
Local Funding	
GA Entitlement Loan Program	
	Total
Project Total Evaluation Score	**Total**

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:538 (June 1990), amended LR 24:1515 (August 1998), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:528 (March 2007), repromulgated by the Department of Transportation and Development, Aviation Section, LR 39:113 (January 2013).

Chapter 11. Speed Restrictions for Railroad Traffic

§1101. General Procedure for Municipality Request

A. In accordance with the provisions of R.S. 48:389, the Department of Transportation and Development has set forth the following procedures for compliance therewith.

B. In order to establish speed restrictions for railroad traffic within the specified areas of corporate limits of a municipality, the governing body of said municipality shall adopt a resolution and forward it to the director of Intermodal Transportation Division, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804. This written request in the form of a resolution shall contain the following:

1. name of the railroad carrier or company to be affected, and location of the railroad track to be affected, giving exact locations where the restricted speed limit(s) are requested;

2. documentation and explanation of the unique characteristics of the essentially local safety hazard that is sought to be eliminated or reduced, including documentation of all accidents or incidents;

3. regulatory and warning devices in existence and location of each;

4. applicable automobile speed limits at any affected railroad crossing(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:761 (July 1992), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:530 (March 2007).

§1103. Notification of Railroad

A. Upon receipt of the request by the municipality, the director of public transportation shall contact the affected railroad(s) through the local railroad office. If unable to locate a local office, the director shall seek the assistance of the general counsel and legislative representative, Louisiana Railroads, Baton Rouge, Louisiana. A copy of the request of the municipality shall be forwarded to the affected railroad.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:761 (July 1992).

§1105. Investigation

A. Prior to the evidentiary hearing referred to below, the department, through its appropriate district office, shall conduct an investigation of the particular site regarding the problem within the municipality and shall furnish a written

report containing its findings to the director of public transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:761 (July 1992).

§1107. Notification

A. Prior to the evidentiary hearing referred to below, the department shall publish in the "Potpourri" Section of the *Louisiana Register* notice of the date, time and place of the evidentiary hearing. Copies of the notice shall also be sent to the affected parties and other parties who have expressed an interest in the railroad speed limit being considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:762 (July 1992).

§1109. Location of Public Hearing

A. The public hearing to be conducted by the Department of Transportation and Development shall take place at the DOTD Headquarters Building, 1201 Capitol Access Road, Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:762 (July 1992).

§1111. Public Hearing

A. A committee shall be formed within the department to conduct the public hearing, accept evidence, and render written reasons for its findings. This procedure shall be conducted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 48:389. Said committee shall be composed of representatives of the following sections appointed by the secretary of the department: Intermodal Transportation Division; legal section; maintenance section; traffic and planning section. The committee shall publish necessary rules in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:762 (July 1992), amended by the Department of Transportation and Development, Intermodal Transportation Division, LR 33:530 (March 2007).

§1113. Appeal

A. An appeal may be made of the decision of the hearing committee by the affected party(ies) as provided in the Administrative Procedure Act. Said appeal may be made to the appropriate state district court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:762 (July 1992).

§1115. Regulation Order

A. Following adoption of the administrative rule establishing a railroad speed limit, a regulatory order shall also be filed within the Department of Transportation and Development and shall be filed in the Office of the Clerk of Court in the parish affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18:762 (July 1992).

Chapter 13. Safety Requirements for Railroad Grade Crossings

§1301. Closures of Grade Crossings

A. Applicability: Unless otherwise provided herein, this Rule shall apply to all public railroad grade crossings.

B. The department evaluates railroad grade crossings in accordance with 23 CFR 646 relative to railroad-highway projects based upon the following criteria:

1. estimated daily vehicular use at the crossing;

2. average number of trains passing the crossing per day (as provided by the railroad);

3. availability of alternative routes and distances to such routes;

4. train speeds at the crossing (as provided by the railroad);

5. highway/railroad accident/incident history at the crossing;

6. existing warning devices at the crossing;

7. degree of difficulty involved in improving the roadway approach by profile or in providing adequate warning devices such as flashing lights, gates, etc.;

8. sight distance and visibility at the crossing;

9. angle of intersection of alignments of the roadway and the railroad;

10. redundancy of crossings in the area;

11. proximity of a state highway, new crossing or recently upgraded crossing;

12. number of school busses using the crossing (as provided by the local governing authority);

13. number of unique vehicles using the crossing, such as those which carry hazardous materials or passengers for hire (as provided by the local governing authority); and

14. effect of any change on usage by emergency vehicles (as provided by the local governing authority).

C. If an evaluation suggests that closure of a public grade crossing is necessary for safety and in the best interest of the public, the department shall comply with the following procedures prior to closing the railroad grade crossing.

1. A review will be conducted in accordance with 23 CFR 646 by a diagnostic review team (DRT) team consisting of knowledgeable individuals. The department will collaborate with local officials to identify the individuals who will participate on the DRT.

2. The department highway/rail safety unit will send invitations to the DRT members by electronic transmission at least one week prior to the actual diagnostic review. The diagnostic review may occur earlier if agreed to by the DRT.

3. The department highway/rail safety unit will be responsible for providing the diagnostic review information to the DRT and for preparing and distributing completed criteria forms and comment sheets from the diagnostic review meeting.

4. The department highway/rail safety unit shall prepare the findings and recommendation of the DRT and produce all relevant documents and information that were considered. 5. Any diagnostic review that is older than 3 years shall be reevaluated by the department to insure that the original data and recommendations are still valid and if needed, the department will conduct another diagnostic review.

D. If the DRT recommends closure, the following procedures shall apply.

1. The department highway/rail safety engineer shall prepare a letter for approval by the chief engineer to proceed with the closure. This letter shall contain a brief explanation of the project location, the reasons for recommending the closure, any relevant attachments such as the diagnostic review meeting minutes, and the traffic analysis, if applicable.

2. If the department chief engineer agrees with the recommendation for closures, the chief engineer shall execute and forward the approval letter and furnish copies to the department assistant secretary, office of operations, the DRT, the applicable district administrator and elected officials and local public agencies.

3. The department highway/rail safety engineer shall provide notice of the approved closure in the following manners:

a. to the local governing authority, by certified mail;

b. to the railroad company, by mail;

c. to any other parties deemed by the department to have an interest in the proposed closure of the public grade crossing, by mail or electronic mail;

d. to local residents, including all property owners within a two mile radius of the subject crossing, by public notice with instructions for providing comments, published in the official journal where the crossing is located, by media release in local media outlets with instrucions on providing comments, and by posting a notice of closure at the railroad grade crossing that is subject to closure.

4. All notifications and publications, exclusive of the notice at the railroad grade crossing, shall establish a period of time, not less than 30 days, in which to provide comments and shall provide for a method by which the comments shall be delivered to the department. In addition, information may be obtained by visiting www.dotd.la.gov, or by e-mail at dotdcs@la.gov, or by calling the department customer service center at (225) 379-1232 or 1-877-4LADTOD (1-877-452-3683).

5. If the subject railroad grade crossing is on a state highway, the department will conduct a public meeting to address concerns of the local residents, businesses, and concerned citizens. The public meeting should be scheduled within 60 days of the notification.

6. If the subject railroad grade crossing is on a public non-state highway, the department will encourage the local public authority to hold a public meeting and may assist with the public meeting. The local public authority may request information from the department at the public meeting. Additional information may be obtained by visiting www.dotd.la.gov, or by e-mail at dotdcs@la.gov, or by calling the department's customer service center at (225) 379-1232 or 1-877-4LADOTD (1-877-452-3683). The notices relative to the local public meetings should be in accordance with the timelines established herein for state highway railroad grade crossings. The local public authority may request up to 45 additional days in which to convene a meeting or submit comments provided the request is in writing and received by the department highway/rail safety engineer or the department public affairs office within the initial 30-day period for comments.

7. If new information is presented or received that would cause the department to revise its recommendation for closure, or if an additional study is required as a result of new information, the department shall notify the local governing authority and the railroad company in writing of its revised plans.

8. The department will respond to comments received from the public and from the local governing authority in a timely fashion. After comments have been considered and after a public meeting has been conducted, as established herein, the department highway/rail safety engineer will prepare a notice of intent either, recommending, revising or rejecting the proposed railroad grade crossing closure to the department chief engineer. The notice of intent shall include a summary of findings and the manner of closure to be made to the crossing or adjacent crossings, if applicable.

9. If the department chief engineer approves the recommendation for closure, the notice of intent will be provided to the local governing authority by certified mail and to the railroad company by e-mail or regular mail.

10. For roadways maintained by local public entities, the local governing authority may request a reconsideration

of the decision of the department chief engineer. Any such request must be in writing and received by the department chief engineer within 15 workdays from receipt of the notice of intent. If the request for reconsideration is timely received, the department secretary, chief engineer and executive director of the Louisiana Highway Safety Commission will meet to reconsider the approval. A final determination should be made within 15 workdays of receipt of the request for reconsideration.

11. Once the final determination is made, the department will work in conjunction with the railroad company to accomplish the work necessary to implement the consolidation/closure.

12. The local governing authority shall be kept apprised of the closure work schedule as follows.

a. The department will contact the local governing authority and applicable elected officials by telephone to relay the final decision of the department.

b. The department will issue a media release of the closure in accordance with current department policy.

c. A formal written notice will be sent to the local governing authority by certified mail, and the railroad company with the expected date of closure, and assurances that the closure will be made at no cost to the local public authority.

d. The department district office will notify appropriate emergency personnel of the closure.

13. Department district personnel will work with the railroad company to place any needed barricades on both sides of the crossing within the date provided in the media release.

14. After the crossing is physically closed, the department and railroad will work with the local public authority to remove any portion of local roadway within the city or parish right-of-way, if applicable, and install signs or other appurtenances, as needed.

15. The railroad company and the department will remove portions of roadway within its right-of-way, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation and Public Transportation, LR 25:95 (January 1999), amended by the Department of Transportation and Development, Office of Engineering, LR 39:3325 (December 2013).

§1303. Obstruction of Roadways at Railroad Grade Crossing for a Maximum of Twenty Minutes—Variances

A. Pursuant to the provisions of R.S. 48:390 and R.S. 48:390.1, any railroad or public agency may submit a formal application to the department requesting a variance from the requirements of that section relative to blockage of a public highway/railroad at-grade crossing for more than 20 minutes or may request that different regulations be applied in connection with operation over a specific crossing where local conditions require. This rule is applicable only to the public highway/railroad crossings.

B. Elements of the application:

1. identity of any public agencies within the geographic area;

2. identity of any railroads which may be affected by the variance;

3. identify any previous steps which may have been taken in an attempt to achieve an alternative to the proposed variance;

4. provide Federal Railroad Administration requirements that would affect the feasibility of meeting the allowable conditions as provided for in R.S. 48:390 and R.S. 48:390.1;

5. identify the unique local conditions which require or support the variance.

C. The application for variance, together with all requested information, shall be submitted to the Department of Transportation and Development Highway/Rail Safety Engineer.

D. A committee composed of representatives of the following department areas of expertise review the application for variance:

1. railroad unit;

2. rail management program;

3. legal section;

4. appropriate district.

E. Upon completion of the review of the application, the committee shall make a recommendation to the department's chief engineer.

F. Based upon the decision of the chief engineer, a formal response of the department will be forwarded to the railroad or public agency which submitted the formal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390 and 390.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation and Public Transportation, LR 25:96 (January 1999).

§1305. Criteria for Erection of Stop Signs at Highway Grade Crossings

A. In accordance with the provisions of R.S. 32:172, the department will assist local governing bodies in evaluation of public highway/railroad at-grade crossings which have no active warning devices for consideration of stop signs which would enhance the regulatory warning of the crossbuck sign.

B. Considerations:

1. number of collisions which have occurred at the crossing;

2. whether the crossing is considered "high profile";

3. whether the crossing has reduced site distance or visibility on the approaches so that vehicular traffic must substantially slow down or stop in order to see up and down the track.

C. The department shall issue guidelines and basic recommendations to the local governing authority for consideration in placement of stop signs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:172.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation and Public Transportation, LR 25:96 (January 1999).

Title 70
TRANSPORTATION
Part XI. Louisiana Transportation Authority

Chapter 1. Toll Exemptions—LA 1

§101. Exempt Entities

A. The following entities which own vehicles shall have free and unhampered passage on LA 1 when the entity-owned vehicle is being utilized.

1. Law Enforcement

a. Free passage shall be granted to all law enforcement personnel who are employed on a full-time basis and operate law enforcement agency equipment.

b. *Law Enforcement Agency*, for purposes of this Rule shall mean any agency of the state or its political subdivisions and the federal government who are responsible for the prevention and detection of crime and the enforcement of the criminal, traffic or highway laws of this state or similar federal laws and who are employed in this state. Officers who serve in a voluntary capacity or as honorary officers are not included.

c. Agencies which meet the above criteria shall include the Louisiana State Police, enforcement division agents of the Louisiana Department of Wildlife and Fisheries, sheriffs' departments, levee board police departments, port police departments, the United States Secret Service, the United States Marshall Service and the Federal Bureau of Investigation exclusively.

d. The right of free passage for the state police and law enforcement personnel shall be exercised only by means of automatic vehicular identification toll tags.

e. Upon the written request of the superintendent of state police or the head of an eligible law enforcement agency and payment of the required fee, the department shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

f. A fee of $12.50 shall be charged for the issuance of each tag.

g. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by state police with state police equipment and by designated law enforcement personnel with law enforcement agency equipment. The appropriate law enforcement agency shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

2. Emergency Vehicles with Lights Available for Use. All emergency vehicles performing a public service that permits them, under existing laws and regulations, to display emergency vehicle lights in order to carry out police, fire and ambulance functions in accordance with the laws relative thereto, are exempt from payment of tolls (reflects Act 30 of 2010, R.S. 47:820.5.6).

a. Specifically included in this exception are ambulances from Grand Isle Emergency Vehicle Services (Act 826 of 2010, R.S. 47:820.5.6).

b. Specifically included in this exception is a Grand Isle medical transportation van (Act 826 of 2010, R.S. 47:820.5.6).

c. The right of free passage for these emergency vehicles shall be exercised only by means of automatic vehicular identification toll tags.

d. Upon the written request of Grand Isle Emergency Vehicle Services and payment of the required fee, the department shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

e. A fee of $12.50 shall be charged for the issuance of each tag.

f. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by ambulances owned by the Grand Isle Emergency Vehicle Services and their medical transportation van. The Grand Isle Emergency Vehicle Services shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

3. Fire Departments

a. The right of free passage on LA 1 for firemen, whether professional or volunteer, shall be exercised only by means of automatic vehicular toll tags.

b. Upon the written request of the chief of a municipal or parish fire department or of a fire prevention district, or of a volunteer fire organization, and upon payment of the required fee, the department shall issue to such department or district or organization the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

c. A fee of $12.50 shall be charged for the issuance of each tag.

d. The use of the automatic vehicular identification toll tags provided to a fire department or district shall be limited to travel made by firemen during the performance of fire fighting and related duties. The appropriate fire department or district shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

e. Procedure for Volunteer Firemen

i. All volunteer fire organizations shall apply to the department and shall certify the following:

(a). the address of the volunteer fire organization's domicile or headquarters;

(b). the general location served by the volunteer fire organization;

(c). that the members of the volunteer fire organization are required to travel across the highway only in performance of official fire fighting or fire prevention services;

(d). the number of crossings made in one year on the facility by members of the organization.

ii. The application must be signed by the chief executive officer of the volunteer fire organization.

4. Employees of the Governing Authority

a. The free passage shall be granted to those persons operating a vehicle which has been designated as an official Grand Isle Levee vehicle (Act 826 of 2010, R.S. 47:820.5.6).

i. The right of free passage for the official Grand Isle Levee vehicle shall be exercised only by means of automatic vehicular identification toll tag.

ii. Upon the written request of the Grand Isle Levee District and payment of the required fee, the department shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

iii. A fee of $12.50 shall be charged for the issuance of each tag.

iv. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by the official vehicle of the Grand Isle Levee vehicle. The Grand Isle Levee District shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

b. The free passage shall be granted to logo bearing vehicles of the Grand Isle Port Commission (Act 826 of 2010, R.S. 47:820.5.6).

i. The right of free passage for logo bearing vehicles of the Grand Isle Port Commission shall be exercised only by means of automatic vehicular identification toll tags.

ii. Upon the written request of the Grand Isle Port Commission and payment of the required fee, the department shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

iii. A fee of $12.50 shall be charged for the issuance of each tag.

iv. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by logo bearing vehicles of the Grand Isle Port Commission. That agency shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

5. Military Personnel

a. Any person belonging to the organized military of the state, who is in uniform or possesses an order for duty, shall be allowed free passage for himself, his vehicle and the military property of the state in his charge while going to, engaged in or returning from any parade, drill or meeting which he or she is required to attend, or upon being called to, engaging in or returning from any active state duty ordered by the governor.

b. The right of free passage for military personnel shall be exercised only by means of automatic vehicular identification toll tags.

c. Upon the written request of the military personnel and payment of the required fee, the department shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

d. A fee of $12.50 shall be charged for the issuance of each tag.

e. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by military personnel as described in §101.A.5.a. The appropriate military agency shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

6. Students in School Buses

a. Free passage is offered to students in clearly marked school buses and to the school bus and driver.

b. The right of free passage for students in school buses and the bus and driver shall be exercised only by means of automatic vehicular identification toll tags.

c. Upon the written request of the appropriate school district and payment of the required fee, the department shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

d. A fee of $12.50 shall be charged for the issuance of each tag.

e. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by the students in school buses. The appropriate school district shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

7. Mass Transit Vehicles

a. Any publicly owned vehicles and any vehicle used in connection with or in furtherance of the mass

transportation of the general public which is owned and operated by any person, firm or corporation engaged in a publicly subsidized transit business or which is owned by a public body shall have free and unhampered passage at all times over the LA 1 facilities.

b. The right of free passage for mass transit vehicles shall be exercised only by means of automatic vehicular identification toll tags.

c. Upon the written request of the owner of the mass transit vehicle, and payment of the required fee, the department shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

d. A fee of $12.50 shall be charged for the issuance of each tag.

e. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by mass transit vehicles. The appropriate agency shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

8. Boy Scouts, Girl Scouts and Camp Fire Girls

a. Boy Scouts, Girl Scouts and Camp Fire Girls when assembled in uniform in a parade or group consisting of not less than 15 and under the supervision of a scout master or other responsible person shall have free and unhampered passage at all times over the LA 1 facilities.

b. The right of free passage for Boy Scouts, Girl Scouts and Camp Fire Girls shall be exercised only by means of automatic vehicular identification toll tags.

c. Upon the written request of the and payment of the required fee, the department shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption from tolls.

d. A fee of $12.50 shall be charged for the issuance of each tag.

e. The use of the automatic vehicular identification toll tags provided shall be limited to crossings made by the above described groups. The appropriate supervisors shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption from tolls.

9. Residents of Grand Isle

a. Residents of Grand Isle who purchase toll exemption tags shall have free and unhampered passage at all times of the LA 1 facilities.

b. A fee of $12.50 shall be charged for the issuance of each tag.

c. In order to procure the tag, the resident must show a motor vehicle registration reflecting registration in the zip code for Grand Isle, and one of the following:

i. Louisiana driver's license;

ii. proof of homestead exemption;

iii. voter registration card (Act 826 of 2010, R.S. 47:820.5.6).

d. The accounts of the residents of Grand Isle may cover free passage for multiple plated vehicles, however the resident owner must have registered all vehicles in the Grand Isle zip code and provide one of the items listed in Subparagraph c of this Paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.5.4 and 820.5.5.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Transportation Authority, LR 38:2380 (September 2012).

Chapter 3. Toll Appeal Procedure—LA 1

§301. Appeal Procedures

A. In addition to the appropriate statutory provisions, the following procedures shall be followed by the applicant for appeal:

1. the request for appeal may be mailed to the department by the toll violator;

2. the request for appeal may also be mailed in electronic format to the department; or

3. the request for appeal may be mailed to the department on a form provided by the department upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.5.4 and 820.5.5.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Transportation Authority, LR 38:2379 (September 2012).

§303. Appeal Procedures—LA 1

A. In addition to the appropriate statutory provisions, the following procedures shall be applied to the appeal process of toll violations at LA 1.

1. Notice of the date, time and location of the appeal hearing shall be sent to the toll violator by mail or electronic mail 10 days in advance of the scheduled hearing.

2. Location of the hearing may alternate between the customer service center in Golden Meadow, 1821 South Alex Plaisance Blvd. (Hwy. 3235) and the offices of the Crescent City Connection, 2001 Mardi Gras Blvd., New Orleans, LA, unless otherwise notified.

3. Hearings shall be conducted not less than quarterly.

4. The hearing agent shall be appointed by Louisiana Transportation Authority.

5. Only the registered owner of the violating vehicle may appear.

6. Rules of evidence or the Administrative Procedure Act are not applicable.

7. The hearing agent has the authority to waive administrative fees, in whole or in part, for good cause shown.

8. Failure to appear shall constitute denial of appeal.

9. Notice of decision shall be made in person or by mail or electronic mail.

10. Decision is final, subject to judicial review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.5.4 and 820.5.5.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Transportation Authority, LR 38:2379 (September 2012), amended LR 40:1946 (October 2014).

§305. Toll Equipment Malfunctions

A. If it has been determined and properly documented by departmental personnel that the toll system was malfunctioning at a particular time, then tickets issued during that period of time may be segregated and dealt with by the violation clerk in accordance with the provisions of R.S. 47:820.5.4(F)(5).

B. Proper documentation must include the date of the malfunction in the system, type of malfunction in the system and reason for invalidation of the ticket.

C. In the case of such malfunction, appeals of tickets issued during that time frame may be received by telephone, fax, or electronic mail and then will be properly documented by the appropriate departmental personnel. In addition, no administrative fees will be assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:820.5.4 and 820.5.5.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Transportation Authority, LR 38:2379 (September 2012).

Title 70
TRANSPORTATION
Part XVII. Real Estate

Chapter 1. Uniform Relocation Assistance and Real Property Acquisition for Federally and Federally-Assisted Programs and State Programs

§101. General

A. Purpose. The purpose of this Part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.), in accordance with the following objectives:

1. to ensure that owners of real property to be acquired for federal and federally-assisted projects and state projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in federal and federally-assisted and state land acquisition programs; and

2. to ensure that persons displaced as a direct result of federal or federally-assisted or state projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and

3. to ensure that agencies implement these regulations in a manner that is efficient and cost effective.

B. Definitions

Agency—the federal agency, state, state agency, or *person* that acquires the real property or displaces a person.

a. *Federal Agency*—any department, agency, or instrumentality in the executive branch of the government, any wholly owned government corporation, the architect of the capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under federal law.

b. *State Agency*—any department, agency or instrumentality of a *state* or of a political subdivision of a state, any department, agency, or instrumentality of two or more states or of two or more political subdivisions of a state or states, and any person who has the authority to acquire property by eminent domain under state law.

c. *Lead Agency*—the Department of Transportation acting through the Federal Highway Administration.

d. *Acquiring Agency*—a state agency, as defined in §101.B.1.b, which has the authority to acquire property by eminent domain under state law, and a state agency or person which does not have such authority, unless any such agency or person is acquiring property pursuant to the provisions of §103.A.1.a-c.

e. *Displacing Agency*—any federal agency carrying out a program or project, and any state, state agency, or person carrying out a program or project with federal financial assistance, which causes a person to be a displaced person.

Appraisal—a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Business—any lawful activity, except a farm operation, that is conducted:

a. primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

b. primarily for the sale of services to the public; or

c. primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

d. by a nonprofit organization that has established its nonprofit status under applicable federal or state law.

Comparable Replacement Dwelling—a dwelling which is:

a. decent, safe and sanitary as described in §101.B.6;

b. functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the department may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling (see §115);

c. adequate in size to accommodate the occupants;

d. in an area not subject to unreasonable adverse environmental conditions;

e. in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

f. on a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses (See §109.C.l.b);

g. currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance (See §115); and

h. within the financial means of the displaced person:

i. a replacement dwelling purchased by a homeowner in occupancy for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner is paid the full price differential as described in §109.A.3, all increased mortgage interest costs as described at §109.A.4 and all incidental expenses as described at §109.A.5, plus any additional amount required to be paid under §109, last resort housing;

ii. a replacement dwelling rented by a displaced person is considered to be within his or her financial means if, after receiving rental assistance under this Part, the person's monthly rent and utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at §109.B.2.b;

iii. for a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the department pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of such person's gross monthly household income. Such rental assistance must be paid under last resort housing provisions in §109 for a period of 42 months;

Contribute Materially—that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the department determines to be more equitable, a business or farm operation:

a. had average annual gross receipts of at least $5000; or

b. had average annual net earnings of at least $1000; or

c. contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources;

d. if the application of the above criteria creates an inequity or hardship in any given case, the department may approve the use of other criteria as determined appropriate.

Decent, Safe and Sanitary Dwelling—a dwelling which meets applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply unless waived for good cause by the federal agency funding the project. The dwelling shall:

a. be structurally sound, weather-tight, and in good repair;

b. contain a safe electrical wiring system adequate for lighting and other devices;

c. contain a heating system capable of sustaining a healthful temperature (of approximately 70°) for a displaced person, except in those areas where local climate conditions do not require such a system;

d. be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;

e. contain unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress;

f. for a displaced person who is handicapped, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

Displaced Person—

a. General. The term displaced person means any person who moves from the real property or moves his or her personal property from the real property:

i. as a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project. This includes a person who does not meet the length of occupancy requirements of Section 105, Subsection C or D of the Uniform Act;

ii. as a direct result of rehabilitation or demolition for a project; or

iii. as a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this Paragraph applies only for purposes of obtaining relocation assistance advisory services under §105.E.3, and moving expenses under §107.A, B, or C.

b. *Persons Not Displaced*—the following is a nonexclusive listing of persons who do not qualify as displaced persons under this Part:

i. a person who moves before the initiation of negotiations (see also §109.C.5), unless the department determines that the person was displaced as a direct result of the program or project;

ii. a person who initially enters into occupancy of the property after the date of its acquisition for the project;

iii. a person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

iv. a tenant-occupant of a dwelling who has been notified on a timely basis that he or she will not be displaced by the project, provided that:

(a). the tenant is offered a reasonable opportunity to lease and occupy a suitable decent, safe and sanitary dwelling in the same building or nearby building on the real property;

(b). the terms and conditions of continued occupancy are reasonable and set forth in a lease which is offered to the tenant; and

(c). if the tenant is required to relocate temporarily, the conditions of the temporary relocation shall be reasonable; the tenant shall be reimbursed for the actual reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving costs and any increased rent/utility costs; and the temporarily occupied dwelling shall be decent, safe and sanitary;

v. an owner-occupant who moves as a result of an acquisition that is not subject to the requirements of §103 or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a federal or federally-assisted project is subject to this Part.);

vi. a person whom the department determines is not as displaced as a direct result of a partial acquisition;

vii. a person who, after receiving a notice of relocation eligibility (described at §105.C.2), is notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the department agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;

viii. an owner-occupant who voluntarily sells his or her property, as described at §103.A.1.a or c, after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the department will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this Part;

ix. a person who retains the right of use and occupancy of the real property for life following its acquisition by the department;

x. a person who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of Interior under P.L. 93-477 or P.L. 93-303; or

xi. a person who is determined to be in unlawful occupancy (see §101.B.7.b.v) or a person who has been evicted for cause, under applicable law, prior to the initiation of negotiations for the property.

Dwelling—the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

Farm Operation—any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Federal Financial Assistance—a grant, loan, or contribution provided by the United States, except any federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

Initiation of Negotiations—unless a different action is specified in applicable federal program regulations, the term initiation of negotiations means the following:

a. whenever the displacement results from the acquisition of the real property by a federal agency or the department, the initiation of negotiations means the delivery of the initial written offer of just compensation by the department to the owner or the owner's representative to purchase the real property for the project. However, if the federal agency or department issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the initiation of negotiations means the actual move of the person from the property;

b. whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a federal agency or a state agency), the initiation of negotiations means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property;

c. in the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (P.L. 96-510, or Superfund) the initiation of negotiations means the formal announcement of such relocation or the federal or federally-coordinated health advisory where the federal government later decides to conduct a permanent relocation.

Mortgage—such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the state in which the real property is located, together with the credit instruments, if any, secured thereby.

Nonprofit Organization—an organization that is exempt from paying federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501).

Owner of a Dwelling—a person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

a. fee title, a life estate, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or

b. an interest in a cooperative housing project which includes the right to occupy a dwelling; or

c. a contract to purchase any of the interests or estates described in §101.B.14.a or b; or

d. any other interest, including a partial interest, which in the judgment of the department warrants consideration as ownership.

Person—any individual, family, partnership, corporation, or association.

Project—any action or series of actions undertaken by a federal agency or with federal financial assistance that are designed primarily to further or complete an activity or program that will benefit the public as a whole. It does not include an action or series of actions undertaken by an individual or family with federal financial assistance if such assistance is intended primarily to assist or benefit such individual or family.

Salvage Value—the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

Small Business—a business having not more than 500 employees working at the site being acquired or permanently displaced by a program or project.

State—any of the several states of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territories of the Pacific Islands or a political subdivision of any of these jurisdictions.

Tenant—a person who has the temporary use and occupancy of real property owned by another.

Uneconomic Remnant—a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the department has determined has little or no value or utility to the owner.

Uniform Act—the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; P.L. 91-646), and amendments thereto.

Unlawful Occupancy—a person is considered to be in unlawful occupancy when such person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations for the acquisition of the occupied property. At the discretion of the department, squatters who occupy real property without the permission of the owner may be considered to be in unlawful occupancy. Technical violations of law and unlitigated violations of the terms of a lease, such as having an unauthorized pet or withholding rent because of improper building maintenance, do not render a person's occupancy unlawful for purposes of this Section.

Utility Costs—expenses for heat, lights, water and sewer.

Utility Facility—any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

Utility Relocation—the adjustment of a utility facility required by the program or project undertaken by the department. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

C. No Duplication of Payments. No person shall receive any payment under this Part if that person receives a payment under federal, state, or local law which is determined by the department to have the same purpose and effect as such payment under this Part (see §115.A.4).

D. Assurances, Monitoring and Corrective Action

1. Assurances

a. Before a federal agency may approve any grant to, or contract or agreement with, the department under which federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act [Public Law 91-646 (1971)], the department must provide appropriate assurances that it will comply with the Uniform Act and this Part. The department's assurances regarding displacements shall be in accordance with Section 210 of the Uniform Act. The department's assurances regarding acquisition shall be in

accordance with Section 305 of the Uniform Act and must contain specific reference to any state law which the department believes provides an exception to Sections 301 or 302 of the Uniform Act. If, in the judgment of the federal agency, Uniform Act compliance will be served, the department may provide these assurances at one time to cover all subsequent federally-assisted programs or projects. The department may combine its Section 210 and Section 305 assurances in one document.

b. If a federal agency or the department provides federal financial assistance to a person causing displacement, such federal agency or the department is responsible for ensuring compliance with the requirements of this Part, notwithstanding the person's contractual obligation to the grantee to comply.

c. As an alternative to the assurance requirement described in §101.B.1.a, a federal agency may provide federal financial assistance to the department after it has accepted a certification by the department in accordance with the requirements in §113 of this Part.

2. Monitoring and Corrective Action. The federal agency will monitor compliance with this Part, and the department shall take whatever corrective action is necessary to comply with the Uniform Act and this Part. The federal agency may also apply sanctions in accordance with applicable program regulations (also see §113.C).

3. Prevention of Fraud, Waste, and Mismanagement. The department shall take appropriate measures to carry out this Part in a manner that minimizes fraud, waste, and mismanagement.

E. Manner of Notices. Each notice which the department is required to provide to a property owner or occupant under this Part, except the notice described at §103.B.2, shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in department files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

F. Administration of Jointly-Funded Projects. Whenever two or more federal agencies provide financial assistance to an agency or agencies, other than a federal agency, to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person, the federal agencies may by agreement designate one such agency as the cognizant federal agency. In the unlikely event that agreement among the agencies cannot be reached as to which agency shall be the cognizant federal agency, then the lead agency shall designate one of such agencies to assume the cognizant role. At a minimum, the agreement shall set forth the federally-assisted activities which are subject to its terms and cite any policies and procedures, in addition to this Part, that are applicable to the activities under the agreement. Under the agreement, the cognizant federal agency shall assure that the project is in compliance with the provisions of the Uniform Act and this Part. All federally-assisted activities under the agreement shall be deemed a project for the purposes of this Part.

G. Federal Agency Waiver of Regulations. The federal agency funding the project may waive any requirement in this Part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this Part. Any request for a waiver shall be justified on a case-by-case basis.

H. Compliance with Other Laws and Regulations. The implementation of this Part shall be in compliance with all applicable laws and implementing regulations, including the following:

1. Section l of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.);

2. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

3. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended;

4. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

5. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.);

6. Executive Order 12250—Leadership and Coordination of Non-Discrimination Laws;

7. Executive Order 11063—Equal Opportunity and Housing, as amended by Executive Order 12259;

8. Executive Order 11246—Equal Employment Opportunity;

9. Executive Order 11625—Minority Business Enterprise;

10. Executive Order 12259—Leadership and Coordination of Fair Housing in Federal Programs;

11. The Flood Disaster Protection Act of 1973 (P.L. 93-234);

12. Executive Orders 11988—Floodplain Management, and 11990, Protection of Wetlands;

13. The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

I. Recordkeeping and Reports

1. Records. The department shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this Part. These records shall be retained for at least three years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this Part.

2. Confidentiality of Records. Records maintained by the department in accordance with this Part are confidential regarding their use as public information, unless applicable law provides otherwise.

3. Reports. The department shall submit a report of its real property acquisition and displacement activities under this Part if required by the federal agency funding the project. A report will not be required more frequently than every three years, or as the Uniform Act provides, unless the federal funding agency shows good cause. The report shall be prepared and submitted in the format contained in §117.

J. Appeals

1. General. The department shall promptly review appeals in accordance with the requirements of applicable law and this Part.

2. Actions Which May Be Appealed. Any aggrieved person may file a written appeal with the department in any case in which the person believes that the department has failed to properly consider the person's application for assistance under this Part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under §103.F or G, or a relocation payment required under this Part. The department shall consider a written appeal regardless of form.

3. Time Limit for Initiating Appeal. The department may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the department's determination on the persons claim.

4. Right to Representation. A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

5. Review of Files by Person Making Appeal. The department shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the department. The department may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

6. Scope of Review of Appeal. In deciding an appeal, the department shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

7. Determination and Notification after Appeal. Promptly after receipt of all information submitted by a person in support of an appeal, the department shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the department shall advise the person of his or her right to seek judicial review.

8. Department Official to Review Appeal. The department official conducting the review of the appeal shall be either the head of the department or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

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§103. Real Property Acquisition

A. Applicability of Acquisition Requirements

1. General. The requirements of this Section apply to any acquisition of real property for a department project, and to projects where there is department financial assistance in any part of project costs except for:

a. voluntary transactions when the department or the acquiring agency has the power of eminent domain, but it will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing;

b. the acquisition of real property from a federal agency, state, or state agency, if the department or the acquiring agency does not have the authority to acquire the property through condemnation;

c. projects or programs undertaken by the department or an acquiring agency or person that receives federal financial assistance but does not have authority to acquire property by eminent domain, provided that the department or the acquiring agency shall:

i. prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and

ii. inform the owner of what it believes to be fair market value of the property, based on an appraisal.

2. Less-Than-Full-Fee Interest in Real Property. In addition to fee simple title, the requirements of this Section apply to the acquisition of fee title, subject to a life estate or a life use, to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more, and to the acquisition of permanent easements. (See §115.B.1)

3. Federally-Assisted Projects. For projects receiving federal financial assistance the provisions of §103.B-E apply to the extent practicable under state law. (See §101.D.1)

B. Basic Acquisition Policies

1. Expeditious Acquisition. The department shall make every reasonable effort to acquire the real property expeditiously by negotiation.

2. Notice to Owner. As soon as feasible, the owner shall be notified of the department's interest in acquiring the real property and the basic protections, including the agency's obligation to secure an appraisal, provided to the owner by law and this Part (see also §105.C).

3. Appraisal, Waiver Thereof, and Invitation to Owner

a. Before the initiation of negotiations the real property to be acquired shall be appraised, except as

provided in §103.B.3.b, and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

b. An appraisal is not required if the owner is donating the property and releases the department from this obligation, or the department determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at $2,500 or less, based on a review of available data.

4. Establishment and Offer of Just Compensation. Before the initiation of negotiations, the department shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property (see also §103.D). Promptly thereafter, the department shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

5. Summary Statement. Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

a. a statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated;

b. a description and location identification of the real property and the interest in the real property to be acquired;

c. an identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.

6. Basic Negotiation Procedures. The department shall make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation; and, explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with §103.F. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The department shall consider the owner's presentation.

7. Updating Offer of Just Compensation. If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the department shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the department shall promptly reestablish just compensation and offer that amount to the owner in writing.

8. Coercive Action. The department shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

9. Administrative Settlement. The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized department official approves such administrative settlement as being reasonable, prudent, and in the public interest. When an administrative settlement is approved, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, or valuation problems) supports such a settlement.

10. Payment before Taking Possession. Before requiring the owner to surrender possession of the real property, the department shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the department's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the department may obtain a right-of-entry for construction purposes before making payment available to an owner.

11. Uneconomic Remnant. If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the department shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project (see §101.B.21).

12. Inverse Condemnation. If the department intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

13. Fair Rental. If the department permits a former owner or tenant to occupy the real property after acquisition for a short term or a period subject to termination by the department on short notice, the rent shall not exceed the fair market rent for such occupancy.

C. Criteria for Appraisals

1. Standards of Appraisal. The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. The department shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for

those acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. At a minimum, a detailed appraisal shall contain the following items:

a. the purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal;

b. an adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a five-year sales history of the property;

c. all relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the department, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value;

d. a description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction;

e. a statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property;

f. the effective date of valuation, date of appraisal, signature, and certification of the appraiser.

2. Influence of the Project on Just Compensation. To the extent permitted by applicable law, the appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

3. Owner Retention of Improvements. If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at §101.B.17) of the retained improvement.

4. Qualifications of Appraisers. The department shall establish criteria for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The department shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

5. Conflict of Interest. No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the department that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the department may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is $2,500, or less.

D. Review of Appraisals. The department shall have an appraisal review process and, at a minimum:

1. a qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions;

2. if the reviewing appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the establishment of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with §103.C to support an approved or recommended value;

3. the review appraiser's certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval. Any damages or benefits to any remaining property shall also be identified in the statement.

E. Acquisition of Tenant-Owned Improvements

1. Acquisition of Improvements. When acquiring any interest in real property, the department shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

2. Improvements Considered to be Real Property. Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this Section.

3. Appraisal and Establishment of Just Compensation for Tenant-Owned Improvements. Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (*Salvage value* is defined at §101.B.17.)

4. Special Conditions. No payment shall be made to a tenant-owner for any real property improvement unless:

a. the tenant-owner, in consideration for the payment, assigns, transfers, and releases to the department all of the tenant-owner's right, title, and interest in the improvement; and

b. the owner of the real property on which the improvement is located disclaims all interest in the improvement; and

c. the payment does not result in the duplication of any compensation otherwise authorized by law.

5. Alternative Compensation. Nothing in this Section shall be construed to deprive the tenant-owner of any right to reject payment under this Section and to obtain payment for such property interests in accordance with other applicable law.

F. Expenses Incidental to Transfer of Title to the Department

1. The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

a. recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the department. However, the department is not required to pay costs solely required to perfect the owner's title to the real property;

b. penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

c. the pro-rata portion of any prepaid real property taxes which are allocable to the period after the department obtains title to the property or effective possession of it, whichever is earlier.

2. Whenever feasible, the department shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement from the department.

G. Certain Litigation Expenses. The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

1. the final judgment of the court is that the department cannot acquire the real property by condemnation; or

2. the condemnation proceeding is abandoned by the department other than under an agreed-upon settlement; or

3. the court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the department effects a settlement of such proceeding.

H. Donations. An owner whose real property is being acquired may, after being fully informed by the department of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefor, to the department as such owner shall determine. The department is responsible for assuring that an appraisal of the real property is obtained unless the owner releases the department from such obligation, except as provided in §103.B.3.b.

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§105. General Relocation Requirements

A. Purpose. This Section prescribes general requirements governing the provision of relocation payments and other relocation assistance in this Part.

B. Applicability. These requirements apply to the relocation of any displaced person as defined at §101.B.7.

C. Relocation Notices

1. General Information Notice. As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the department's relocation program which does at least the following:

a. informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);

b. informs the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate;

c. informs the person that he or she will not be required to move without at least 90 days' advance written notice (see §105.C.3), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;

d. describes the person's right to appeal the department's determination as to a person's application for assistance for which a person may be eligible under this Part.

2. Notice of Relocation Eligibility. Eligibility for relocation assistance shall begin on the date of initiation of negotiations (defined in §101.B.11) for the occupied property. When this occurs, the department shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

3. Ninety-Day Notice

a. General. No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

b. Timing of Notice. The department may issue the notice 90 days before it expects the person to be displaced or earlier.

c. Content of Notice. The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available (see §105.D.1).

d. Urgent Need. In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the department determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the department's determination shall be included in the applicable case file.

D. Availability of Comparable Replacement Dwelling before Displacement

1. General. No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at §101.B.4) has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

a. the person is informed of its location;

b. the person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

c. subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

2. Circumstances Permitting Waiver. The federal agency funding the project may grant a waiver of the policy in §105.D.2.a in any case where it is demonstrated that a person must move because of:

a. a major disaster as defined in Section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

b. a presidentially declared national emergency; or

c. another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

3. Basic Conditions of Emergency Move. Whenever a person is required to relocate for a temporary period because of an emergency as described in §105.D.2, the department shall:

a. take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling;

b. pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

c. make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily-occupied dwelling.)

E. Relocation Planning, Advisory Services, and Coordination

1. Relocation Planning. During the early stages of development, federal and federal-aid and state programs or projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by the department which will cause displacement, and should include an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study which may include the following:

a. an estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and the handicapped when applicable;

b. an estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that may be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of last resort housing actions should be instituted;

c. an estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected;

d. consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

2. Loans for Planning and Preliminary Expenses. In the event that the department elects to consider using the

duplicative provision in Section 215 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the department will establish criteria and procedures for such use upon the request of the federal agency funding the program or project.

3. Relocation Assistance Advisory Services

a. General. The department shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527, November 24. 1962), and offers the services described in §105.E.3.b. If the department determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

b. Services to be Provided. The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

i. determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible. The related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each person;

ii. provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in §105.D.1:

(a). as soon as feasible, the department shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (see §109.C.1 and 2) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify;

(b). where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards (see §101.B.4 and 6). If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary;

(c). whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require the department to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling;

(d). all persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred;

iii. provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location;

iv. minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate;

v. supply persons to be displaced with appropriate information concerning federal and state housing programs, disaster loan and other programs administered by the Small Business Administration, and other federal and state programs offering assistance to displaced persons, and technical help to persons applying for such assistance;

vi. any person who occupies property acquired by the department, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the department.

4. Coordination of Relocation Activities. Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized (also see §101.F).

F. Eviction for Cause. Eviction for cause must conform to applicable state and local law. Any person who has lawfully occupied the real property, but who is later evicted for cause on or after the date of the initiation of negotiations, retains the right to the relocation payments and other assistance set forth in this Part. For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves or the date a comparable replacement dwelling is made available, whichever is later. This Section applies only if the department had intended to displace the person.

G. General Requirements—Claims for Relocation Payments

1. Documentation. Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

2. Expeditious Payments. The department shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be

made as soon as feasible following receipt of sufficient documentation to support the claim.

3. Advance Payments. If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the department shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

4. Time for Filing

a. All claims for a relocation payment shall be filed with the department within 18 months after:

i. for tenants, the date of displacement;

ii. for owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

b. This time period shall be waived by the department for good cause.

5. Multiple Occupants of One Displacement Dwelling. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the department, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the department determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

6. Deductions from Relocation Payments. The department shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, a federal agency shall, and the department may, deduct from relocation payments any rent that the displaced person owes the department: provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling as required by §105.D. The department shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

7. Notice of Denial of Claim. If the department disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination and the procedures for appealing that determination.

H. Relocation Payments Not Considered as Income. No relocation payment received by a displaced person under this Part shall be considered as income for the purpose of the Internal Revenue Code of 1954, or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other federal law, except for any federal law providing low-income housing assistance.

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§107. Payments for Moving and Related Expenses

A. Payment for Actual Reasonable Moving and Related Expenses—Residential Moves. Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person (defined at §101.B.7) is entitled to payment of his or her actual moving and related expenses, as the department determines to be reasonable and necessary, including expenses for:

1. transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the department determines that relocation beyond 50 miles is justified;

2. packing, crating, unpacking, and uncrating of the personal property;

3. disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property;

4. storage of the personal property for a period not to exceed 12 months, unless the department determines that a longer period is necessary;

5. insurance for the replacement value of the property in connection with the move and necessary storage;

6. the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available;

7. other moving-related expenses that are not listed as ineligible under §107.E, as the department determines to be reasonable and necessary.

B. Fixed Payment for Moving Expenses—Residential Moves. Any person displaced from a dwelling or a seasonal residence is entitled to receive an expense and dislocation allowance as an alternative to a payment for actual moving and related expenses under §107.A. This allowance shall be determined according to the applicable schedule approved by the Federal Highway Administration, except that the expense and dislocation allowance to a person occupying a furnished one-room unit shared by more than one other person, or a person whose residential move is performed by the department at no cost to the person, shall be limited to $50.

C. Payment for Actual Reasonable Moving and Related Expenses—Nonresidential Moves

1. Eligible Costs. Any business or farm operation which qualifies as a displaced person (defined at §101.B.7) is entitled to payment for such actual moving and related

expenses, as the department determines to be reasonable and necessary, including expenses for:

a. transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the department determines that relocation beyond 50 miles is justified;

b. packing, crating, unpacking, and uncrating of the personal property;

c. disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described at §107.C.1.a. This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.);

d. storage of the personal property for a period not to exceed 12 months, unless the department determines that a longer period is necessary;

e. insurance for the replacement value of the personal property in connection with the move and necessary storage;

f. any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification;

g. the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reason ably available;

h. professional services necessary for:

i. planning the move of the personal property;

ii. moving the personal property; and

iii. installing the relocated personal property at the replacement location;

i. relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move;

j. actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

i. the fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the department determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or

ii. the estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.);

k. the reasonable cost incurred in attempting to sell an item that is not to be relocated;

l. purchase of substitute personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

i. the cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

ii. the estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the department's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate;

m. searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed $1,000, as the department determines to be reasonable, which are incurred in searching for a replacement location, including:

i. transportation;

ii. meals and lodging away from home;

iii. time spent searching, based on reasonable salary or earnings;

iv. fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site;

n. other moving-related expenses that are not listed as ineligible under §107.E, as the department determines to be reasonable and necessary.

2. Notification and Inspection. The following requirements apply to payments under this Section.

a. The department shall inform the displaced person, in writing, of the requirements of §107.C.2.a and b as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in §107.C.

b. The displaced person must provide the department reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the department may waive this notice requirement after documenting its file accordingly.

c. The displaced person must permit the department to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

3. Self-Moves. If the displaced person elects to take full responsibility for the move of the business or farm operation, the department may make a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the department or prepared by qualified staff. At the department's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate.

4. Transfer of Ownership. Upon request and in accordance with applicable law, the claimant shall transfer to the department ownership of any personal property that has not been moved, sold, or traded in.

5. Advertising Signs. The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

a. the depreciated reproduction cost of the sign, as determined by the department, less the proceeds from its sale; or

b. the estimated cost of moving the sign, but with no allowance for storage.

D. Fixed Payment for Moving Expenses—Nonresidential Moves

1. Business. A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by §107.C and F. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with §107.D.5, but not less than $1,000 nor more than $20,000. The displaced business is eligible for the payment if the department determines that:

a. the business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, the business vacates or relocates from its displacement site;

b. the business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the department determines that it will not suffer a substantial loss of its existing patronage; and

c. the business is not part of a commercial enterprise having more than three other entities which are not being acquired by the department, and which are under the same ownership and engaged in the same or similar business activities;

d. the business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others;

e. the business contributed materially to the income of the displaced person during the two taxable years prior to displacement (see §101.B.5).

2. Determining the Number of Businesses. In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

a. the same premises and equipment are shared;

b. substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

c. the entities are held out to the public, and to those customarily dealing with them, as one business; and

d. the same person or closely related persons own, control, or manage the affairs of the entities.

3. Farm Operation. A displaced farm operation (defined at §101.B.9) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with §107.D.5, but not less than $1,000 nor more than $20,000. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the department determines that:

a. the acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

b. the partial acquisition caused a substantial change in the nature of the farm operation.

4. Nonprofit Organization. A displaced nonprofit organization may choose a fixed payment of $2,500, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the department determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the department demonstrates otherwise.

5. Average Annual Net Earnings of a Business or Farm Operation. The average annual net earnings of a business or farm operation are one-half of its net earnings before federal, state, and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the department determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the department proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the department determines is satisfactory.

E. Ineligible Moving and Related Expenses. A displaced person is not entitled to payment for:

1. the cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this Part does not preclude the computation under §109.A.3.d.iii; or

2. interest on a loan to cover moving expenses; or

3. loss of goodwill; or

4. loss of profits; or

5. loss of trained employees; or

6. any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in §107.F.1.j; or

7. personal injury; or

8. any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the department; or

9. expenses for searching for a replacement dwelling; or

10. physical changes to the real property at the replacement location of a business or farm operation except as provided in §107.C.1.c and §107.F.1; or

11. costs for storage of personal property on real property already owned or leased by the displaced person.

F. Re-Establishment Expenses—Nonresidential Moves. In addition to the payments available under §107.C, a small business, as defined in §101.B.18, farm or nonprofit organization may be eligible to receive a payment, not to exceed $10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

1. Eligible Expenses. Reestablishment expenses must be reasonable and necessary, as determined by the department. They may include, but are not limited to, the following:

a. repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance;

b. modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business;

c. construction and installation costs, not to exceed $1,500 for exterior signing to advertise the business;

d. provision of utilities from right-of-way to improvements on the replacement site;

e. redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting;

f. licenses, fees and permits when not paid as part of moving expenses;

g. feasibility surveys, soil testing and marketing studies;

h. advertisement of replacement location, not to exceed $1,500;

i. professional services in connection with the purchase or lease of a replacement site;

j. increased costs of operation during the first two years at the replacement site, not to exceed $5,000, for such items as:

i. lease or rental charges;

ii. personal or real property taxes;

iii. insurance premiums; and

iv. utility charges, excluding impact fees;

k. impact fees or one-time assessments for anticipated heavy utility usage;

l. other items that the department considers essential to the re-establishment of the business;

m. expenses in excess of the regulatory maximums set forth in §107.F.a.iii, viii, and x may be considered eligible if large and legitimate disparities exist between costs of operation at the displacement site and costs of operation at an otherwise similar replacement site. In such cases the regulatory limitation for reimbursement of such costs may, at the request of the department, be waived by the federal agency funding the program or project, but in no event shall total costs payable under this Section exceed the $10,000 statutory maximum.

2. Ineligible Expenses. The following is a non-exclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

a. purchase of capital assets, such as, office furniture, filing cabinets, machinery or trade fixtures;

b. purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation;

c. interior or exterior refurbishments at the replacement site which are for aesthetic purposes, except as provided in §107.F.1.a;

d. interest on money borrowed to make the move or purchase the replacement property;

e. payment to a part-time business in the home which does not contribute materially to the household income;

f. payment to a person whose sole business at a displacement dwelling is the rental of such dwelling to others.

G. Discretionary Utility Relocation Payments

1. Whenever a program or project undertaken by the department causes the relocation of a utility facility (see §101.B.25 and 26) and the relocation of the facility creates

extraordinary expenses for its owner, the department may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

a. the utility facility legally occupies state or local government property, or property over which the state or local government has an easement or right-of-way;

b. the utility facility's right of occupancy thereon is pursuant to state law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement;

c. relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the department;

d. there is no federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the department's program or project; and

e. state or local government reimbursement for utility moving costs or payment of such costs by the department is permitted by state statute.

2. For the purposes of this Section the term extraordinary expenses means those expenses which, in the opinion of the department, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

3. A relocation payment to a utility facility owner for moving costs under this Section may not exceed the cost to functionally restore the service disrupted by the federally-assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The department and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment (see §115.D).

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§109. Replacement Housing Payments

A. Replacement Housing Payment for 180-Day Homeowner-Occupants

1. Eligibility. A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

a. has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

b. purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the department may extend such one year period for good cause):

i. the date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in the court; or

ii. the date the person moves from the displacement dwelling.

2. Amount of Payment. The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed $22,500 (see also §109.D). The payment under this Section is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date such person is initially offered a comparable replacement dwelling, whichever is later. The payment shall be the sum of:

a. the amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with §109.A.3; and

b. the increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with §109.A.4; and

c. the reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with §109.A.5.

3. Price Differential

a. Basic Computation. The price differential to be paid under §109.A.2.a is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

i. the reasonable cost of a comparable replacement dwelling as determined in accordance with §109.C.1 of this Section; or

ii. the purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

b. Mixed-Use and Multifamily Properties. If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

c. Insurance Proceeds. To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to

the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential (also see §101.C).

d. Owner Retention of Displacement Dwelling. If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of:

i. the cost of moving and restoring the dwelling to a condition comparable to that prior to the move;

ii. the cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at §101.B.6);

iii. the current fair market value for residential use of the replacement site (see §115, and §109.A.3.d.iii), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

iv. the retention value of the dwelling, if such retention value is reflected in the acquisition cost used when computing the replacement housing payment.

4. Increased Mortgage Interest Costs. The department shall determine the factors to be used in computing the amount to be paid to a displaced person under §109.A.2.b. The payment shall be an amount which will reduce the mortgage balance on the replacement dwelling to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations §109.A.4.a-e shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

a. The payment shall be based on the unpaid mortgage balances on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance computed in the buy-down determination, the payment will be prorated and reduced accordingly (see §115). In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

b. The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling regardless of the term of the new mortgage.

c. The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

d. Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

i. they are not paid as incidental expenses;

ii. they do not exceed rates normal to similar real estate transactions in the area;

iii. the department determines them to be necessary; and

iv. the computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this Section.

e. The displaced person shall be advised of the approximate amount of this payment as soon as the facts relative to the person's current mortgages are known and the payment shall be made available at the time of closing on the replacement dwelling.

5. Incidental Expenses. The incidental expenses to be paid under §109.A.2.c or §109.B.3.a are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

a. legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees;

b. lender, FHA, or VA application and appraisal fees;

c. loan origination or assumption fees that do not represent prepaid interest;

d. certification of structural soundness and termite inspection when required;

e. credit report;

f. owner's and mortgagees evidence of title, e.g., title insurance, not to exceed the costs for a comparable replacement dwelling;

g. escrow agent's fee;

h. state revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling);

i. such other costs as the department determines to be incidental to the purchase.

6. Rental Assistance Payment for 180-Day Homeowner. A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under §109.B.1 but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed $5,250, computed and disbursed in accordance with §109.B.2.

B. Replacement Housing Payment for 90-Day Occupants

1. Eligibility. A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $5,250 for rental assistance, as computed in accordance with

§109.B.2, or downpayment assistance, as computed in accordance with §109.B.3, if such displaced person:

a. has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

b. has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within one year (unless the department extends this period for good cause) after:

i. for a tenant, the date he or she moves from the displacement dwelling; or

ii. for an owner-occupant, the later of:

(a). the date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the required amount is deposited with the court; or

(b). the date he or she moves from the displacement dwelling.

2. Rental Assistance Payment

a. Amount of Payment. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $5,250 for rental assistance (see also §109.D). Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

i. the monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

ii. the monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

b. Base monthly rental for displacement dwelling. The base monthly rental for the displacement dwelling is the lesser of:

i. the average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the department. (For an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances; or

ii. thirty percent of the person's average gross household income. (If the person refuses to provide appropriate evidence of income or is a dependent, the base monthly rental shall be established solely on the criteria in §109.B.2.b.i. A full-time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise).

c. Manner of Disbursement. A rental assistance payment may, at the department's discretion, be disbursed in either a lump sum or in installments. However, except as limited by §109.C.6, the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

3. Downpayment Assistance Payment

a. Amount of Payment. An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under §109.B.2 if the person rented a comparable replacement dwelling. At the discretion of the department, a downpayment assistance payment may be increased to any amount not to exceed $5,250. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under §109.A.2 if he or she met the 180-day occupancy requirement. The department's discretion to provide the maximum payment shall be exercised in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under §109.A.1 is not eligible for this payment (see also §115.B.3).

b. Application of Payment. The full amount of the replacement housing payment for downpayment assistance must he applied to the purchase price of the replacement dwelling and related incidental expenses.

C. Additional Rules Governing Replacement Housing Payments

1. Determining Cost of Comparable Replacement Dwelling. The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at §101.B.4).

a. If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, to the extent justified by local market data (see also §105.E.1.b). An obviously overpriced dwelling may be ignored.

b. If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment. If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the department may offer to purchase the entire property. If the owner refuses to sell the remainder to the department, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

c. To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not

possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

2. Basic Rights of Persons to be Displaced. Not withstanding any provision of this Section, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this Part. The department shall not require any displaced person to accept a dwelling provided by the department under these procedures (unless the department and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

3. Purchase of Replacement Dwelling. A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

a. purchases a dwelling; or

b. purchases and rehabilitates a substandard dwelling; or

c. relocates a dwelling which he or she owns or purchases; or

d. constructs a dwelling on a site he or she owns or purchases; or

e. contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases;

f. currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

4. Occupancy Requirements for Displacement or Replacement Dwelling. No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

a. a disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the federal agency funding the project, or the department; or

b. another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the department.

5. Conversion of Payment. A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under §109.B.2 is eligible to receive a payment under §109.A or B.3 if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under §109.A or §109.B.3.

6. Payment after Death. A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

a. the amount attributable to the displaced persons period of actual occupancy of the replacement housing shall be paid;

b. the full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy a decent, safe, arid sanitary replacement dwelling;

c. any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

D. Replacement Housing of Last Resort

1. Determination to Provide Last Resort Housing. Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in §109.A or B, as appropriate, the department shall provide additional or alternative assistance under the provisions of this Section. Any decision to provide last resort housing assistance must be adequately justified either:

a. on a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

i. the availability of comparable housing in the project or program area; and

ii. the resources available to provide comparable housing; and

iii. the individual circumstances of the displaced person; or

b. by a determination that:

i. there is little, if any, comparable-replacement housing available to displaced persons within an entire project or program area; and, therefore a case-by-case justification for last resort housing assistance is not necessary; and

ii. a project or program cannot be advanced to completion in a timely manner without last resort housing assistance; and

iii. the method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total project or program costs. (Will project delay justify waiting for less expensive replacement housing to become available?)

2. Basic Rights of Persons to be Displaced. Not withstanding any provision of this Section, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this Part. The department shall not require any displaced person to accept a dwelling provided by the department under these procedures (unless

the department and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

3. Methods of Providing Replacement Housing. The department shall have broad latitude in implementing this Subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

a. The methods of providing housing of last resort include, but are not limited to:

i. a replacement housing payment in excess of the limits set forth in §109.A or B. A rental assistance subsidy under this Section may be provided in installments or in a lump sum at the department's discretion;

ii. rehabilitation of and/or additions to an existing replacement dwelling;

iii. the construction of a new replacement dwelling;

iv. the provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free;

v. the relocation, and, if necessary, rehabilitation of a dwelling;

vi. the purchase of land and/or a replacement dwelling by the department and subsequent sale or lease to, or exchange with a displaced person;

vii. the removal of barriers to the handicapped;

viii. the change in status of the displaced person from tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment.

b. Under special circumstances, modified methods of providing housing of last resort permit consideration of:

i. replacement housing based on space and physical characteristics different from those in the displacement dwelling (see §115, and §109.D);

ii. upgraded, but smaller replacement housing that is decent, safe and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence;

iii. the financial means of a displaced person who is not eligible to receive a replacement housing payment because of failure to meet length-of-occupancy requirements when comparable replacement rental housing is not available at rental rates within 30 percent of the person's gross monthly household income.

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§111. Mobile Homes

A. Applicability. This Section describes the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this Part. Except as modified by this Section, such a displaced person is entitled to a moving expense payment in accordance with §107 and a replacement housing payment in accordance with §109 to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

B. Moving and Related Expenses—Mobile Homes

1. A homeowner-occupant displaced from a mobile home or mobile homesite is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis in accordance with §107.A. A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under §107.C. However, if the mobile home is not acquired, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at §111.C.1.c, the owner is not eligible for payment for moving the mobile home.

2. The following rules apply to payments for actual moving expenses under §107.A.

a. A displaced mobile homeowner, who moves the mobile home to a replacement site, is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility hook-up charges.

b. If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe and sanitary, and the department determines that it would be economically feasible to incur the additional expense, the reasonable cost of such repairs and/or modifications is reimbursable.

c. A nonreturnable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the department determines that payment of the fee is necessary to effect relocation.

C. Replacement Housing Payment for 180-Day Mobile Homeowner-Occupants

1. A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed $22,500, under §109.A if:

a. the person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations;

b. the person meets the other basic eligibility requirements at §109.A.1; and

c. the department acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the department but the owner is displaced from the mobile home because the department determines that the mobile home:

i. is not and cannot economically be made decent, safe, and sanitary; or

ii. cannot be relocated without substantial damage or unreasonable cost; or

iii. cannot be relocated because there is no available comparable replacement site; or

iv. cannot be relocated because it does not meet mobile home park entrance requirements.

2. If the mobile home is not acquired, and the department determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling used when computing the price differential amount, described at §109.A.3, shall include the salvage value or trade-in value of the mobile home, whichever is higher.

D. Replacement Housing Payment for 90-Day Mobile Home Occupants. A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed $5,250, under §109.B if:

1. the person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

2. the person meets the other basic eligibility requirements at §109.B.1; and

3. the department acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the department but the owner or tenant is displaced from the mobile home because of one of the circumstances described at §111.C.1.c.

E. Additional Rules Governing Relocation Payments to Mobile Home Occupants

1. Replacement housing payment based on dwelling and site. Both the mobile home and mobile home site must be considered when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable section in §111.E. However, the total replacement housing payment under §111.E shall not exceed the maximum payment (either $22,500 or $5,250) permitted under the section that governs the computation for the dwelling (see also §109.C.2).

2. Cost of Comparable Replacement Dwelling

a. If a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

b. If the department determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the department may determine that, for purposes of computing the price differential under §109.A.3, the cost of a comparable replacement dwelling is the sum of:

i. the value of the mobile home;

ii. the cost of any necessary repairs or modifications; and

iii. the estimated cost of moving the mobile home to a replacement site.

3. Initiation of Negotiations. If the mobile home is not actually acquired, but the occupant is considered displaced under this Part, the initiation of negotiations is the initiation of negotiations to acquire the land, or, if the land is not acquired, the written notification that he or she is a displaced person under this Part.

4. Person Moves Mobile Home. If the owner is reimbursed for the cost of moving the mobile home under this Part. he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

5. Partial Acquisition of Mobile Home Park. The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the department determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner and any tenant shall be considered a displaced person who is entitled to relocation payments and other assistance under this Part.

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§113. Certification

A. Purpose. This Section permits the department to fulfill its responsibilities under the Uniform Act by certifying that it shall operate in accordance with state laws and regulations which shall accomplish the purpose and effect of the Uniform Act, in lieu of providing the assurances required by §101.D.

B. Certification Application

1. General

a. The state governor, or his or her designee, on behalf of any state agency or agencies may apply for certification in accordance with this Section.

b. The governor may designate a lead agency to administer certification in accordance with this Section.

2. Responsibilities of the Department

a. The department's application shall be submitted to the governor or his or her designee, for approval or disapproval.

b. The department application shall contain a statement that the department shall carry out the responsibilities imposed by the Uniform Act. The department application shall include a copy of the state laws and regulations which shall accomplish the purpose and effect of the Uniform Act.

3. Responsibilities of Governor or His or Her Designee

a. The governor, or his or her designee, shall approve or disapprove the department's application.

b. The governor, or his or her designee, shall have discretion to disapprove any state agency application.

c. The governor, or his or her designee, shall analyze state law and regulations and shall certify that they accomplish the purpose and effect of the Uniform Act.

d. The governor, or his or her designee, shall determine in writing whether the department's professional staffing is adequate to fully implement the state law and regulations.

e. If the department's application is approved by the governor, or his or her designee, it shall be transmitted to the federal agency providing financial assistance to the department, with an information copy to the federal lead agency.

f. When a determination is received from the federal funding agency, the governor, or his or her designee, shall notify the state agency.

4. Responsibilities of Federal Funding Agency

a. The federal funding agency shall accept the approved application for certification provided by the governor or his or her designee and shall not conduct an independent review unless or until future monitoring or other appropriate indicators reveal program deficiencies originating therefrom.

b. The federal funding agency shall transmit all complete, approved applications, for certification to the federal lead agency.

c. At the same time as transmission to the federal lead agency or during the public comment period, the federal funding agency shall provide its written assessment of the department's capabilities to operate under certification.

d. The federal funding agency shall promptly notify the governor, or his or her designee, of the federal lead agency's determination described in §113.B.5.b.

e. The federal funding agency shall recognize the department's certification within 30 days of the federal lead agency's finding.

5. Responsibilities of Federal Lead Agency

a. The lead agency shall:

i. accept the approval provided by the governor, or his or her designee, and shall not conduct an independent review, except as provided for in §113.B.5.a.ii-iv, unless future monitoring or other appropriate indicators reveal program deficiencies originating therefrom;

ii. analyze the extent to which the provisions of the applicable state laws and regulations accomplish the purpose and effect of the Uniform Act, with particular emphasis on the definition of a displaced person, the categories of assistance required, and the levels of assistance provided to persons in such categories;

iii. provide a 60-day period of public review and comment, and solicit and consider the views of interested general purpose local governments within the state, as well as the views of interested federal and state agencies; and consider all comments received as a result;

iv. consider any extraordinary information it believes to be relevant.

b. After considering all the information provided, the lead agency shall either make a finding that the department will carry out the federal agency's Uniform Act responsibility in accordance with state laws and regulations which shall accomplish the same purpose and effect as the Uniform Act, or shall make a determination that a finding cannot be made; and shall so inform the federal funding agency.

C. Monitoring and Corrective Action

1. The federal lead agency shall, in coordination with other federal agencies, monitor from time to time department implementation of programs or projects conducted under the certification process and the state agency shall make available any information required for this purpose.

2. A federal agency that has accepted the department's certification pursuant to this Section may withhold its approval of any federal financial assistance to or contract or cooperative agreement with the department if it is found by the federal agency to have failed to comply with the applicable state law and regulations.

3. A federal agency may, after consultation with the lead agency, and notice and consultation with the governor, or his or her designee, rescind any previous approval provided under this Section if the certifying state agency fails to comply with its certification or with applicable state law and regulations.

4. Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the lead agency report biennially to the Congress on state agency implementation of §103. To enable adequate preparation of the prescribed biennial

report, the lead agency may require periodic information or data from affected federal or state agencies.

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§115. Additional Information

A. General

1. Definition of Comparable Replacement Dwelling

a. The requirement in §101.B.4.f that a comparable replacement dwelling be functionally equivalent to the displacement dwelling means that it must perform the same function, provide the same utility, and be capable of contributing to a comparable style of living as the displacement dwelling. While it need not possess every feature of the displacement dwelling, the principal features must be present.

b. For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa. Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or consequentially less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is *adequate to accommodate* the displaced person) may be found to be functionally equivalent to a larger but very run-down substandard displacement dwelling.

c. Section 101.B.4.g requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

d. A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit; a privately-owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing; a housing program subsidy to a person (not tied to the building), such as a HUD Section 8 Existing Housing Program Certificate or a Housing Voucher, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately-owned subsidized unit or public housing unit before displacement.

e. However, nothing in this Part prohibits the department from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the department is obligated to inform the person of his or her options under this Part. (If a person accepts assistance under a government housing program, the rental assistance payment under §109.B would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

2. Persons Not Displaced. Section 101.B.7.b.iv, recognizes that there are circumstances where the acquisition of real property takes place without the intent or necessity that an occupant of the property be displaced. Because such occupants are not considered displaced persons under this Part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily-occupied housing must be decent, safe and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary relocation. It is also noted that any person who disagrees with the department's determination that he or she is not a displaced person under this Part may file an appeal in accordance with §101.J.

3. Initiation of Negotiations. This Section of the Part provides a special definition for acquisitions and displacements under Pub. L. 96-510 or Superfund. These activities differ under Superfund in that relocation may precede acquisition, the reverse of the normal sequence. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert the public to the danger and to the advisability of moving immediately. If a decision is made later to permanently relocate such persons, those who had moved earlier would no longer be on site when a formal, written offer to acquire the property was made and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition which is based on the public health advisory or announcement of permanent relocation.

4. No Duplication of Payments. This section prohibits the department from making a payment to a person under these regulations that would duplicate another payment the person receives under federal, state, or local law. The department is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the department's knowledge at the time a payment under these regulations is computed.

5. Reports. This Paragraph allows federal agencies to require the submission of a report on activities under the Uniform Act no more frequently than once every three years. The report, if required, will cover activities during the federal fiscal year immediately prior to the submission date. In order to minimize the administrative burden on agencies implementing this Part, a basic report form (see §117) has been developed which, with only minor modifications,

would be used in all federal and federally-assisted programs or projects.

B. Real Property Acquisition

1. Less-than-Full-Fee Interest in Real Property. This provision provides a benchmark beyond which the requirements of the Section clearly apply to leases. However, the department may apply the regulations to any less-than-full-fee acquisition which is short of 50 years but which in its judgment should be covered.

2. Establishment of Offer of Just Compensation. The initial offer to the property owner may not be less than the amount of the department's approved appraisal, but may exceed that amount if the department determines that a greater amount reflects just compensation for the property.

3. Basic Negotiation Procedures. It is intended that an offer to an owner be adequately presented, and that the owner be properly informed. Personal, face-to-face contact should take place, if feasible, but this Section is not intended to require such contact in all cases.

4. Administrative Settlement

a. This Section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

b. All relevant facts and circumstances should be considered by the department official delegated this authority. Appraisers, including reviewing appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

5. Payment before Taking Possession. It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

6. Fair Rental. Section 301(6) of the Uniform Act limits what the department may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the department on short notice. Such rent may not "exceed the fair rental value...to a short-term occupier." The department's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

7. Standards of Appraisal. In §103.C.1.c, it is intended that all relevant and reliable approaches to value be utilized. However, where the department determines that the market approach will be adequate by itself because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the market approach.

8. Influence of the Project on Just Compensation

a. As used in this Section, the term *project* is intended to mean an undertaking which is planned, designed, and intended to operate as a unit.

b. Because of the public knowledge of the proposed project, property values may be affected. A property owner should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

9. Conflict of Interest. The overall objective is to minimize the risk of fraud and mismanagement and to promote public confidence in federal and federally-assisted land acquisition practices. Recognizing that the costs may outweigh the benefits in some circumstances, §103.C.5 provides that the same person, may both appraise and negotiate an acquisition, if the value is $2,500 or less. However, it should be noted that all appraisals must be reviewed in accordance with §103.D. This includes appraisals of real property valued at $2,500, or less.

10. Review of Appraisals

a. This Section recognizes that agencies differ in the authority delegated to the review appraiser. In some cases the reviewer establishes the amount of the offer to the owner and in other cases the reviewer makes a recommendation which is acted on at a higher level. It is also within department discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on a property.

b. Before acceptance of an appraisal, the review appraiser must determine that the appraiser's documentation, including valuation data and the analyses of that data, demonstrates the soundness of the appraiser's opinion of value. The qualifications of the review appraiser and the level of explanation of the basis for the reviewer's recommended or approved value depend on the complexity of the appraisal problem. For a low value property requiring an uncomplicated valuation process, the reviewer's approval, endorsing the appraiser's report, may satisfy the requirement for the reviewer's statement.

11. Expenses Incidental to Transfer of Title to the Department. Generally, the department is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the department's intent to make such arrangements. In addition, it is emphasized that such expenses must be reasonable and necessary.

C. General Relocation Requirements

1. Availability of Comparable Replacement Dwelling Before Displacement. This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, §105.D.1 requires that, where

possible, three or more comparable replacement dwellings shall be made available. Thus the basic standard for the number of referrals required under this Section is three. Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the department make fewer than three referrals.

2. Relocation Assistance Advisory Services. Section 105.E.3.b.ii.(c) is intended to emphasize that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

3. Eviction for Cause. Basic eligibility for assistance is established on the basis of facts existing as of the date of the initiation of negotiations. Once the department has determined that a person has satisfied such requirements, there is no basis for changing that determination.

4. General Requirements—Claims for Relocation Payments. Section 105.G.1 allows the department to make a payment for low cost or uncomplicated moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in §107.C.3.

D. Payment for Moving and Related Expenses. Discretionary Utility Relocation Payments. Section 107.G.3, describes the issues which must be agreed to between the department and the utility facility owner in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR 645, Subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

E. Replacement Housing Payments

1. Replacement Housing Payment for 180-Day Homeowner-Occupants

a. The provision in §109.A.3.d.iii to use the current fair market value for residential use does not mean the department must have an appraisal made. Any reasonable method at arriving at the fair market value may be used.

b. The provision in §109.A.4 set forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages.

c. In any case where the person elects to obtain a replacement mortgage of a lesser amount than the one computed in the buydown determination, then the amount computed as the buydown payment must be adjusted to reflect the change in mortgage amount. This can be done through proration by dividing the amount of the actual replacement mortgage by the computed eligible replacement mortgage amount. This calculation provides a percentage factor which can then be applied to the computed buydown amount resulting in an adjusted increased mortgage interest payment.

2. Replacement Housing Payment for 90-Day Occupants

a. The downpayment assistance provisions in §109.B.3 are intended to limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for department discretion in offering downpayment assistance which exceeds the computed rental assistance payment, up to the $5,250 statutory maximum. This does not mean, however, that such department discretion may be exercised in a selective or indiscriminate fashion. The department should develop a policy which affords equal treatment for persons in like circumstances and this policy should be applied uniformly throughout the department's programs or projects.

b. For purposes of this Section, the term downpayment means the downpayment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the downpayment may be the amount which the department determines is necessary.

3. Basic Rights of Persons to be Displaced. This Paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under §109.A, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of *owner of a dwelling* at §101.B.14. The department is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the department would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the department may provide additional purchase assistance or rental assistance.

4. Methods of Providing Replacement Housing

a. The use of cost effective means of providing replacement housing is implied throughout the Section. The term *reasonable cost* is used here to underline the fact that while innovative means to provide housing are encouraged, they should be cost-effective.

b. Section 109.D.3.b, permits the use of last resort housing, in special cases, which may vary from the usual standards of comparability. However, it should be specially noted that such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the replacement dwelling may be

dissimilar to those of the displacement dwelling but they may never be inferior.

c. One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

d. Another example could be the use of a superior, but smaller decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

F. Mobile Homes. Replacement Housing Payment for 180-day Mobile Homeowner-Occupants. A 180-day owner-occupant who is displaced from a mobile home on a rented site may be eligible for a replacement housing payment for a dwelling computed under §109.A and a replacement housing payment for a site computed under §109.B. A 180-day owner-occupant of both the mobile home and the site, who relocates the mobile home, may be eligible for a replacement housing payment under §109.A to assist in the purchase of a replacement site or, under §109.B to assist in renting a replacement site.

AUTHORITY NOTE: Promulgated in accordance with 42 US 4601-4655, 52 FR 45667, 49 CFR 1.48 (dd), and R.S. 38:3107.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 19:507 (April 1993).

§117. Statistical Report Form

A. General

1. Report Coverage. This report covers all relocation and real property acquisition activities under a federal or a federally assisted project or program subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by Pub. L. 100-17, 101 Stat. 132.

2. Report Period. Activities shall be reported on a Federal Fiscal Year basis, i.e., October 1-September 30.

3. Where and When to Submit Report. Submit an original and two copies of this report to "Name and Address of Federal Agency" as soon as possible after September 30, but not later than November 15.

4. How to Report Relocation Payments. The full amount of a relocation payment shall be reported as if disbursed in the year during which the claim was approved, regardless of whether the payment is to be paid in installments.

5. How to Report Dollar Amounts. Round off all money entries in Parts B and C to the nearest dollar.

6. Statutory References. The references in Part B indicate the Section of the Uniform Act that authorizes the cost.

B. Persons Displaced. Report in Part A the number of persons (households, businesses, including nonprofit organizations, and farms) who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling or location. This includes businesses, nonprofit organizations and farms which, upon displacement, discontinued operations. The category households includes all families and individuals. A family shall be reported as one household, not by the number of people in the family unit. Persons shall be reported according to their status as owners or tenants of the property from which displaced.

C. Relocation Payments and Expenses

1. Columns (A) and (B). Report in Column (A) the number of claims approved during the report year. Report in Column (B) the total amount represented by the claims reported in Column (A).

2. Lines 7A and 9, Column (B). Report in Column (B) the amount of costs that were included in the total amount approved on Lines 6 and 8, Column (B).

3. Lines 12A and B. Report in Column (A) the number of households displaced by project or program activities which were provided assistance in accordance with Section 206(a) of the Uniform Act. Report in Column (B) the total financial assistance under Section 206(a) allocable to the households reported in Column (A). [If a household received financial assistance under Section 203 or Section 204 as well as under Section 206(a) of the Uniform Act, report the household as a claim in Column (A), but in Column (B) report only the amount of financial assistance allocable to Section 206(a). For example, if a tenant-household receives a payment of $7000 to rent a replacement dwelling, the sum of $5,250 shall be included on Line 10, Column (B), and $1,750 shall be included on Line 12B, Column (B).]

4. Line 13. Report on Line 13 all administrative costs incurred during the report year in connection with providing relocation advisory assistance and services under Section 205 of the Uniform Act.

5. Line 15. Report on Line 15 the total number of relocation appeals filed during the fiscal year by aggrieved persons.

D. Real Property Acquisition Subject to Uniform Act

1. Line 16, Columns (A) and (B). Report in Column (A) all parcels acquired during the report year where title or possession was vested in the acquiring agency during the reporting period. (Include parcels acquired without federal financial assistance, if there was or will be federal financial assistance in other phases of the project or program.) Report in Column (B) the total of the amounts paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the acquiring agency.

2. Line 17. Report on Line 17 the number of parcels reported on Line 16 that were acquired by condemnation where price disagreement was involved.

Uniform Relocation Assistance and Real Property Acquisition Statistical Report Form			
Federal Fiscal Year Ending September 30, 19			
Reporting Agency _____			
City/County/State _____			
Federal Funding Agency _____			
Part A. Persons Displaced by Activities Subject to the Uniform Act during the Fiscal Year			
Item	**Total (A)**	**Owners (D)**	**Tenants (C)**
1. Household (Families & Individuals)			
2. Businesses & Non-Profit Organizations			
3. Farms			

Part B. Relocation Payments and Expenses under the Uniform Act during the Fiscal Year			
Item		**Number of Claims (A)**	**Amount (B)**
4. Payments for Moving Households	Actual Expenses—Section 202 (A)		
5. Payments for Moving Households	Schedule Payment/Dislocation Allowance—Section 202 (B)		
6. Payments for Moving Businesses/Farms/NPO	Actual Expenses—Section 202 (A)		
7. Payments for Moving Businesses/Farms/NPO	In Lieu Payments—Section 202 (C)		
7A. Number of Claims and Amount on Line 6 Attributable to Reestablishment Expenses			
8. Replacement Housing Payments for IBO Day Home-Owners—Section 203 (A)			
9. Number of Claims and Amount on Line B Attributable to Increased Mortgage Interest Costs			
10. Rental Assistance Payments (Tenants & Certain Others)—Section 204 (1)			
11. Downpayment Assistance Payments (Tenants & Certain Others)—Section 204 (2)			
12A. Housing Assistance as Last Resort—Section 206 (A)	Owners		
12B. Housing Assistance as Last Resort—Section 206 (A)	Tenants		
13. Relocation Advisory Services Costs—Section 205		//////////////////////	
14. Total [Sum of Lines 4 (D)-13 (D)], Excluding Lines 7A and 9		//////////////////////	
15. Relocation Grievances Filed During the Fiscal Year in Connection with Project/Program			//////////////////////////

Part C. Real Property Acquisition Subject to the Uniform Act During the Fiscal Year		
Item	**Number Parcels (A)**	**Compensation (D)**
16. Total Parcels Acquired		
17. Total Parcels Acquired by Condemnation Included on Line 16 Where Price Disagreement Was Involved		//////////////////////

AUTHORITY NOTE: Promulgated in accordance with 42 USC 4601-4655, 52 FR 45667, 49 CFR 1.48 (dd), and R.S. 38:3107.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 19:507 (April 1993).

Chapter 3. Disposal of Excess Highway Right-of-Way by Department of Transportation and Development

§301. Policy

A. It shall be the policy of the Department of Transportation and Development to require a $100 processing fee from any person or entity desiring to purchase state-owned properties. When a request for purchase is received, an application form will be sent to the requestor requiring the $100 processing fee, together with acquisition data, map or survey, and other pertinent information concerning the desired property. If the property in question is approved for disposal, this $100 processing fee will be credited toward the purchase price of the property. In the event the disposal is not approved or a sale is not consummated, the $100 processing fee is non-refundable.

B. Purpose. The requirement of a processing fee is necessary to cover the cost of research and processing involved in disposal of immovable property.

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
P. O. Box 94245
Baton Rouge, Louisiana 70804-9245

EDWIN W. EDWARDS
GOVERNOR

JUDE W. P. PATIN
SECRETARY

_____
_____
_____
_____

Dear _____:

Thank you for your letter expressing interest in excess property owned by the Department of Transportation and Development.

Please complete the attached application, entitled "Request To Dispose Of Excess Right Of Way," and return it to the Department with the required documentation and a processing fee of $100, in the form of cashier's check, certified check, or money order. The fee is required to cover research and processing expenses incurred by the Department and is non-refundable, if the property is not approved for disposal or if a sale is not consummated. However, if the property is available for sale by the Department and a sale is consummated, the processing fee will be credited toward the purchase price at the time of closing.

As soon as we receive the required documentation and processing fee from you, we will process your request and advise you of the Department's determination concerning the disposal of this property.

Sincerely,

_____
Real Estate Agent

Attachment

AN EQUAL OPPORTUNITY EMPLOYER
A DRUG FREE WORKPLACE

REQUEST TO DISPOSE OF EXCESS RIGHT OF WAY
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

I. Applicant

NAME

ADDRESS CITY STATE ZIP CODE

(A/C) (A/C)
HOME PHONE BUSINESS PHONE

Were you the owner of the property when it was acquired by the Department? (Check one) _____Yes _____No

II. Copy of Act of Sale whereby DOTD acquired property.

III. Legal description of the property which you are requesting disposal of:

(On the reverse side, provide a sketch of the property you believe to be excess, indicating any property you own adjacent to desired property.)

IV. List the name, address and telephone number of all abutting owners to the property which may be excess (show the location of these ownerships on the sketch on reverse side.)

Owner: Owner:

Owner: Owner:

Upon completion of all Sections of this application, please mail to:

REAL ESTATE SECTION
DOTD
P. O. BOX 94245
BATON ROUGE, LA 70804-9245

N

(Depict the location, i.e., 2 miles east of the intersection of US 91 and SE 31 on SE 31 and other information which would be helpful.)

Provide any additional information you believe is relevant: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:221.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 19:785 (June 1993).

Chapter 5. Appraisal Handbook for Fee Appraisers

§501. Purpose

A. A vital and very basic requirement of a right-of-way operation is the procurement of real estate appraisals, prepared by a competent and knowledgeable appraiser, which are complete and well documented.

B. Of no less importance is the need for appraisal reviews by a skilled and knowledgeable reviewer who is thorough, practical and complete.

C. The purpose of this rule is to provide fee appraisers and fee review appraisers with a handy reference for information on procedures, available materials and department requirements for real estate appraisal reports with the intention of standardizing procedures to insure uniform practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1370 (July 2007).

§503. Overview of the Purpose of the Appraisal and Appraisal Requirements

A. The laws of Louisiana provide that compensation must be paid for the value of real property or rights taken. The value of the real property or rights taken must be based on the premise of the highest and best use or the most profitable, legal and likely use for which a property may be utilized. The opinion of such use may be based on the highest and most profitable continuous use for which the property is adapted or likely to be used for a reasonable future time. However, elements affecting value which depend upon events or a combination of events which, while possible, are not reasonably probable, should be excluded from consideration. Also, if the intended use is dependent upon an uncertain act of another person, the intention cannot be considered.

B. The appraiser should perform an analysis of the market demand giving consideration to the highest and best use. Where a property is composed of more than a single highest and best use, the appraiser must type, value and support each portion separately, i.e., front land/rear land highest and best uses. Where different use~~s~~ and values of property are being acquired, each use and corresponding value must be stated separately thereby complying with the state laws and compensating for the full value of the partial acquisitions. Based on the highest and best use, the appraiser must set forth a reasonable and factual explanation indicating his/her support, reasoning and documented conclusions.

C. All market data, comparable sales, forms, etc., which are referred to within the report and are pertinent to the fair market value of the property being appraised, shall be collected and cited for the project and ownership for which the appraisals are being written. Simply referring to data used for other projects or appraisals is not acceptable.

D. All recognized appraisal procedures and approaches to value: the cost approach, the market approach and the income approach, which apply to the property under appraisement, are to be considered by the appraiser and utilized if found to be applicable. If an approach is found not applicable to the property being appraised, there shall be included a concise and detailed reasoning as to its shortcomings. The appraiser shall explain the reason(s) in the correlation of value as to why one or more approaches are more applicable to his/her estimate of market value and/or why the other approach or approaches are less applicable to the property being appraised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:882 (May 1999), amended LR 29:2857 (December 2003), LR 33:1370 (July 2007).

§505. Scope of Work

A. The LDOTD, acquiring real property, has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem.

B. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

C. The LDOTD has the responsibility to assure that the appraisals it obtains are:

1. relevant to its program needs;

2. reflect established and commonly accepted Federal and federally assisted program appraisal practice, and

3. as a minimum, complies with the definitions of "appraisal" in 49 CFR §24.2(a)(3).

D. They must also meet the five following requirements:

1. an adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including:

a. items identified as personal property;

b. a statement of the known and observed encumbrances, if any;

c. title information;

d. location;

e. zoning;

f. present use;

g. analysis of highest and best use; and

h. at least a five-year sales history of the property;

2. all relevant and reliable approaches to value consistent with established federal and federally assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value;

3. a description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction;

4. a statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate;

5. the effective date of valuation;

6. date of appraisal;

7. signature; and

8. certification of the appraiser.

E. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised (if it is fair market value, include its

applicable definition), and the assumptions and limiting conditions affecting the appraisal. The term *scope of work* defines the general parameters of the appraisal. It reflects the needs of the LDOTD and the requirements of federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an LDOTD official who is competent to both represent the department's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the specific requirements in 49 CFR 24.103(a) (1) through (5) and address them as appropriate. Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property as well as those identified as personal property. Section 24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where a department determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1370 (July 2007).

§507. Application for Approval as Fee Appraiser (Formerly §509)

A. Application must be submitted to the Real Estate Administrator prior to inclusion of said appraiser on the LDOTD Approved Panel of Fee Appraisers. The form asks several general questions concerning the appraiser's personal and appraisal background in order to gain insight into the appraiser's experience, qualifications and training. If qualified, the appraiser may complete that section of the application for inclusion within said application. Upon completion of the application and acceptance by the Appraisal Office, the Assistant Real Estate Administrator will recommend to the Real Estate Administrator that the appraiser be placed on the Approved Panel of Fee Appraisers. Upon approval, the Assistant Real Estate Administrator will notify the appraiser of his/her approval and request that the appraiser read and sign one of two copies of the Agreement for Appraisal Services and return a single copy to the Appraisal Office for processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:883 (May 1999), amended LR 33:1371 (July 2007).

§509. Qualifications of Fee Appraisers (Formerly §507)

A. Upon the appraiser's initial request for a Fee Appraiser Application Packet, the Assistant Real Estate Administrator will notify the appraiser of the receipt of the request and provide the necessary forms to be completed. Those forms will include a letter stating the minimum requirements to be considered for employment by the LDOTD Appraisal Office. If the appraiser meets the qualification requirements of the LDOTD and is approved for employment, he/she will be included on the Approved Panel of Fee Appraisers. The minimum requirements for acceptance of Fee Appraisers on the LDOTD's Approved Panel of Fee Appraisers are as follows.

1. The appraiser must be a Certified Appraiser pursuant to the Louisiana Certified Real Estate Appraiser Law.

2. The appraiser must follow the appraisal standards as set forth by the Uniform Standard of Professional Appraisal Practice (USPAP).

3. The appraiser must follow the appraisal standards as set forth by the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

B. Many of the fee appraisal work required by the department involve properties required for projects in which federal funds are utilized. Therefore, all reports must meet LDOTD and FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:883 (May 1999), amended LR 33:1371 (July 2007).

§511. Conduct of Appraiser (Formerly §505)

A. Each fee appraiser is a representative of the Louisiana Department of Transportation and Development. It is important that he/she be courteous and considerate in dealing with the property owners or their representatives. This is particularly important since the appraiser may be the first LDOTD representative to make contact with the owners.

B. The appraiser shall include documentation to indicate the date and extent of his contact with the property owners. Should the appraiser fail to contact the owners, he/she shall document the efforts to locate the owners. It is recommended that contact be made initially by certified letter as a method of documentation. The appraiser should not express to the owners, owner's representatives or any occupants an opinion relating to the value he/she might establish for this or any other properties upon the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:883 (May 1999), amended LR 33:1372 (July 2007).

§513. Fee Review Appraiser Qualifications

A. Only those individuals on the Approved Panel of Fee Appraisers can be considered for fee review appraisal assignments. The minimum requirements for a fee review appraiser are as follows:

1. the appraiser must be Certified General Appraiser pursuant to the Louisiana Certified Real Estate Appraiser Law;

2. must have a minimum of four years full time experience in appraising real property for a condemning authority;

3. must have experience in appraising the types of properties within the scope of work for the project under consideration and/or any other requirements deemed relevant for the project under consideration;

4. the appraiser must follow the appraisal standards as set forth by the Uniform Standards of Professional Appraisal Practice (USPAP);

5. the appraiser must follow the appraisal standards as set forth by the Uniform Appraisal Standards for Federal Land Acquisitions.

B. Many of the fee appraisal work required by the department involve properties required for projects in which federal funds are utilized. Therefore, all reports must meet LDOTD and FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1372 (July 2007).

§515. Agreement for Appraisal Services (Formerly §511)

A. The Agreement for Appraisal Services is a document which every fee appraiser employed by the LDOTD is required to sign. The agreement sets out the parameters within which the department and the appraiser will co-operate as well as sets forth the details and requirements that must be met within the appraisal report. The appraiser should be very familiar with all of the requirements contained within this agreement. The signed form, after its execution, will be placed in the appraiser's file and need not be re-signed with each contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:883 (May 1999), amended LR 33:1372 (July 2007).

§517. Contract for Appraisal Services (Formerly §513)

A. The Contract for Appraisal Services is the form utilized by LDOTD in obtaining the services of fee appraisers on a given project. The contract sets forth the requirements for each appraisal requested and sets a completion date by which the assignment must be submitted. The contract binds LDOTD and the fee appraiser until such time as the assignment is complete or the contract has been terminated. However, work on a contract should not begin until a "Letter of Authorization" is received instructing the appraiser to begin.

B. The appraiser should examine the agreement in detail and should be particularly aware of the time element set up within the contract. The LDOTD operates its construction program through a schedule of contract letting and the appraiser's failure to meet the time requirement of the contract can have damaging effects upon the overall completion of a project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:884 (May 1999), amended LR 33:1372 (July 2007).

§519. Contract Extensions (Formerly §515)

A. It is the policy of LDOTD that contract completion dates shall not be extended past the original due date. However, while all due diligence should be taken to meet the contract requirements, it is sometimes necessary to extend a contract. Just cause must be documented by the appraiser and a letter of request presented to the LDOTD Appraisal Office with adequate lead time to process the request through the appropriate channels prior to the contract completion date. In the event a completion date is not met and an extension has not been granted, the contract will be considered voided. Payment cannot be made for outstanding appraisals. At the discretion of the Appraisal Office, it may become necessary to contract another appraiser to complete the project assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:884 (May 1999), amended LR 33:1372 (July 2007).

§521. Appraisal Formats (Formerly §519)

A. Appraisals are to be reported, in most cases, on Forms A, B or C. Please refer to the format illustrations included within the body of this handbook.

B. All formats will include, but are not limited to, the applicable pages listed within the individual formats; a certificate of the appraiser, comparable sales and maps, improvements, floor plans and/or plot plans, flood maps, zoning maps, provided right of way maps, statement of limiting conditions, any references made during the report, a copy of the owner's notification letter, property inspection documentation and the estimate of compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:884 (May 1999), amended LR 33:1372 (July 2007).

§523. Interest Being Appraised (Formerly §521)

A. The interest being appraised is full ownership, less mineral rights. Each appraisal will show an estimated value of the total interest held. No breakdown of individual interests, other than lease fee/leasehold interests, held in the ownership should be made except as specifically instructed by the LDOTD. However, servitude and/or similar encumbrances on properties being appraised should be investigated and reported within the appraisal report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:884 (May 1999), amended LR 33:1373 (July 2007).

§525. Highest and Best Use

A. In an assignment, it is required that the appraiser fully analyze the highest and best use of a parcel and include that analysis within the appraisal report as a detailed and concise narrative. There are locations where the highest and best use is obvious. At other locations, evaluation for highest and best use renders limited possibilities. If that is the case and a detailed analysis is not warranted, a less detailed written analysis is acceptable.

B. In cases where it is necessary to estimate the highest and best use of an improved parcel, the focus is on the existing use as well as all potential alternate uses. To correctly accomplish the goal, the appraiser must analyze the highest and best use as improved and as vacant.

C. Often, the existing use will be the highest and best use and that conclusion may be clearly obvious to the appraiser. The discussion within the report need not be as detailed as with a different or changing highest and best use.

D. The support of the appraiser's opinion is most critical in the not so obvious situations when the appraiser may need to respond to inquiries by the reviewer appraiser or an attorney. Because the highest and best use determinations affect the value conclusion, an unsupported estimate of the highest and best use may lead to unnecessary and costly litigation for both the LDOTD and the property owners.

E. When the highest and best use is estimated to be different from the existing use, the appraiser is essentially concluding that the present improvements no longer provide an acceptable return of the investment for that purpose. This generally occurs when the value of land in an area, due to changing conditions, increases to such a degree that it approaches or exceeds the value as improved. In cases such as this, a detailed analysis and discussion will be required utilizing accepted appraisal techniques.

F. The appraiser must substantiate the existence of demand for the proposed use; that the physical features of the property would accommodate that use; that the use is compatible with zoning requirements or a reasonable probability exists for re-zoning and there are no restrictions that would preclude that use.

G. Another item for consideration within the highest and best use evaluation is the recognition and adherence to the "Consistent Use Theory". Basically, a property in transition to another use cannot be valued on the basis of one use for the land and another for the improvements. This may introduce the possibility of an interim use. Sometimes an improvement is not the proper improvement to maximize the value of the whole property. There may be some type of interim use of that improvement which may be utilized until such time as the land can be put to its highest and best use. This improvement may be valued by ascertaining the amount of temporary income derived during the interim period or a value based upon the use of the interim improvement for another highest and best use until a proper improvement can be justified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1373 (July 2007).

§527. Land Valuation

A. For the determination of land values, a careful and thorough investigation of sales of nearby comparable lands is to be made. The report is to include sufficient information to show that the appraised values of land are adequate, reasonable and well supported by actual comparable sales. Any adjustments made to a comparable sale will be fully supported and soundly reasoned based upon facts gathered within the local real estate market of the project assignment. In the case of a special use property or a limited local market, the appraiser may search for comparable data and utilize any data located outside of the actual market area of the subject project. These requirements apply to an after value appraisal as well.

B. When an appraiser is assigned to a project, he/she will be required to compile and submit all comparable sales data to the LDOTD Appraisal Office. This is generally referred to as the Master Binder. This Master Binder will be submitted by a prearranged date as set out in the Contract for Appraisal Services or verbally agreed upon between the Review Appraiser and the Fee Appraiser.

C. The LDOTD Appraisal Office may furnish market data forms to the appraiser upon request. These forms are to be used in all cases to report the market data information developed by the appraiser. The appraisers may develop their own forms but must include the information required within the LDOTD form.

D. It is not considered improper for an appraiser to obtain information about a sale from another appraiser provided the information is limited to factual information such as vendor, vendee, consideration, recordation, date of sale and legal description. The comparable information received from another appraiser should not include any analysis of the comparable sales, i.e., breakdown of land and improvements, analysis of a time factor or any other adjustment. The appraiser of record through verification or their own judgment must determine those items. This verification must be made with a party to the sale, i.e., seller,

buyer, the closing agency, the broker handling the transaction and the verification of recordation which is the only avenue of verification not based upon statements of persons other than the appraiser(UASFLA Section B-4, page 38)(49CFR, Part 24, Subpart B, 24.103).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1373 (July 2007).

§529. Valuation of the Entire Tract

A. The value determined for an entire tract is to be the value before the acquisition of the required right-of-way absent of any influence of the proposed project construction. The estimated value shall be as of the date of the appraisal study unless the appraiser is otherwise instructed by the project review appraiser or within the Contract for Appraisal Services.

B. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, is to be disregarded in determining the compensation for the required property.

C. Under most circumstances, the value estimate is to include the entire tract, based upon the highest and best use, and is to include all items of real property unless instructed otherwise within the Contract for Appraisal Services. The appraiser may include only a portion of a whole property if, in the highest and best use determination, he/she finds that the portion of the ownership affected by the acquisition is a separate "Economic Use Tract"; the determination is supported and clearly understandable; and the review appraiser concurs in the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1374 (July 2007).

§531. Valuation of the Remainder

A. The value estimate attributed to the remainder is a separate and singular appraisal problem. The appraiser is required to perform a complete appraisal of the remainder.

B. Reference may be made to factual data contained within the "before" appraisal as it pertains to the after appraisal. However, the Appraiser is to separately analyze and document the data to form his/her conclusions within the "after" appraisal.

C. The estimated value of the remainder is to be a realistic appraisal of value. It is required that the appraiser employ all three approaches when they are applicable to the appraisal problem. If and when an approach is not considered applicable, justification shall be provided.

D. The remainder value is not simply a value representing the difference between the value of an entire tract or use tract less the value of the required right-of-way, but is a well-supported and carefully analyzed value estimate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1374 (July 2007).

§533. Valuation of the Improvements

A. When buildings or other improvements are located partially or wholly within the proposed right-of-way, the appraisal is to be made on the basis that the LDOTD will purchase the improvements. In only a few rare situations will an appraisal be made on the basis of the purchase of a portion of a major improvement or the cost to relocate a major improvement on-site. In such situations, the appraisal report is to fully explain the justification for not buying the entire building. In assigning appraisals, the project Review appraiser will specify whether an improvement will be purchased or a cost-to-cure will be provided for the appraiser's use.

B. In the case of a severed building that is not specified as a whole acquisition, the appraiser shall include within the report the cost to restore the remaining improvement to its former utility and usefulness. A cost-to-cure does not necessarily alleviate other damages to an improvement or a remainder. Other damages may include a loss of utility or a change in access.

C. In some instances, an improvement is located substantially outside of the right-of-way with only a minor portion projecting into the required area and removal of the portion within the right-of-way would leave the major portion of the building reasonably suitable for use on the remaining site. When estimating damages under this scenario, the appraiser will be required to consider the more feasible of the two following possibilities:

1. the remainder of the improvements may possibly remain adjacent to the right-of-way line with a possible loss of value due to its position relative to the new right of way coupled with other possible damages as discussed above; or

2. the entire improvement may be moved to a more advantageous location on the remaining site. In this case, the damage estimate would be based on the cost of moving the improvement and restoring it to a new location. These costs will not exceed the damages which would occur if the basis of the estimate were a cost to re-face a portion of the improvement located within the right-of-way nor will they exceed the cost to purchase the improvement as a whole.

D. The appraiser is to fully analyze each scenario and follow the path that is the most cost-effective in order to restore the owner to a position equal to that "before" the acquisition. However, it will rarely be requested that a "cut and re-face" or "move back" cure be used. These types of

cures will be utilized in only very special cases where other, better accepted methods could not be utilized.

E. There may be within the proposed taking items that would be classified as part of the realty. These items may include machinery, fixtures, pumps, underground tanks, and water or air lines, pump islands, etc. These items may be the property of a lessor or a lessee. If the appraiser's assignment is to include these types of items, the items shall be valued based upon their contributory value to the whole property. If these items are determined to be a liability, then the value estimate should reflect that determination as well. The determination as to which items will be included within the report will be made by the project review appraiser with the input of the appraiser.

F. It is expected that appraisers employed by LDOTD will be qualified to estimate the cost of improvements generally encountered such as residences and appurtenant improvements. The issuance of a contract by LDOTD is sufficient evidence of the department's approval of the appraiser's expertise in such circumstances. However, in certain instances where high value improvements are to be acquired or affected, the LDOTD may obtain and furnish to the appraiser reproduction and/or replacement costs and/or cost-to-cure estimates by special agreement with a building contractor, professional engineer, registered surveyor, cost estimator or other specialist. In such cases, the use of special consultants will be provided for in a separate employment agreement in which the consultant is identified and provisions made for the consultant to be available for testimony in the event of condemnation proceedings. All required materials will be provided to the appraiser for use within the appraisal report, if the appraiser so chooses.

G. Unless specifically provided for in the Contract for Appraisal Services, the LDOTD will not pay additional amounts above the fee per parcel established for services to compensate for quotes or services of contractors or other specialists obtained by the appraiser. The fee of the appraiser is to compensate for providing a complete appraisal satisfactory to the purpose of the LDOTD. The appraisal report shall comply with the Agreement for Appraisal Services and the Contract for Appraisal Services as stated. Any findings of a consultant employed to aid in making an appraisal must be included and clearly identified within the appraisal report if accepted by the appraiser. If the findings of the consultant are not acceptable to the appraiser, he/she will include their own supported estimate or the justification for providing items which are not utilized.

H. A partial acquisition may result in damages to a remainder property that may be reduced or eliminated by construction of access roads, relocation of driveways or some other design modification. When the appraiser feels justified in requesting a study to determine the feasibility of such modification, he/she may make a request to the Project Review Appraiser for such modification. When merited, the LDOTD will provide the appraiser with the engineering and construction costs to be weighed against damage items as they may be mitigated. This procedure is intended to assure a realistic estimate of damage based upon cost to cure estimates which may or may not be practical from an engineering standpoint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1374 (July 2007).

§535. Completeness of Appraisal and Appraisal Reports (Formerly §539)

A. The investigation is to be thorough and the appraisal report is to furnish adequate and reasonable information that fully explains and justifies determinations contained within the appraisal report.

B. The appraiser must complete all applicable appraisal criteria in accordance with the LDOTD requirements and USPAP and UASFLA as set forth in the Agreement for Appraisal Services. Any departure shall require full justification.

C. The fee appraisal work required by the LDOTD involves properties required for projects in which federal or state funds are utilized. Therefore, all reports must meet FHWA requirements for each project assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:887 (May 1999), amended LR 33:1375 (July 2007).

§537. Role of the Cost Consultant (Formerly §533)

A. Quite often it becomes necessary for the Appraisal Office to contract the services of individuals other than appraisal experts. More often than not those persons are cost consultants. These consultants are those who are trained and/or experienced in the construction industry with knowledge of and access to construction costs and related areas of expertise. The consultant may be asked to provide such items as reproduction and replacement costs, cost to cure items damaged by the required acquisition or costs for comparison purposes which would not be included within an appraisal report. The cost consultant is there to provide a service to the appraiser and LDOTD and should provide costs as requested and in conjunction with all other consultants that will utilize the estimate. The cost consultant is responsible to the project review appraiser as well as the appraiser(s) of record.

B. The cost consultant is to work hand in hand with the appraiser and review appraiser. Although he is the most qualified to judge construction costs, the appraiser is the person responsible for all values used within the appraisal report.

C. Just like the appraiser, the cost consultant is required to contact all property owners and allow them the opportunity to accompany the consultant during the property inspection. In the case of the cost consultant, it is absolutely necessary to inspect all improvements due to the nature of

the assignment. Only in very rare situations would it be possible to complete a consultant assignment without, at least, a rudimentary inspection of improvements. This would only be acceptable when an owner refuses entrance upon the subject site or within the subject improvements.

D. As mentioned earlier, the responsibility for the use of a cost estimate, whether replacement cost, reproduction cost, cost to cure or other cost assignment belongs to the appraiser. Therefore, it is absolutely necessary that the appraiser and the cost consultant work together. The cost consultant is responsible for the estimated costs where reproduction and replacement is concerned.

E. However, he and the appraiser must agree on the factual data such as the size of the improvement, location upon the site, minor improvements, etc. When a cost to cure is required, the cost consultant must provide a method of cure that is agreeable to both the appraiser and review appraiser in order for the assignment to be considered as acceptable and payment made. Therefore, the cost consultant and the appraiser(s) should inspect the subject property together, if possible, and at the least confer and compare factual data and proposed cures prior to submission of the contracted estimate for review. The provided reports shall contain a breakdown of the components required in a reproduction, replacement or cost to cure estimate and will quote a source of justification for said costs. Utilization of Marshall and Swift only is not acceptable. Therefore, when the costs provided are utilized by the appraiser, it is required that the cost consultant's report be included within the appraisal report.

F. The appraiser, as the one ultimately responsible for the costs quoted within his/her report will contact the review appraiser should a provided cost estimate not be suitable for inclusion within an appraisal report. However, the review appraiser should have made a determination prior to receipt of said report by the appraiser. The review appraiser will then contact the consultant and discuss the situation and the appraiser's concerns. Should it be found that revision is warranted, the cost consultant will be responsible for that revision. Payment for services rendered will be withheld until such time as acceptable revisions or corrections are submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:887 (May 1999), amended LR 33:1375 (July 2007).

§539. The Role of the Review Appraiser

A. The review appraiser, whether staff or consultant, has an important function and duty to his employer and is an essential element in the overall valuation procedure. Theduties involved in the acceptable performance of his job include but are not limited to the following:

1. determines the scope of work for all fee consultants and/or staff utilized in the appraisal process. This includes appraisers, cost consultants, foresters, hydrologists, geologists, accountants, etc.;

2. provides contracts for all consultants based upon the determination of the scope of work;

3. supervises the appraisers and all other fee consultants employed for the duration of appraisal process;

4. insure that all reports utilized meet all applicable standards, policies, laws and regulations at both the state and federal levels;

5. verifies all data used in the appraisal reports with the appraisers providing the reports. This is to include inspecting subject properties and comparable sales;

6. substantiates that all factual data submitted by the appraisers is consistent. If not, the reviewer is to determine the correct data and have the discrepancies revised;

7. appraisal reports and/or other reports required for the appraisal process are approved only when it is determined the reports meet all laws, regulations, policies, procedures, etc. The review appraiser shall have all discrepancies or problems rectified prior to approving appraisal reports for negotiation. Reports that do not meet the qualifications shall not be approved and payment will not be forthcoming;

8. the review appraiser insures that value determinations are consistent based upon the criteria set forth to determine the market value of the properties being appraised. Inconsistencies shall always be corrected;

9. documentation of the review process shall be maintained within the project files;

10. the reviewer recommends the compensation due the property owner based upon the conforming reports provided. In the event the department utilizes a contract review appraiser, it will be understood the department shall approve the estimate of compensation;

11. review appraisers are also responsible for the inspection and approval of review assignments contracted to consultant review appraisers. This duty involves assuring the review is conducted in the manner stated above.

B. A qualified review appraiser shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements, including, to the extent appropriate, the UASFLA and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the LDOTD to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be compensation), and, if also authorized to do so, develop and report the amount believed to be compensation.

C. If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of compensation, and it is determined by the acquiring LDOTD that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with §24.103 to support a recommended (or approved) value.

D. The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so the amount believed to be compensation for the acquisition.

E. In short, the review appraiser recommends compensation, clarifies and corrects appraisal deficiencies, corroborates the appraiser's conclusions, performs professional technical assistance to his employer, secures proper performance from the appraiser, documents the review performance, gives final organization approval regarding appraisal and valuation matters, operates in an autonomous position not subject to directed reviews, confers with management on valuation matters and is fully knowledgeable as to the requirements, problems and objectives of the organization he represents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1376 (July 2007).

§541. Establishment and Payment of Fees

A. Appraisal fees shall be established by the project review appraiser based upon a fee estimate compiled during on-site inspection of the subject project. Concurrence will be obtained from the appraiser prior to submission of a Contract for Appraisal Services. The fee schedule will be contained within the Contract for Appraisal Services and will delineate between the fee for individual reports and the total contract fee established for the subject project.

B. Invoices submitted by the appraiser shall consist of three copies or one if submitted electronically (e-mail). Each shall include the date, state project number, federal aid project number (if applicable), project title, route number and parish. Please note that the invoice must delineate between projects and parcels assigned to that particularly project. Also required within the invoice will be the contracted fee for each report submitted for disposition, a statement that payment has not been received for the submitted invoice and the appraiser's signature. A digital signature may be used for all forms submitted.

C. The LDOTD Appraisal Office will not process any invoice submitted by an appraiser for personal services rendered the LDOTD unless the fee has been previously established by written contract, approved by all necessary parties and authorization to proceed has been forwarded to the consultant. Invoices may not be dated or forwarded to LDOTD prior to the authorization date established within the Authorization to Proceed form letter forwarded to the appraiser by the LDOTD Real Estate Administrator.

D. In addition, no invoice will be paid prior to the project review appraiser's approval of the individual reports submitted, having found them to be satisfactory to the requirements of LDOTD as stated within the Contract for Appraisal Services and the Agreement for Appraisal Services. Any individual report found not to meet the necessary requirements as set forth shall be corrected by the appraiser to the satisfaction of the project review appraiser prior to payment of the agreed upon fee for that particular ownership. No payment will be made for reports submitted following the contracted assignment completion date. At that point, the contract is voided and a new contract must be approved and authorization received through the established channels prior to payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:888 (May 1999), amended LR 33:1376 (July 2007).

§543. Types of Appraisal Formats (Formerly §545)

A. Upon the receipt of approved right of way plans, the assigned project review appraiser will make an on-site inspection and examination of each parcel on the project. Based upon that inspection, the review appraiser will determine which appraisal format shall be necessary for each parcel or parcels based upon the complexity of the appraisal problem. That determination will include:

1. the number of appraisals;
2. the format of appraisals;
3. the estimated fees;
4. the estimated appraisal contract completion date.

B. The Contract for Appraisal Services will set out the parcel number, fee and the format for each appraisal to be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:888 (May 1999), amended LR 33:1377 (July 2007).

§545. Form A (Formerly $547)

A. The form is designed as a complete, detailed appraisal of an ownership, including all land and improvements, using all applicable approaches. In effect, this is two separate appraisals, "before" the acquisition and "after" the acquisition, pertaining to partial acquisitions only. Each segment, before and after, is to be completed in detail and separate from the other. All approaches to value are to be

utilized in detail when applicable. Any feasibility study shall be included within the report.

B. This form will include the following pages or reasonable facsimiles of them within the report. All pages from the title page to the required exhibits shall be included. At the discretion of the appraiser, additional pages may be included. The following pages required are:

1. Before Acquisition Analysis:

a. Title Page;

b. Table of Contents;

c. Letter of Transmittal;

d. Summary of Salient Facts and Conclusions;

e. Basis for Summary of Fair Market Value;

f. Title Data;

g. Discussion of the Appraisal Problem;

h. Photos of the Subject Property;

i. Neighborhood Data;

j. Site Data;

k. Statement of Highest and Best Use;

l. Comparable Land Sales and Listings Analysis;

m. Correlation and Indication of Land Value;

n. Improvements;

o. Floor Plan;

p. Cost Data Approach to Value;

q. Source and Justification of the Cost Approach;

r. Market Data Approach to Value;

s. Income Data Approach to Value;

t. Correlation of the Whole Property Value and Allocation of Value;

u. Required Right of Way;

2. After Acquisition Analysis:

a. Site Data;

b. Statement of Highest and Best Use;

c. Comparable Land Sales and Listings Analysis;

d. Correlation and Indication of Land Value;

e. Improvements;

f. Floor Plan;

g. Cost Data Approach;

h. Source and Justification of the Cost Approach;

i. Market Data Approach to Value;

j. Income Data Approach;

k. Correlation of the After Value and Allocation of Value;

l. Analysis of Other Considerations (Additional Compensation);

m. Final Estimate of Value;

n. Certificate of the Appraiser;

o. Addenda:

i. Assumptions and Limiting Conditions;

ii. Vicinity, Strip and Remainder Maps;

iii. Property Inspection Report;

iv. Owner Notification Letter;

v. FIRM Maps;

vi. Comparable Sales and Maps

vii. Zoning Maps (if applicable);

viii. Estimate of Compensation;

ix. Others at the discretion of the Appraiser and/or Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:889 (May 1999), amended LR 29:2858 (December 2003), LR 33:1377 (July 2007).

§547. Form B
(Formerly §549)

A. The form is designed as a complete, detailed appraisal of an entire ownership, including all land and improvements using all applicable approaches unless instructed to do otherwise by the project review appraiser. This format is utilized most often to value an ownership that will be totally within a required area.

B. The following pages shall be required within the form. Other pages may be included at the discretion of the appraiser:

1. Title Page;

2. Table of Contents;

3. Letter of Transmittal;

4. Summary of Salient Facts and Conclusions;

5. Basis for Summary of Fair Market Value;

6. Title Data;

7. Discussion of the Appraisal Problem;

8. Photos of the Subject Property;

9. Neighborhood Data;

10. Site Data;

11. Statement of Highest and Best Use;

12. Comparable Land Sales and Listings Analysis;

13. Correlation and Indication of Land Value;

14. Improvements;

15. Floor Plan;

16. Market Data Approach to Value;

17. Income Data Approach to Value;

18. Cost Data Approach to Value;

19. Source and Justification of the Cost Approach;

20. Correlation of the Whole Property Value and Allocation of Value;

21. Required Right of Way;

22. Analysis of Other Considerations (Additional Compensation);

23. Final Estimate of Value;

24. Certificate of the Appraiser;

25. Addenda:

a. Assumptions and Limiting Conditions;

b. Vicinity, Strip and Remainder Maps;

c. Property Inspection Report;

d. Owner Notification Letter;

e. FIRM Maps;

f. Comparable Sales and Maps;

g. Zoning Maps (if applicable);

h. Estimate of Compensation;

i. Others at the discretion of the Appraiser and/or Review Appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:889 (May 1999), amended LR 29:2858 (December 2003), LR 33:1378 (July 2007).

§549. Form C
(Formerly §501)

A. The form is designed to be used only on simple acquisitions. The form does not require detailed discussions of the items listed, but the determinations made by the appraiser must be conclusive and based upon market support.

B. If during the appraisal assignment the appraiser finds that there are damages or benefits to the ownership by reason of the project, the appraiser is not to proceed with Form C but is to notify the project review appraiser. The review appraiser will then decide which form to utilize and will amend the appraisal contract to reflect those changes by format and fee schedule. Furthermore, when utilizing this form, it will be necessary for the appraiser to include the following statement within the body of the certificate:

"No damages or loss to the remainder of the owner's property resulted from this partial acquisition, therefore, pursuant to LA. R.S. 48:453 B, no after appraisal is required."

C. The following pages are to be included within the report and may include others upon the discretion of the appraiser:

1. Title Page;

2. Table of Contents;

3. Letter of Transmittal;

4. Summary of Salient Facts and Conclusions;

5. Basis for Summary of Fair Market Value;

6. Title Data;

7. Photos of the Subject Property;

8. Neighborhood Data;

9. Site Data;

10. Statement of Highest and Best Use;

11. Comparable Land Sales and Analysis;

12. Correlation of Land Value;

13. Required Right of Way;

14. Certificate of the Appraiser;

15. Addenda:

a. Assumptions and Limiting Conditions;

b. Vicinity, Strip and Remainder Maps;

c. Property Inspection Report;

d. Owner Notification Letter;

e. FIRM Maps;

f. Comparable Sales and Maps;

g. Zoning Maps (if applicable);

h. Estimate of Compensation;

i. Others at the discretion of the Appraiser and/or Review Appraiser.

D. All of the above-described forms are guides for submittal of acceptable reports. The appraiser may develop his/her own form, within reason. However, the form developed must include the information and detail required above and should be of the same basic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:889 (May 1999), amended LR 29:2858 (December 2003), LR 33:1378 (July 2007).

§551. Estimate of Compensation

A. The appraiser is to submit a Certificate of Estimate of Compensation as denoted by LDOTD. The certificate will state the estimated compensation due the owner for a

particular acquisition. This form will be included within the addenda of the appraisal report for the use of LDOTD's Legal Division when filing suit, when necessary. Other copies of this form may be forwarded to the project review appraiser to be placed in the project file for later use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1378 (July 2007).

§553. Personal Property

A. The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1379 (July 2007).

§555. Signs

A. When estimating the market value of on-site advertising signs for businesses, whether owner occupied or not, the market value of the sign will be determined by the Appraiser (ex.: RCN – DEPR. = MV).

B. Off-site advertising signs (billboard) values are determined by the appraiser based upon the market value (ex.: RCN – DEPR. = MV). The review appraiser will then provide, with the help of a construction cost consultant, the replacement cost new of this type of sign to be included within the recommended offer as per LDOTD policy. If the sign can not be replaced; then, other means of valuation may be utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1379 (July 2007).

§557. Items Excluded from Appraisals (Formerly §517)

A. Typically, moving expenses of owners and tenants rightfully in possession of real estate are reimbursable in accordance with the Louisiana Relocation Assistance Law which provides for the reasonable expenses of moving personal property. The actual cost of moving expenses is provided by the relocation assistance officer for use of the property owners or tenants, and is not determined by the appraiser. Therefore, no moving expenses for personal property should be included within the appraisal report under normal circumstances.

B. The following items should be excluded from the appraisal report:

1. moving expenses for personal property;

2. estimated costs of relocations; or

3. adjustments or repairs of such items as public utilities, service connections for water, sewer, mobile homes, additions, etc., which will be caused by the required acquisition unless those costs are included within the Contract for Appraisal Services as "cost-to-cure" items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 29:2857 (December 2003), LR 33:1379 (July 2007).

§559. Control of Access (Formerly §569)

A. Within the Contract for Appraisal Services, the project review appraiser will instruct the appraiser which appraisal format to use in the valuation of ownership's affected by control of access. The appraiser, in most circumstances will analyze the effects of control of access after the acquisition in much the same way as any "before and after" appraisal problem. A full analysis with all due documentation as to findings shall be included within the report.

B. All due diligence will be taken in consideration of the possible or probable use of a remainder that is influenced by control of access. The appraiser should acquaint himself fully with LDOTD's and the owner's rights concerning access control and the legal determination as to the compensability or non-compensability for instances where LDOTD exercises this control. The appraiser should consult with LDOTD through the review appraiser, project engineers, district managers, the legal division, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1379 (July 2007).

§561. Mineral Rights

A. The LDOTD and the state of Louisiana do not generally acquire mineral rights. The property owner will retain the mineral rights beneath the area conveyed to the state. While the owner will be prohibited from exploring or drilling for or mining for oil, gas or other minerals of any kind within the area acquired, the owner may employ directional drilling from adjacent lands to extract such minerals, if possible. In cases where solid minerals are affected, i.e., those other than oil and gas, the appraiser, with the concurrence of the review appraiser, is to provide values for the affected minerals.

B. In some situations or markets, it may be typical to transfer mineral rights. If that occurs, the appraiser is to analyze the value of the rights transferred through the use of market sales and make adjustments, if warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1379 (July 2007).

§563. Timber Value

A. For assignments in which timber-producing lands are involved, particularly in areas where timber is grown for commercial purposes, it will generally be necessary to value the land and the timber separately. In some instances, it may become the responsibility of the appraiser to abstract the timber and land value from market sales of whole property timberland tracts. However, due to the specialized nature of timber appraisal, the LDOTD will most often secure the services of a registered forester to supply the value of timber upon a project or particular site. In those instances, the appraiser will provide the value of the raw land and include the value of the timber, as provided by the forester, within the report.

B. In situations where the appraiser determines that the highest and best use of a tract is a greater use than timberland, the value of the timber will nevertheless be included within the report as an improvement item. However, at the appraiser's and review appraiser's discretion, the contributory value to the "highest and best use" may be zero.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1379 (July 2007).

§565. Crop Value

A. Prior to appraisal assignments, a determination shall be made by LDOTD Real Estate Titles and Acquisition personnel stating whether there is sufficient time prior to the right-of-way acquisition to allow harvesting of crops planted within the required area. If there is adequate time, the Real Estate Titles and Acquisition personnel will not be required to consider the compensation for crops. If time is limited, the Real Estate Titles and Acquisition personnel will estimate the value of the crop, and that sum will be included in the approved offer. Typically, the appraiser will not be involved in estimating the value of crops unless specifically requested to do so by the project review appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 33:1380 (July 2007).

§567. Lease Interests (Formerly §573)

A. The appraiser is to inquire into the lease~~s~~ of subject properties whenever that possibility exists. That inquiry most particularly applies to improvements owned by a lessee. A review of a lease will be made by the appraiser so as to familiarize himself/herself with the terms and conditions of the lease. Any findings or conclusions shall be included within the appraisal report.

B. The appraiser is to value the whole property and is to establish the value to be assigned to each interest in that ownership. The appraiser is to value all lease fee and leasehold interests and is to provide a breakdown of those values within the appraisal report to include the portion acquired and estimated damages, should they apply.

C. In situations where a lease is recorded, that information will be supplied the appraiser within the provided Title Research Report. Discovery of unrecorded leases are the responsibility of the appraiser. The appraiser shall inquire as to the existence of such leases and shall provide an opportunity for such disclosure to the property owner within the required Owner Notification Letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1380 (July 2007).

§569. Fencing Value (Formerly §575)

A. Front fencing owned by the property owner is to be bought or replaced if it is of contributory value to the land. Front farm/ranch fencing will normally be replaced or rebuilt by the project construction contractor on the owner's property in order to restore the enclosure.

B. Side (cross) fencing will be removed and will not be replaced. Compensation will be paid for said fencing. All fencing, whether front or side, is to be valued within the report and delineated by parcel and orientation.

C. Special purpose/ornamental fencing is to be compensated at cost new or replacement cost when it is feasible to replace. However, if the fence will not be replaced by the owner or cannot be replaced due to the acquisition, the depreciated cost or market value is to be utilized within the compensation estimate. This shall always apply to side fencing which, by its nature, cannot be replaced. If the right of way is acquired by expropriation, the value is deposited in the registry of the court. In either instance, the existing fence will be removed by the project construction contractor.

D. All fences constructed on controlled access highways for the purpose of controlling access will be built and maintained by LDOTD. Fences built along frontage roads or cross roads on controlled access facilities for the benefit of the property owner will be built off the highway right of way and will be maintained by the property owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1380 (July 2007).

§571. Construction and Drainage Servitudes (formerly §577)

A. There are two types of servitudes commonly encountered by the appraiser that must be included in the valuation process of the appraisal. They are the "construction" servitude and the "drainage" servitude.

B. The construction servitude is a temporary servitude providing access for construction purposes to areas outside the required right of way. The compensation for this

servitude is based upon the estimated unit land value multiplied by a rate set by the appraiser. That figure is then multiplied by the area within the servitude. The rate utilized is a rate of return that is consistent with investment return rates commonly accepted within the current local market. The appraiser is to apply the calculated estimate for a four year term based upon a yearly rental. That total rental is to be included within the estimate of the compensation.

C. The drainage servitude is a permanent servitude acquiring a number of rights. The acquisition partially includes right of entry and subsurface rights other than mineral rights. The ownership is greatly limited by the nature of the usage and compensation will be greater than that estimated for the construction servitude. The process of calculation is identical to that of the construction servitude, however, the rate utilized will be based on the permanent loss of rights. Generally, 80 percent to 90 percent rates will be used. Ultimately, the appraiser will decide upon the value of the rights taken and to what extent they will be permanently lost. This value will be included within the estimate of the compensation. In circumstances where a remaining area of an ownership is damaged due to a partial acquisition, estimated damages to any permanent servitude will apply only to that portion of the Bundle of Rights that remain after the acquisition of the rights required of the servitude.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1380 (July 2007).

§573. Railroad Parcel Acquisition (Formerly §579)

A. LDOTD will pay the appraised market value of interest acquired from railroad companies for any additional right of way required from their right of way property.

B. Railroad parcels will be divided into two categories. One will be designated an RR parcel at railroad crossings. Any other takings from railroad properties will have a normal parcel identification of which we will offer the estimated market value for interest acquired. LDOTD will acquire the RR parcels as a right of way servitude with the railroad company retaining their rights for railroad passage at our proposed joint crossings. Designation and appraisal of the railroad acquisition at crossings as servitudes is to allow the compensation for only those rights acquired. Only those rights acquired should be compensated for within the appraisal.

C. The LDOTD Appraisal Office is responsible for establishing the value of the various types of railroad acquisitions. The appraisal of railroad properties is based on market value and the interest acquired from the railroad companies. The appraiser should take into consideration the following:

1. size and shape of the railroad ownership;

2. topography;

3. location;

4. adjoining usage;

5. value of the required area before construction versus value after construction; and

6. any adverse effect that the acquisition will have on the utility of the property.

D. These types of acquisitions from railroad properties will be appraised as follows.

1. At crossings, the LDOTD will obtain a bundle of rights similar to the rights which the railroad company will be retaining. In most cases, the appraisal of a right of way crossing should reflect a value range of zero to a maximum of 50 percent of fair market value. However, the actual percentage of value will be estimated by the appraiser. The type of construction at crossings could have a varying effect upon the percentage utilized. The different types of construction at crossings are as follows.

a. Grade crossings are those where railroad tracks and proposed roadways are at the same level. This type of construction could have the greatest effect upon the utility of the property.

b. Above grade construction or an overpass should have little effect on the utility. However, consideration should be given to pier placement and its adverse effects, if any, on the railroad property.

c. Below grade construction or an underpass is the third type of possible construction at crossings.

2. All other acquisitions from railroad right of way in excess of crossings shall be appraised and the estimated market value will be offered in relation to the interest that the LDOTD acquires. In most cases, the LDOTD will appraise and offer 100 percent of market value. However, in the case of servitude acquisition, the LDOTD will offer compensation in accordance with the interest estimated to be acquired by the appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1380 (July 2007).

§575. Property Inspection with the Owner(s) (Formerly §537)

A. A reasonable effort shall be made to contact and meet with the owners or their designated representatives in order to afford them the opportunity to accompany the appraiser on inspection of the property being appraised. The appraiser is not obligated to meet the owner at any place other than the property being appraised or the nearest point of public access to the property being appraised.

B. Tasks for the Appraiser to Perform in Making Contact with the Owner(s)

1. Mail a form letter along with a stamped, addressed return envelope. All owners listed on provided title research

reports are to be afforded an opportunity to meet. A copy will be forwarded to the District Real Estate Manager, the project review appraiser and included within the appraisal report. It is recommended that the letter to the owners be transmitted by certified mail.

2. Telephone contact is acceptable if it is followed by a detailed written report of owner contact including the name of the person(s) contacted, time of meeting and date. Copies must be sent to the District Real Estate Manager, project review appraiser, and included within the appraisal report.

C. The site inspection shall not be made until the following criteria are met:

1. a meeting is scheduled with the owner(s); or

2. the owner(s) replies that he/she/they do not wish to accompany the appraiser on the site inspection; or

3. three weeks have passed since the date of the notification letter mailing to the owner(s), there is no reply and the letter is not returned "undeliverable".

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1381 (July 2007).

§577. Owners Refusal to Permit Entry (Formerly §571)

A. There may be times when a property owner refuses to permit appraisers employed by LDOTD to enter the property for an on-site inspection, measurement, photography or interview. There is a standard procedure to follow if this should happen.

B. The appraiser should stay off of the property but shall make every effort to examine the property from as many vantage points as possible. The appraiser shall make a careful inspection of all available records including ASCS maps and aerial photographs, U.S. Geodetic Survey contour maps, tax records, building inspector records, etc. As many and varied photos should be taken as deemed prudent.

C. As a matter of procedure, the appraiser will notify the project review appraiser of the situation and clearly set forth that he/she was not permitted to enter upon the property and that the report is predicated upon certain assumptions. Those assumptions shall be noted. Also to be listed will be the sources of information used as a basis for those assumptions.

D. When the appraisal report is forwarded to the Appraisal Office for review, a determination will be made by the project review appraiser whether or not to pursue legal action to obtain access to the property. The project review appraiser will make every effort to inspect the property from any vantage point possible prior to forwarding a recommendation of action.

E. When the appraisal is approved and the recommended offer is furnished for processing, negotiation will be initiated on that basis. The Real Estate Titles and Acquisition Agent conducting the negotiations will make every reasonable effort to observe the property in question for the purpose of further verification of the appraiser's assumptions. If radical variation appears to exist, the Appraisal Office will be advised before continuing the negotiations. If the recommended offer is not accepted, eminent domain proceedings will be resorted to and entry by court order will be obtained at that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1381 (July 2007).

§579. Update of Appraisals (Formerly §543)

A. Occasionally, it may become necessary for the appraiser to update appraisals from the original date of valuation to the current date or to a specified date of acquisition. If this should become necessary, the project review appraiser will initiate a contract specifying the required date of valuation, the fee schedule and the completion date for the assignment. All contracts to update shall be as per a specific completion date so as to give ample time for the appraisals to be reviewed by the project review appraiser prior to negotiations.

B. All updated appraisals, where there are value changes by reason of time lapse, shall be supported by updated comparable sales data gathered within the project neighborhood. If sufficient sales data is not available within the subject neighborhood, the appraiser should investigate similar type properties in more removed areas as support for updated values.

C. Updated appraisals shall be submitted to the Appraisal Office for review and if warranted, a revised Estimate of Value will be issued by LDOTD for the purpose of negotiation and acquisition. When the appraiser is required to revise, supplement or otherwise update the appraisal report, no matter the format employed, a revised or updated "Certificate of Appraiser" and "Estimate of Compensation" shall be submitted with the revisions or updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:443.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Real Estate, LR 25:894 (May 1999), amended LR 33:1382 (July 2007).

Chapter 7. Right-of-Way Acquisition for Utilities

Editor's Note: This Chapter, Right-of-Way Acquisition for Utilities, has been moved to this location from the former placement in Part XIII, Public Works, Chapter 19.

§701. Acquisition for Utilities

A. The Department of Transportation and Development may purchase additional right-of-way as provided for under R.S. 48:217, in the following circumstances.

1. When the land available for right-of-way acquisition is limited in such a way that it will be impossible

for a utility company to acquire enough to install its facilities, the design of the Department of Transportation and Development's construction project should include a plan for placing each utility's facility in the DOTD's right-of-way.

a. This situation occurs when the highway right-of-way is adjacent to bodies of water, railroad right-of-way, and other similar constraints. It also occurs when the Department of Transportation and Development purchases right-of-way to within less than 15 feet from a building.

b. It shall be the joint responsibilities of the utility companies, and the Department of Transportation and Development's design section, and utility section to determine when this situation exists.

2. When the utility fails to purchase its own right-of-way, after making a genuine effort, the Department of Transportation and Development may acquire additional right-of-way for the utilities to occupy.

a. This situation occurs when the Department of Transportation and Development expropriates large amounts of property from unwilling land owners, or when the required right-of-way lines are less than 15 feet from a building.

b. Each utility company affected is responsible for notifying the Department of Transportation and Development as soon as possible when this situation occurs.

3. Special cases where the chief engineer of the Department of Transportation and Development determines that it is to the Department of Transportation and Development's advantage to purchase additional right-of-way for use by utilities.

a. For example, the utility may not be able to acquire the right-of-way in time to fit the department's schedule. In such a case it would be to the DOTD's advantage to purchase this right-of-way.

B. Additional right-of-way will only be purchased when there is not sufficient space to locate all utility facilities within the required right-of-way for the highway. When additional right-of-way is necessary to accommodate utilities, it shall be labeled as *required right-of-way* on the plans, and purchased as such.

C. Occupancy of said right-of-way shall be by permit or utility agreement, and shall be in accordance with all applicable statutes, standards, and policies as determined by the Department of Transportation and Development.

D. In each case the purchase of additional right-of-way shall be at the discretion of the chief engineer of the Department of Transportation and Development or those engineer(s) to whom he delegates this authority.

E. The procedure for a utility company to initiate any of the above processes is as follows.

1. The utility shall notify the appropriate district utility specialist in writing and provide a detailed drawing indicating the additional right-of-way needed.

2. The district utility specialist shall review the request with the project engineer and/or the district construction engineer. After approving it, the district utility specialist should forward it to the headquarters utility section.

3. The headquarters utility section will review it and submit it to the design coordinator in the road design section.

4. The road design section shall handle it as they would any other change in the right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:217.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development in LR 16:1069 (December 1990).

Title 70
TRANSPORTATION
Part XIX. Compliance Programs

Chapter 1. Minority Participation Program

Subchapter A. General Provisions

§101. Statement of Policy; Effective Date

A. It is the policy of the Louisiana Department of Transportation and Development (DOTD) to support the fullest possible participation of businesses owned and controlled by socially or economically disadvantaged minority individuals as defined in this rule in state-funded construction contracts where this department is the contracting agency. These rules are both substantive and technical in nature, and are intended to specify the procedure for certification and eligibility for a State Disadvantaged Business Enterprise; to provide for the effect of certification; to establish procedures for setting and attaining goals for minority participation in state-funded department construction projects; and to establish penalties for interference and noncompliance.

B. Contractors and other parties to state-funded construction contracts where this department is the contracting agency are required to abide by and perform in accordance with this policy in such manner as prescribed in construction contracts with this department.

C. The effective date of this rule is July 1, 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§103. Definitions

A. For the purpose of these rules and regulations the following words have the meanings indicated.

Minority—a person who is a citizen or lawful permanent resident of the United States, who is socially or economically disadvantaged and who is a member of one of the minority groups designated by the report, "An Analysis of Disparity and Possible Discrimination in the Louisiana Construction Industry and State Procurement System and Its Impact on Minority-and Women-Owned Firms Relative to the Public Works Arena." The identified members of the minority groups are Black American, Hispanic American, and Women.

a. *Black American*—includes persons having origins in any of the black racial groups of Africa.

b. *Hispanic American*—includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.

c. *Women-Owned and Controlled*—ownership of at least 51 percent of the firm, or in the case of a corporation at least 51 percent of the voting stock, and controlling at least 51 percent of the management and daily business operations of the business. Control shall mean exercising the power to make policy decisions and being actively involved in the day-to-day management of the business.

Small Business—a business as defined by the Small Business Administration of the United States government which for the purpose of size eligibility or other factors meets the applicable criteria set forth in 13 Code of Federal Regulations, Part 121, as amended, and which has its principal place of business in Louisiana.

State Disadvantaged Business Enterprise (SDBE)—a *small business* concern which is at least 51 percent owned by one or more socially or economically disadvantaged minority individuals, and whose management and daily business operations are controlled by one or more socially or economically disadvantaged minority owner(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§105. Applicability

A. This program applies only to state-funded construction projects which are funded by monies derived from taxes on petroleum products and where this department is the contracting agency (see R.S. 47:711-820.51).

B. Projects so designated must be of a size and complexity to reasonably expect certified businesses to successfully complete the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§109. SDBE Liaison Officer

A. The administration of this program is delegated by the secretary of DOTD to the compliance programs director, who is designated as SDBE liaison officer. The SDBE liaison officer reports directly to the secretary of DOTD and has authority to develop, manage, and implement this program on a day-to-day basis, and to insure that information on available business opportunities is disseminated so that SDBEs are provided an opportunity to participate in state-funded construction contracts where this department is the contracting agency to the fullest extent possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§111. Standing Committees

A. Contract Selection Team. The Contract Selection Team (CST) is a panel chosen by the secretary to review state-funded construction projects where this department is the contracting agency and to establish reasonable SDBE participation goals in specific projects. The CST reviews the type of project, the items of work with potential for SDBE participation, the location of the project, the known availability and capability of SDBE businesses and the size of the project in order to determine a project goal. The CST may elect to set the project aside for only SDBE participation, to set a goal for SDBE subcontracting, or to set no goal on a project.

B. Certification Review Team. The Certification Review Team (CRT) is a panel chosen by the secretary to determine eligibility for participation in the SDBE program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§113. Technical Assistance and Supportive Services

A. In-house technical assistance relating to almost any phase of the department's contracting and subcontracting processes can be obtained by SDBEs from the compliance programs section. If staff members of the compliance programs section are unable to furnish the information or assistance required, they will arrange with others in the department to provide such information or assistance.

B. Supportive services will only be provided to SDBEs by the department to such an extent as allowed by available state funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

Subchapter B. DOTD Goal Standards

§115. Goals

A. It is the department's intent to establish and maintain meaningful and effective goals which take into consideration:

1. goal levels required or recommended by law, regulation or other applicable authority;

2. availability, capability and resources of SDBE's in the state;

3. opportunities for SDBE involvement provided by the particular types of department projects;

4. anticipated increase and growth of SDBE activity resulting from new policies and procedures.

B. The department's goals will be set high enough to require systematic and sustained effort toward achievement. At the same time, the goals set by the department will not be so optimistically and/or unrealistically high as to make them meaningless or beyond the range of credibility.

1. The department's goals will attempt to achieve a consistency of SDBE involvement:

a. throughout the state rather than in a selected geographic concentration;

b. throughout the year; and

c. according to the availability of SDBE's to respond to advertisements for projects.

2. Individual construction goals are assigned by the CST.

C. Public Notice of Goals

1. DOTD upon adopting SDBE goals and upon any substantial revision of such goals, will publish a notice in the official journal and in such general circulation media, minority-focus media and trade organization publications as deemed effective in giving widespread notice to persons having interest in the department's projects.

2. The notice will inform the public that the goals and a description of how they were selected are available for inspection during normal business hours at DOTD Headquarters, 1201 Capitol Access Road, Baton Rouge, LA, for 30 days following the date of the notice and that the department will accept comments on the goals for 45 days from the date of notice. The notice will give the address to which comments may be sent and will state the comments are for informational purposes only.

D. Counting and Crediting SDBE Participation Goals

1. SDBE subcontract participation will be counted and credited toward attainment of contract goals on the basis of the total subcontract price(s) agreed to between the bidder and the subcontractor for the contract item(s) or portion(s) of items being sublet as reflected on Form CS-6AAA.

2. Only DOTD certified SDBEs may be utilized in fulfillment of contract SDBE goals.

3. The total dollar value of a contract or subcontract awarded a SDBE is counted toward fulfillment of the contract goal provided the business performs a commercially useful function in the work of the contract.

4. A contractor may count toward its SDBE contract goal those expenditures for materials and supplies obtained from SDBE suppliers and manufacturers.

5. Capital expenditures for tools, equipment, vehicles, field office furniture and similar property items may be creditable toward contract goals if approved by the compliance programs section in advance.

6. Expenditures for materials and supplies obtained for use in the contractor's general operations are not creditable in whole or part toward contract goals. Examples

in this category are: stationary, office supplies, janitorial supplies, etc.

7. Expenditures for lease of SDBE equipment for exclusive use on the project may be counted toward SDBE goals with prior approval of the compliance programs section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

Subchapter C. Certification Procedures

§117. Application Process

A. Applicants for certification must complete all portions of the certification application materials and return them as specified in the following Subsections in order to be considered for certification under this program.

B. A SDBE certification application containing explanations regarding eligibility and instructions on completing and furnishing the necessary information and documentation on business size, ownership and control required of a business wishing may be obtained from the safety programs section of DOTD.

C. Completed applications for SDBE certification may be mailed or submitted in person to the Compliance Programs Section, LA DOTD, Box 94245, 1201 Capitol Access Road, Baton Rouge, LA 70804-9245.

D. After receipt, applications will be reviewed for completeness by the compliance programs staff. Additional documents/information maybe requested of applicants after review of their applications. Incomplete applications may be returned without action.

E. A pre-certification on-site review of new applicants shall be conducted by the safety programs section staff.

F. After completion of the on-site review, the Certification Review Team (CRT) will review the application, any additional information submitted by the applicant, and a report prepared by the safety programs section to determine eligibility for certification as a SDBE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§119. Eligibility Requirements

A. Applicants must meet all of the following eligibility requirements:

1. businesses resident of and domiciled in the state of Louisiana;

2. a small business as defined in Section 3 of the Small Business Act;

3. at least 51 percent owned and controlled by one or more socially or economically disadvantaged minority individuals as defined in these rules;

4. capable of, and intends to perform a commercially useful function, as defined in these rules;

5. an independent, operational and functional business, as defined in these rules;

6. a business with adequate resources with which to perform the work of a contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§121. Guidelines for Certification

A. Determination of Business Status

1. The CRT will first determine if the business is in existence, operational, and for profit. A business that is in the early stages of organization and not set up to do business, does not qualify. If the business is not yet operational, it is not eligible to participate as a SDBE and no further determinations need be made.

2. The business must provide more than prima facia evidence that it does not just exist on paper and was not organized merely in an attempt to take advantage of SDBE goals.

3. The minority owner(s) must possess the resources, license, if required by law, and expertise to operate in the business' field of work.

B. Determination of Business Size

1. Business size standards established by 13 Code of Federal Regulations, Part 121, as amended, will be applied to determine business size.

2. Necessary evidence to determine business size includes certified income tax statements and federal tax returns for the most recent three years as well as information regarding the business-owners, managers, and key personnel; location and ownership of facilities; source and size of work force and equipment; and the extent to which the business relies on other companies for services.

C. Determination of Social or Economic Disadvantage

1. Social disadvantage is evidenced by systematic exclusion, based solely upon racial, ethnic or cultural bias, from those opportunities and institutions which afford individuals the chance to improve and advance themselves. This includes the following:

a. evidence of educational discrimination in professional and business schools in comparison to educational opportunities available to individuals who are not members of the minority group;

b. evidence of employment discrimination suffered by the individual minority member in comparison to

employment opportunities available to individuals who are not members of the minority group;

c. evidence of the kinds of businesses and business transactions in which group members are engaged in comparison to the kinds of businesses and business transactions engaged in by individuals who are not members of the minority group;

d. evidence of denial of access to organizations, groups, or professional societies whether in business or in school, based solely upon racial and/or ethnic considerations;

e. any other evidence of denial of opportunity or access to those things which would enable the individual to advance the quality of his life, available to individuals who are not members of the minority group.

2. Economic disadvantage is evidenced by an inability of the individual to compete in the industry due to impaired capital and credit opportunities. Evidence includes:

a. statistical profile outlining the income level and standard of living enjoyed by individuals who are members of the minority group in comparison to that enjoyed by individuals who are not minority group members;

b. availability of capital and credit to minority group members in comparison to that of individuals who are not minority group members;

c. availability of technical and managerial resources to minority group members in comparison to those available to individuals who are not minority group members;

d. any other evidence of impaired capital or credit opportunities.

D. Determination of Ownership and Control

1. An independent business is one that is not inextricably associated with another through ownership, affiliation, sharing of employees, facilities, profits and losses.

2. Factors which are reviewed to determine SDBE ownership and control include the date the business was established, adequacy of resources for the work involved, and the degree to which financial, equipment, leasing, business and other relationships with non-minority businesses vary from normal industry practice.

3. The SDBE applicant must be knowledgeable in all aspects of the business and must independently make daily operational decisions. Also, the SDBE applicant must demonstrate that he/she possesses the power to make independent and unilateral business decisions which guide the business. The applicant must have experience, technical competence, and must personally hold any license required by law, in the business' major area of work.

E. Determination of Commercially Useful Function

1. A commercially useful function is performed when a SDBE is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually managing, performing, and supervising the work involved in accordance with normal industry practice, except where such practices are inconsistent with these regulations or other directives issued by LA DOTD. The SDBE shall not relinquish control of the work. Likewise, the SDBE contractor/subcontractor must perform the work under contract and must receive payment proportionate to the work performed.

2. The SDBE must manage the contracted work. The management of the work must include but is not limited to scheduling work operations, ordering equipment and materials, preparing and submitting payrolls, reports, and forms, and hiring and firing employees including supervisory positions.

3. The SDBE must perform the work of its subcontract with its own forces. SDBE subcontractors are prohibited from further subcontracting any portion of an authorized subcontract.

4. The SDBE must supervise the daily operations of the work contracted. The SDBE owner may act as superintendent and directly supervise his/her employees or a skilled and knowledgeable superintendent/foreman employed and paid by the SDBE must directly supervise the SDBE's employees.

5. A SDBE manufacturer is performing a commercially useful function when all of the following criteria are met:

a. is an operational and functional business;

b. operates or maintains a factory or establishment;

c. produces on the premises the materials or supplies obtained by the contractor.

6. A SDBE regular dealer or supplier is performing a commercially useful function when all of the following categories are present:

a. is an operational and functional business;

b. owns, operates or maintains a store, warehouse or other establishment in which materials or supplies required for the performance of the contract are bought, kept in stock and regularly sold to the public in the usual course of business;

c. a dealer or supplier of bulk items must also own and/or operate distribution equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§123. Recertification

A. Certification as a SDBE is valid for one calendar year from the date of notification of certification by the LA DOTD. Thirty days prior to expiration of any SDBE certification, the department will notify the firm that recertification is required.

B. Businesses must be recertified annually. A SDBE recertification application to expedite yearly recertification must be submitted to the safety programs section.

C. The business owner must notify the department in writing of any changes in ownership or location of the business or telephone number during the certification calendar year, which begins on the date of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§125. Failure to Recertify

A. SDBEs which make no effort at recertification as of one month from the recertification notification date shall be deleted from the active list of certified SDBEs and shall be ineligible to participate in the state minority participation program until such time as recertification has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§127. Procedure for Denial of Certification or Recertification

A. A business denied certification or recertification by the CRT will be notified by the safety programs Section of the determination and may request a review of the CRT's decision. The request must be in writing and must detail specific areas in which the business feels the decision is in error. The written request must be received by the CRT within 14 calendar days of the business' notification that it has been denied.

B. The CRT will consider requests for hearings on denials of certification or recertification if the request is received during the stated time limit. Hearings are not, however, mandatory. When the record clearly establishes the SDBE applicant lacks the background and experience to control day-to-day and major operational decisions, a hearing request may be denied.

C. By majority vote the CRT may choose to request a meeting with the business owners to clarify certain areas. If this is the case, it will be mandatory that the SDBE applicant attend the hearing and represent themselves before the CRT. An attorney may accompany the applicant, but may only attend to advise their client. The date will be specified by the CRT and failure to appear will result in rejection.

D. A SDBE applicant may appeal the CRT's decision to the secretary of DOTD in writing within 14 days from receipt of the CRT's final rejection. The secretary's decision is final.

E. A business that is denied certification or recertification may not reapply for certification with the department for at least 180 days from the date of the final decision by DOTD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§129. Procedure for Decertification

A. The CRT shall "decertify," that is, to withdraw recognition and certification as a SDBE upon discovery that the business does not meet the eligibility criteria.

B. The CRT will notify the business of the department's intent to decertify them. This notification will be in writing and the business will be provided an opportunity to respond in writing. The response must be received within 14 days of the notification of intent and must detail specific areas in which the CRT's decision is in error.

C. The CRT will consider requests for hearings if the request is received during the stated time limit. If a hearing is granted, it is mandatory that the SDBE owner attend the hearing. Failure of the SDBE owner to appear will result in rejection.

D. The CRT will make its final decision. This decision may be appealed to the secretary of DOTD in writing within 14 days of notification. The secretary's decision is final.

E. Should the secretary uphold the CRT's decision to decertify, the firm shall be immediately decertified. The firm shall be notified of the secretary's decision in writing and may not reapply for certification for at least 180 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§131. List of Certified SDBE Firms

A. Purpose of the List

1. A listing of certified SDBEs is maintained by the safety programs Section. The listing contains the name and basic identifying data of each SDBE. Separate lists are maintained for construction and consulting firms.

2. In addition to the name, address, phone number and contact person for each firm, the list includes the type of work capabilities in which the firms have past experience and in which the department's CRT has approved the firms participation for goal credit.

3. The list is not an endorsement or guarantee of the capability, dependability, or availability of any business listed. Listing assures only that the business has been certified eligible and will, if employed on a department project, serve toward fulfillment of contract goals. The certified SDBE must perform a commercially useful function in order to be credited toward contract goals and retain certification.

B. Maintenance of the List

1. The safety programs Section compiles, maintains and updates a monthly list from information contained in the minutes of the CRT meetings.

2. The safety programs Section makes copies of its listing available, at no cost, to its bidders, contractors and other interested parties to facilitate identifying certified SDBE relevant to general contracting requirements and particular solicitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§133. Ineligibility Complaints

A. Any individual, firm, agency or other person who believes that an applicant certified as a SDBE does not qualify under the standards of eligibility for certification may file a written, signed complaint with the safety programs section. Such complaints must contain sufficient information for the section to determine the validity of the complaint, including specific identification of the affected applicant business; the basis for the belief that the applicant does not meet eligibility criteria; and an identification of the complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§135. Investigation of Complaint

A. Within available resources, the safety programs section must investigate each complaint as promptly as possible. In no event shall any investigation period exceed 60 calendar days from receipt of the complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§137. Notification of Complaint

A. The safety programs section shall notify the subject SDBE of the details of the complaint by certified mail, return receipt requested, within 10 calendar days of complaint receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234 (C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§139. Response to Complaint

A. No SDBE shall be decertified based upon a complaint, without first having an opportunity to respond to the complaint. However, failure of the SDBE to respond to notification of the complaint within 20 calendar days of mailing of notice from the safety programs section may result in decertification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§141. Cooperation in Complaint Investigation

A. The SDBE shall cooperate fully in any complaint investigation and shall make its staff and/or records available to assist the safety programs section in its investigation as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§143. Temporary Suspension

A. The CRT may suspend the certification of the affected SDBE pending the outcome of the investigation, after providing the firm with seven calendar days notice via certified mail, return receipt requested to show cause why suspension should not occur. Any such suspension shall last not more than 60 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§145. Complaint Investigation Decision

A. Upon completion of the investigation, the CRT shall issue a written decision, either rejecting the complaint or revoking certification of the SDBE. The written decision shall be distributed to both the SDBE involved and to the complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

Subchapter D. The Contract

§147. Determination of Successful Bidder and Award

A. Bid openings and award of contracts will be conducted in accordance with the department's established procedures. All current bid procedures and contract forms utilized in the department's federal DBE program will be used in the SDBE program.

B. A pre-award review will be performed by the department's construction section to verify the low bidder's resources to perform on the construction contract. The secretary, or his designated representative, will evaluate this report, and make a final determination on contract award.

C. DOTD Required Contract Provisions

1. All proposals and contracts in which SDBE participation is prescribed as a condition to award of contract will contain special provisions which specify SDBE requirements of the contract and the actual contract percentage goal for SDBE firms.

2. The proposal/contract will contain required contract provisions in state-funded construction projects. By signing the proposal and completing the "Bidder's Goal Statement," bidder gives written commitment to meet, exceed or demonstrate good faith efforts to meet or exceed the goal and to comply with all other requirements of the contract.

3. A SDBE prime contractor is required to perform a commercially useful function by actually managing, supervising, and performing the work of the contract. The SDBE prime contractor must perform at least 50 percent of the total contract with its own forces. If the SDBE only purchases materials and supplies, its will not be considered as performing a commercially useful function.

4. Failure of a SDBE prime contractor to perform a commercially useful function on a set-aside project will result in a loss of certification and any other damages deemed appropriate by DOTD.

D. Subcontracting and Approval to Subcontract

1. In addition to the bidder's commitment in the proposal and/or award of contract, the contractor is required to request, permission of the department to subcontract any portion(s) of the contract, identifying the specific portion(s) or item(s) to be subcontracted, the agreed subcontract price and the name of the proposed subcontractor, before a subcontractor may commence work on the project.

2. The department reviews each subcontract request to insure that the proposed subcontract is in accordance with department's standards and in compliance with contract provisions. Where the particular contract contains specific goals for SDBE participation, the subcontract request will be reviewed for evidence of fulfillment of the contractor's SDBE participation goal on which the contract award was based.

3. In reviewing a subcontract request, the department will determine and verify the following non-exclusive matters:

a. whether the contractor has committed the items to be subcontracted to a SDBE as specified in the contract;

b. if the subcontract request contains items committed to SDBE participation, the contractor must perform its commitment with the SDBE or document that the SDBE designated in the contract for the item(s) is unable to perform. Adequate documentation is a letter from the SDBE designated to perform the work stating the reasons it cannot perform. Where a contractor is unable to obtain such a letter from a SDBE, the contractor shall fully explain in writing, the reason the SDBE is unable to perform, efforts made by the contractor to require the SDBE to perform, and any other relevant factors;

c. if a SDBE is unable to perform a subcontract, the prime contractor will make good faith effort to replace the SDBE with another SDBE, which is capable and available to perform the same designated subcontract percentages. The prime contractor shall not permit the substitute SDBE or any other person to commence work until satisfactory evidence of good faith to replace with another SDBE, if appropriate, is submitted to and approved by the safety programs section. The prime contractor will not perform the work with his own workforce in lieu of subcontracting, without approval of the safety programs section.

E. Good Faith Efforts. Good faith efforts include, but are not limited to the following descriptions:

1. attends any pre-bid meetings at which SDBEs could be informed of contracting and subcontracting opportunities;

2. advertises in general circulation, trade association publications, and minority focus media concerning the subcontracting opportunities;

3. provides written notice in sufficient time to allow SDBE response to all certified SDBEs who have capabilities pertinent to the work of the contract that their interest in the contract is solicited;

4. follows up initial solicitations of interest by contacting SDBEs to determine whether the SDBEs are interested;

5. selects portions of the work to be performed by SDBEs in order to increase the likelihood of achieving SDBE goals. This may include, where appropriate, breaking down subcontracts into economically feasible units to facilitate SDBE participation;

6. provides interested SDBEs with adequate information about the plans, specifications, and requirements of the contract;

7. negotiates in good faith with interested SDBEs. This includes the names, addresses and telephone numbers of the SDBEs considered, a description of the information provided regarding the plans and specifications for the work selected for subcontracting, a statement as to why additional agreements could not be reached with SDBEs to perform the work;

8. does not reject SDBEs as unqualified without sound reasons based on a thorough investigation of SDBE capabilities;

9. makes efforts to assist SDBEs in obtaining bonding, lines of credit, or insurance required by the prime contractor or the department;

10. makes efforts to assist interested SDBEs to obtain necessary equipment, supplies, materials, or other necessary or related assistance or services;

11. effectively uses the services of available minority community organizations, minority contractors groups, local, state and federal minority business assistance offices, and other organizations that provide assistance in the recruitment and placement of SDBEs if the situation allows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§149. Interference; Penalty

A. If a person, firm, corporation, business, union, or other organization prevents or interferes with a contractor's or subcontractor's compliance with any rule adopted under this program or submits false or fraudulent information to the state concerning compliance with this program or any

rule or violates this Chapter or any rule adopted under this Chapter, the person or entity shall be subject to a fine not to exceed $1,000 in addition to any other penalty or sanction prescribed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

§151. Noncompliance; Penalty

A. If a person, firm, corporation, or business does not substantially comply with a contract subject to these rules the state may withhold payment, debar, suspend, or terminate the contract, and subject the contractor to civil penalties of 10 percent of the amount of the contract or $5,000, whichever is less. Willful repeated violations exceeding a single violation may disqualify the contractor from further participation in state contracts for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:234(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 19:507 (April 1993).

Title 70
TRANSPORTATION
Part XXI. Personnel

Chapter 1. Substance Abuse and Drug-Free Workplace Policy

§101. Philosophy

A. The use of illegal and unauthorized drugs and the misuse of alcohol are serious social problems that are even more unacceptable in the workplace. The Department of Transportation and Development has a compelling interest in the welfare and safety of its employees and the traveling public, the maintenance of a high level of productivity, and quality service to the general public. The establishment of a drug-free work environment in compliance with Executive Order Number MJF 98-38 and R.S. 49:1001 et seq., preserves property and equipment, promotes public safety, and reduces absenteeism and job-related accidents and injuries, while enhancing overall job performance, productivity levels, and the image and reputation of the department.

B. To enhance national highway transportation safety, Congress passed the Omnibus Transportation Employee Testing Act of 1991. This Act requires alcohol and drug testing of certain safety-sensitive employees in the aviation, motor carrier, railroad and mass transit industries. The departmental positions subject to these federal drug and alcohol testing requirements primarily include pilots, drivers who are required by state or federal law to have a Commercial Driver's License (CDL) and who operate Commercial Motor Vehicles (CMVS), and crew members operating a commercial marine vessel that receives funds from the Federal Transit Administration.

C. This policy applies to all Department of Transportation and Development employees, but those employees who are in safety-sensitive positions or who are being tested under federal authority will receive a separate employee information package which explains the program in greater detail. Following a job offer, all potential employees are subject to a pre-employment drug test. Additionally, all employees are subject to post-accident/incident, reasonable suspicion, return-to-duty, and follow-up drug and alcohol tests. Employees in safety-sensitive positions are further subject to random drug and alcohol tests. A list of the safety-sensitive positions being tested under federal authority is attached as Appendix A. Additional positions designated by DOTD as safety-sensitive are listed in Appendix B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:536 (March 1999).

§103. Employment Requirements

A. To maintain a safe work environment, all department employees are required to do the following:

1. report for duty in a physical and emotional condition that maximizes his/her ability to perform assigned tasks in a competent and safe manner;

2. submit to the drug/alcohol tests and screens described in this policy when required by supervisor or appointing authority;

3. notify supervisor prior to reporting for duty that he/she believes, or has been advised by a physician or pharmacist, that prescription or over-the-counter drugs/medication may impair the employee's ability to perform usual job duties;

4. maintain prescription drugs in prescribed quantity and be able to produce original prescription containers, when required;

5. notify supervisor at the beginning of the next scheduled work day of any arrest or conviction of a criminal, drug or drug-related offense, which occurs on- or off-duty, including DWI (Driving While Under the Influence) arrests.

B. The department prohibits the use, abuse and presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances in the bodies of its employees while on duty, on call, or engaged in departmental business, on- or off department/state premises. The presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances, in a state vehicle while on- or off-duty, is also prohibited.

C. The presence of alcohol is indicated by a confirmed blood alcohol concentration of 0.02 or greater. Prohibited drugs include any drug which is not legally obtainable; any drug which is legally obtainable, but has been illegally obtained; prescription drugs not being used in accordance with the prescription; or, any substance which affects an employee's ability to safely and competently perform assigned job duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:537 (March 1999).

§105. Drug/Alcohol Testing

A. Applicants and employees may be required to submit to drug and alcohol tests as a condition of employment, as a condition of continued employment, or as a condition of promotion or reassignment to a safety-sensitive position.

Whether announced or unannounced, tests will be administered under the following circumstances.

1. Pre-Employment Testing. Drug tests are required of all applicants, to include students, restricted and unclassified appointments, as a condition of employment or re-employment with DOTD. Current employees are required to undergo drug testing prior to being reassigned, temporarily detailed, reallocated, promoted, or demoted to a safety-sensitive position. An offer of employment or promotion, reassignment, detail, reallocation, or demotion will be withdrawn if a positive drug test result is reported, and employees are further subject to disciplinary action as specified in §113, Enforcement.

2. Post-Accident/Incident Testing

a. Any employee who is directly involved in a potentially serious accident or incident in which the employee's action or inaction may have been a causative factor is subject to drug/alcohol tests. Only an appointing authority may require an employee to submit to such tests. Trained supervisors and safety officers may, however, recommend to the appointing authority that drug/alcohol tests be conducted, based on their knowledge of the circumstances resulting in the accident/incident. The appointing authority, using the information available at the time, makes the decision as to whether tests will be required.

b. When certain conditions are present, however, certain federal agencies require that drug/alcohol tests be conducted. (Any post-accident/incident tests conducted that do not meet the below-listed criteria are being conducted under the department's authority, and the appropriate chain-of-custody and breath alcohol testing forms must be used.) Appointing authorities are therefore required to arrange for post-accident/incident tests as follows.

i. The Federal Highway Administration (governing drivers with commercial driver's licenses) requires that the operator of a commercial motor vehicle which requires a commercial driver's license be drug/alcohol tested when as follows:

(a). a fatality occurs, whether or not the driver caused the accident; or

(b). when the driver is cited for a moving traffic violation arising out of the accident. (Accident is further defined as an incident involving a commercial motor vehicle in which there is either a fatality, injury treated away from the scene, or a vehicle is required to be towed from the scene.)

ii. The United States Coast Guard (governing marine vessels) requires that drug/alcohol tests be conducted when there is as follows:

(a). one or more deaths;

(b). an injury to any person (including passengers) which requires medical treatment beyond first aid, and in the case of an employee, which renders the employee unable to perform routine job duties;

(c). damage to property in excess of $100,000, or actual or constructive total loss of either an inspected vessel or any vessel of 100 gross tons or more;

(d). a discharge of any reportable quantity of a hazardous substance into navigable waters, whether or not resulting from a marine casualty.

iii. The Federal Transit Administration (governing public transportation provided by the Crescent City Connection, a division of the department) requires that drug/alcohol tests be conducted when, as a result of an occurrence associated with the operation of a transit vehicle (vessel), there is as follows:

(a). a fatality. Employees to be tested include the following:

(i). each surviving employee on duty on the vessel at the time of accident;

(ii). any other covered employee (i.e., mechanic) whose performance could have contributed to the accident;

(b). bodily injury or property damage. Employees to be tested include:

(i). each covered employee on duty on the vessel unless it is determined by the department that their performance may be completely discounted as a contributing factor;

(ii). any other covered employee (i.e., mechanic) whose performance could have contributed to the accident.

3. Random Testing. Random alcohol and drug testing is required of employees who hold safety-sensitive positions, as listed in §119 and §121. Random tests are unannounced and spread throughout the calendar year.

4. Testing Based upon Reasonable Suspicion. Drug and alcohol testing will be conducted when a trained supervisor or a trained safety officer observes behavior or appearance that is characteristic of drug use or alcohol misuse. The decision to test must be based on specific observations concerning the employee's appearance, behavior, speech, or body odor. (The possession of alcohol, although a violation of this policy, does not constitute a need for reasonable suspicion testing.) A written record must be made of the observations leading to either a drug or alcohol test, and signed by the observing supervisor and, when practicable, by two supervisors. Prior to subjecting any employee to reasonable suspicion testing, however, the supervisor(s) must obtain verbal approval from the appropriate appointing authority. Affected supervisors and safety personnel are trained to recognize signs and symptoms of drug use and alcohol misuse, and a written record of the training is made and retained for documentation.

5. Return-to-Duty. Following a violation of this policy's provisions, and in the event the employee retains his/her job, the employee is required (at his/her own

expense) to undergo and complete any treatment prescribed by a substance abuse professional (as defined by federal law), and is additionally subject to drug and/or alcohol testing prior to returning to duty. The employee will also be required to certify in writing his/her understanding and acceptance of a rehabilitative (or return-to-work) agreement.

6. Follow-Up. Employees who voluntarily, or as a condition of continued employment, participate in an alcohol/substance abuse rehabilitation program are subject to unannounced drug and/or alcohol tests for a minimum of one year but not more than five years, as determined by the treating substance abuse professional. As a condition of continued employment, employees are required to certify in writing their understanding and acceptance of these testing and rehabilitation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:537 (March 1999).

§107. Drug Testing Procedures

A. The department contracts with neutral, professional medical personnel and certified laboratories for the collection, custody, storage, and analysis of urine specimens. A splitsample collection method is used, with both the primary and split specimens shipped to the laboratory. The primary urine sample is analyzed for the presence of marijuana, opiates, amphetamines/methamphetamines, cocaine, and phencyclidine (PCP), by SAMSHA (Substance Abuse Mental Health Services Administration) certified laboratory, and in strict compliance with SAMSHA guidelines. A dual testing procedure is also used, where each primary sample that tests positive during an initial test is subjected to an additional, more precise confirmatory test. Any urine sample that is confirmed positive (i.e., exceeds federally adopted cutoff levels) is reported to the Department's Medical Review Officer (MRO), a licensed, contracted physician.

B. Upon receipt of a positive report, the MRO reviews the collection procedure, chain of custody, and testing methodology to exclude all possible medical explanations for the positive result. The MRO also contacts the employee/applicant to rule out the possibility that medications, medical history, or any other conditions may have caused the positive result, prior to reporting a positive test result to the department.

C. If the confirmed test result is reported as positive by the MRO, the employee may, within 72 hours, request in writing to the MRO that the split specimen (initially collected but separated and stored during the collection process) be tested in a different SAMSHA certified laboratory for the drug for which a positive result was reported. This split sample testing is done at the employee's expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:538 (March 1999).

§109. Alcohol Testing Procedures

A. Evidential Breath Testing Devices (EBTs), approved by the National Highway Traffic Safety Administration (NHTSA), will be used by certified Breath Alcohol Technicians (BATS) on contract with the department. testing sites will provide visual and aural privacy, unless prevented by unusual circumstances. The employee must provide a photo identification or be identified by an employer representative.

B. A breath screening test will be conducted, and the employee will be told the results. If the results are less than 0.02 alcohol concentration, no further testing is necessary, and the test results are reported as negative. If the screening test indicates an alcohol concentration of 0.02 or greater, a confirmation test will be performed within 20 minutes, but not less than 15 minutes, of completion of the screening test. If the confirmatory test again indicates an alcohol concentration of 0.02 or greater, the results will be reported as positive to the appointing authority or designated representative. Employees occupying safety-sensitive positions will not be allowed to perform safety-sensitive functions and will be subject to disciplinary action specified under §113 of this rule.

C. Positive test results will also be reported to the appointing authority or designee whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath, provide an adequate amount of breath (excludes medical inability), or fails to cooperate with the testing procedures in any way that prevents the completion of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:539 (March 1999).

§111. Confidentiality

A. All drug and alcohol testing results and records are maintained under strict confidentiality by the department, the drug testing laboratory, and the MRO. They cannot be released to others without written consent of the employee. Exceptions to these confidentiality provisions are limited to Federal Department of Transportation agencies, when license or certification actions are required, or to a decision-maker in arbitration, litigation, or administrative proceedings arising from a positive drug test.

B. Employees have the right to access all written information and documentation within seven days, as required by R.S. 49:1001.

C. Statistical records and reports are also maintained by the department, contracted physicians, and drug testing laboratories. This information is aggregated data and is used to monitor compliance with the rules and to assess the effectiveness of the drug testing program.

D. The department has no interest in informing law enforcement authorities of a positive drug test. However, nothing contained in this rule will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this policy, discovered on departmental/state property, or on the person of a departmental employee to appropriate law enforcement agencies. Likewise, any employee engaged in the sale, attempted sale, distribution, or transfer of illegal drugs or controlled substances while on duty or on department/state property will be referred to appropriate law enforcement authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:539 (March 1999).

§113. Enforcement

A. The use of illegal drugs and misuse of alcohol and other controlled or unauthorized substances will not be tolerated at the department. substance abuse, which endangers the health and well-being of departmental employees and the traveling public, prevents quality service to the public and is inconsistent with this department's mission. While the department's position is firm, it will also resolve any reasonable doubt issues in the employee's favor.

B. Disciplinary actions will be taken after a complete and thorough review of all applicable data, and in accordance with Chapter 12 of the Civil Service Rules and Secretary's Policy and Procedure Memorandum Number 26 (Disciplinary System).

1. Violations for which employee is subject to termination are as follows:

a. refusal to submit to a drug or alcohol test, or failure to cooperate in any way that prevents the completion of a test;

b. submission of an adulterated or substitute urine sample for drug testing;

c. buying, selling, dispensing, distributing, or possessing alcohol or any illegal or unauthorized controlled substance while on duty or on department/state premises;

d. unjustifiable possession of drug-related paraphernalia while on duty or on department/state premises;

e. unjustifiable possession of prescription drugs or any dangerous, controlled substances;

f. driving a state vehicle or operating state equipment (or driving personal vehicle while on duty) while under the influence of drugs or alcohol, where tests administered by authorized officials confirm a policy violation;

g. the presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances, in a state vehicle, while on or off-duty;

h. positive drug test result or confirmed 0.02 blood alcohol concentration;

i. under all of the above circumstances, the employee will be referred to a substance abuse professional.

2. A violation for which employee is subject to a minimum one week suspension, possible return-to-duty agreement, or more severe disciplinary action, including termination, occurs when the employee fails to notify his/her supervisor of any prescribed drugs/medications when the employee believes, or has been advised by a physician or pharmacist, that the prescribed drugs/medication may impair the employee's ability to perform his/her usual duties and responsibilities.

3. Violations for which employee is subject to a minimum one-day suspension:

a. failure to notify supervisor of off-duty arrest or conviction of a driving-while-intoxicated, drug, or drug-related offense at the beginning of the next scheduled work day, when the employee occupies a safety-sensitive position. (See positions listed in §119 and §121);

b. failure to maintain prescribed drugs/medication in prescribed quantity and unable to produce original prescription container.

4. Violation for which employee is subject to written reprimand is the failure to notify supervisor of off-duty arrest or conviction of a driving-while-intoxicated, drug, or drug-related offense at the beginning of the next scheduled workday, when the employee occupies a non-safety-sensitive position.

5. For employees whose positions require a Commercial Driver's License (CDL) or for employees who are required to operate departmental vehicles on a regular and recurring basis, the loss of that license may result in employee being placed on leave or in a bonafide vacant position (not requiring a driver's license) for which they qualify. This may be accomplished by the following:

a. reassignment;

b. voluntary demotion;

c. detail or placement on leave (annual, compensatory, or leave without pay), if situation is deemed temporary;

d. if none of these options are available or reasonable, the employee will be removed in accordance with Civil Service Rule 12.6(b), and Secretary's Policy and Procedure Memorandum Number 26.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:539 (March 1999).

§115. Employee Assistance Program (EAP)

A. Early recognition and treatment of drug dependency are essential to successful rehabilitation. Those employees recognizing a substance abuse problem should seek assistance from the department's EAP coordinator in the human resources section. Referrals are held in strict confidence, but supervisors and appointing authorities who need to know will be kept abreast of the employee's treatment, leave needs, and prognosis on a case-by-case basis.

B. Employees who are referred to the EAP coordinator by their supervisor, or who, as a condition of continued employment, participate in an alcohol/substance abuse rehabilitation program are subject to the return-to-duty and follow-up tests, as specified in §105.A.5 and 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:540 (March 1999).

§117. General Provisions

A. Prior to employing an applicant for a position which requires a Commercial Driver's License (CDL), the department must obtain the prospective employee's written consent to obtain from the prospective employee's previous employers the results of any drug/alcohol testing administered during the past two years. This regulation also applies to current employees who are being reassigned, promoted, detailed, reallocated or demoted to a position that requires a CDL.

1. Should an applicant fail to provide the release, the offer of employment will be withdrawn. Should an existing employee fail to provide the release, the offer of promotion, reassignment, reallocation, or demotion will also be withdrawn.

2. Upon receipt of information from a previous employer that the prospective applicant or employee (moving to a job that requires a CDL) tested positive on either a drug or alcohol test or refused to submit to testing within the past two years, the offer of employment or promotion will be withdrawn, unless the applicant has completed a drug/alcohol rehabilitation program and provides a written, positive evaluation by a substance abuse professional.

B. The department reserves the right to have a licensed physician of its own choice determine if use of a prescription drug/medication produces effects which may impair the employee's performance or increase the risk of injury to the employee or others. If such is the case, the department will suspend the work activity of the employee during the period in which the employee's ability to safely perform his/her job may be adversely affected. The employee may be allowed to use accrued leave; may be placed on leave without pay; or where possible, modification of the employee's job duties may be made.

C. Although substance abuse testing outlined in this rule is restricted to the five previously specified drugs and alcohol (see §107.A), the department reserves the right to require employees to submit to additional tests if circumstances warrant. Such tests will only be administered when post-accident and reasonable suspicion drug/alcohol testing produce negative results, and the employee's action/inaction clearly reveals impairment of ability to safely perform job duties. Separate samples will be collected for these additional tests, and the testing process will comply with all SAMSHA regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:540 (March 1999).

§119. Appendix A

A. Positions subject to drug and alcohol tests, including random, as mandated by the United States Department of Transportation. For post-accident/incident test, refer to §105.A.2 to determine if federal agency or DOTD is requiring test.

B. Jobs Requiring Commercial Driver's License:

1. Bridge Maintenance Assistant Supervisor/ Statewide;
2. Bridge Maintenance Supervisor/Statewide;
3. Bridge Repairer;
4. Electrician (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement);
5. Electrician Foreman (all signal except Section 45/Gang 761);
6. Electrician Specialist (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement);
7. Electrician Specialist Foreman (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement);
8. Electrician Specialist Leader (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement);
9. Engineering Technician 1 (Section 22/Gang 041);
10. Engineering Technician 2 (Section 22/Gang 041);
11. Engineering Technician 3 (Section 22/Gang 041);
12. Engineering Technician 4 (Section 22/Gang 041);
13. Engineering Technician Supervisor 1 (Section 22/Gang 041);
14. Equipment Inspector (except Section 09);
15. Equipment Superintendent;

16. Geotechnical Exploration Supervisor 2 (Section 22/Gang 041);
17. Highway Foreman 1;
18. Highway Foreman 2 (except former District Sign/Traffic Supervisor and Tunnel Maintenance/Operator Supervisor);
19. Marine Welder (Section 51/Bridge);
20. Marine Welder Foreman (Section 51/Bridge);
21. Marine Welder Master (Section 51/Bridge);
22. Mobile Equipment Maintenance Mechanic;
23. Mobile Equipment Master Mechanic;
24. Mobile Equipment Master Mechanic Leader;
25. Mobile Equipment Operator 1/Heavy;
26. Mobile Equipment Operator 2/Heavy;
27. Mobile Equipment Operator 1 (Section 51);
28. Mobile Equipment Operator 2 (except Section 70);
29. Mobile Equipment Overhaul Mechanic;
30. Mobile Equipment Shop Foreman;
31. Mobile Equipment Shop Superintendent;
32. Painter (bridge);
33. Painter Foreman (bridge);
34. Painter Master (bridge);
35. Roadside Development Herbicide Applicator;
36. Trades Apprentice (Section 51/Bridge) (All signal except Section 45/Gang 761) (Section 59 w/air brake endorsement).

C. Aviation Personnel:

1. Aircraft Fleet Chief Pilot.

D. Crescent City Connection Division (CCCD)—Safety Sensitive Marine Personnel:

1. Maintenance Repairer 1 (Gang 005);
2. Maintenance Repairer 2 (Gang 005) (also requires CDL);
3. Maintenance Foreman (Gang 005);
4. Marine Chief Engineer 1;
5. Marine Chief Engineer 2;
6. Marine Deckhand;
7. Marine Deckhand/Toll Collector;
8. Marine Engineer 1;
9. Marine Engineer 2;
10. Marine Engineer 3;
11. Marine Engineering Supervisor;
12. Marine Maintenance Superintendent 1 (Gang 005);
13. Marine Master 1;
14. Marine Master 2;
15. Marine Master 3;
16. Marine Oiler;
17. Marine Operations Superintendent 1 and 2;
18. Marine Trades Helper (Gang 005);
19. Welder.

E. CCCD Law Enforcement Personnel:

1. Police Captain—Bridge;
2. Police Chief—Bridge;
3. Police Lieutenant—Bridge;
4. Police Officer 1—Bridge;
5. Police Officer 2—Bridge;
6. Police Sergent—Bridge.

F. Rural Ferries/Fleet Landing:

NOTE: U.S. Coast Guard does not mandate random alcohol tests, so random alcohol tests are being conducted under DOTD's authority. For post-accident/incident tests, refer to §105.A.2 to determine whether accident/incident meets criteria of U.S. Coast Guard. If not, and test is conducted, it is under DOTD authority.

1. Marine Chief Engineer 1;
2. Marine Chief Engineer 2;
3. Marine Deckhand;
4. Marine Deckhand/Toll Collector;
5. Marine Engineer 1;
6. Marine Engineer 2;
7. Marine Engineer 3;
8. Marine Maintenance Superintendent 1;
9. Marine Maintenance Superintendent 2;
10. Marine Mechanic 1;
11. Marine Mechanic 2;
12. Marine Master 1;
13. Marine Master 2;
14. Marine Master 3;
15. Marine Oiler;
16. Marine Operator;
17. Marine Operations Superintendent 1;
18. Marine Operations Superintendent 2;
19. Marine Trades Helper;
20. Marine Welder 1;

21. Marine Welder 2;

22. Marine Welder Foreman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:540 (March 1999).

§121. Appendix B

A. Additional positions subject to drug and alcohol tests, including random, as determined by DOTD:

1. Bridge Inspection Program Manager;

2. Bridge Inspection Team Leader;

3. Bridge Maintenance and Inspection Supervisor;

4. Bridge Operator 1;

5. Bridge Operator 2;

6. Bridge Operator Foreman;

7. DOTD Engineer Program Manager (Section 51);

8. DOTD Staff Engineer Admin. 1 (Section 51);

9. DOTD Staff Engineer Supervisor (Section 51);

10. EIT 1/2/Engr./DOTD Staff Engr. Advanced (Section 51);

11. Engineering Technicians 1-4 (Districts, Gang 051 and Section 51 employees performing bridge inspection duties);

12. Maintenance Repairer 1 (Navigational Locks only);

13. Maintenance Repairer 2 (Navigational Locks only);

14. Mobile Equipment Operator 1;

15. Navigational Lock Master;

16. Navigational Lock Operator 1;

17. Navigational Lock Operator 2;

18. Staff Engineer Specialist Advanced—Bridge Maintenance (Section 51).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:542 (March 1999).

Title 70
TRANSPORTATION
Part XXIII. Purchasing

Chapter 1. Qualified Products List

§101. General

A. Qualified products listings and the evaluation of materials for these lists are administered by the traffic services section and the materials section within the Department of Transportation and Development.

B. Qualified products listings are basically developed for those materials and items requiring source approval, performance evaluation, in-service evaluation, long term testing, or other conditions not conducive to normal sampling and testing of materials received at the point of delivery. Prospective sources of supply should be aware that those samples required for evaluation must be furnished at no cost to the department, and that results of tests and evaluations may be published and made available for public distribution by the department. Testing and evaluation time varies depending upon the specific item; some items require considerable time for testing and evaluation. The qualified products listings are in two general areas, i.e., traffic control devices and construction materials. Examples of such lists are as follows.

1. Traffic control devices:
   a. conflict monitors;
   b. controller cabinets;
   c. coordination units;
   d. disconnect hangers and leads;
   e. flashers for controllers;
   f. flashing switches for beacons;
   g. load cells;
   h. loop amplifiers;
   i. pedestal bases;
   j. pre-emption units;
   k. pull boxes;
   l. signal lenses;
   m. signal and pedestrian heads; and
   n. traffic signal controllers.
2. Construction materials:
   a. admixtures for portland cement concrete;
   b. aggregates;
   c. all purpose blasting sands;
   d. anti-stripping additives;
   e. asphalt mix release agents;
   f. barricade warning lights;
   g. cantilever type load transmission devices;
   h. cold galvanizing repair compounds;
   i. elastomeric bridge bearing pads;
   j. elastomeric railroad grade crossings;
   k. epoxy resin systems for concrete;
   l. flexible plastic gaskets and sealants for culvert pipe;
   m. preformed elastomeric compression joint sealers;
   n. form release agents;
   o. hydrated limes and quicklimes;
   p. lubricant adhesives;
   q. manhole steps;
   r. metallic detection tapes and wires;
   s. mineral fillers for asphaltic concrete;
   t. paint, activated epoxy primers and topcoats;
   u. paint-inorganic zinc primers and topcoats;
   v. paint-organic zinc primers and topcoats;
   w. paints, high build water borne traffic;
   x. plastic filter cloth;
   y. polyurethane polymer joint sealers;
   z. portland cements and portland pozzolan cements;
   aa. preformed closed cell polyethylene joint fillers;
   bb. pvc extended coal tar joint sealers;
   cc. raised pavement markers;
   dd. rapid setting patching materials for concrete;
   ee. reflective sheetings;
   ff. self-leveling levels;
   gg. silicon additives for asphalt cement;
   hh. soil sterilants;
   ii. special surface finishes for concrete;
   jj. three coat organic zinc paint systems; and
   kk. traffic paints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:265 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 8:19 (January 1982).

Chapter 3. Purchasing Rules and Regulations

§301. Types of Commodities

A. Commodities purchased by the DOTD procurement section fall into two categories, either exempt commodities or non-exempt commodities.

1. Exempt Commodities. Exempt commodities are defined in R.S. 39:1572 as materials and supplies that will become component parts of any road, highway, bridge or appurtenance thereto. These commodities are exempt from central purchasing and regulations of the commissioner of administration, but nevertheless shall be subject to the requirements of the Louisiana Procurement Code and such regulations as may be promulgated by the secretary of the Department of Transportation and Development.

2. Non-Exempt Commodities. Non-exempt commodities are defined as materials and supplies that will not become component parts of any road, highway, bridge or appurtenance thereto. These commodities are subject to the requirements of the Louisiana Procurement Code and such regulations as may be promulgated by the commissioner of administration and shall be governed by the rules and regulations adopted by the director of state purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:607 (April 2003).

§303. Delegation of Purchasing Authority Set by the Director of State Purchasing

A. R.S. 39:1566 authorizes the director of state purchasing to delegate authority to any governmental body as deemed appropriate within the limitations of state law and the state procurement regulations. The director of state purchasing has set the delegated purchasing authority covering non-exempt commodities for the Department of Transportation and Development. The director of state purchasing has the authority to change or rescind the purchasing authority of the Department of Transportation and Development at any time.

B. In accordance with R.S. 39:1566 and the latest revision to the governor's executive order covering small purchases, the director of state purchasing has also set the delegated purchasing authority covering equipment repairs and/or parts to repair equipment. The director of state purchasing has the authority to change or rescind the purchasing authority of the Department of Transportation and Development which covers equipment repairs and parts to repair equipment at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:607 (April 2003).

§305. Delegation of Purchasing Authority Set by the DOTD Procurement Director

A. R.S. 39:1572 authorizes the Secretary of the Department of Transportation and Development to promulgate rules and regulations regarding the purchase of materials and supplies that will become a component part of any road, highway, bridge, or appurtenance thereto. The secretary has authorized the DOTD procurement director to set the delegated purchasing authority covering exempt commodities for each district and section within the Department of Transportation and Development. The DOTD procurement director has the authority to change or rescind the purchasing authority of any district or section at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:607 (April 2003).

§307. Non-Competitive Procurement

A. Purchases of less than $500 (or the amount set in the latest governor's executive order, whichever is higher) do not require competitive bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:608 (April 2003).

§309. Requests for Quotations Covering Non-Exempt Commodities

A. Purchases of non-exempt commodities having an estimated cost which exceeds the non-competitive dollar limit but which do not exceed the delegated purchasing authority of the department are referred to as "requests for quotations."

B. All requests for quotations covering non-exempt commodities which exceed the non-competitive dollar limit but do not exceed $2,000 (or the dollar limits listed in the latest governor's executive order, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by telephone, facsimile or other means to at least three bona fide, qualified bidders. Whenever possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

C. All requests for quotations covering non-exempt commodities having an estimated cost which exceeds $2,000 but which do not exceed $10,000, (or the dollar limits listed in the latest governor's executive order, whichever is higher)

shall be awarded on the basis of the lowest responsive price quotation solicited by facsimile or written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Facsimile quotations shall allow for bids to be accepted for a minimum period of five calendar days. Written solicitations shall allow for bids to be accepted for a minimum period of 10 calendar days. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions and basis of award.

D. All requests for quotations shall be publicly opened and read whenever interested parties are present at the bid opening.

E. Purchases of non-exempt commodities having an estimated cost which exceeds $10,000 (or the latest delegated purchasing authority, whichever is higher) are prepared and forwarded to the Office of State Purchasing for bid solicitation.

F. Requests for quotations for non-exempt commodities may also be referred to as "invitations for bids" throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:608 (April 2003).

§311. Requests for Quotations Covering Exempt Commodities

A. Purchases of exempt commodities having an estimated cost which exceeds the non-competitive dollar limit but which do not exceed $25,000 (or the latest revision to R.S. 48:205, whichever is higher) are also referred to as "requests for quotations."

B. All requests for quotations covering exempt commodities which exceed the non-competitive dollar limit but which do not exceed $2,000 (or the dollar limits listed in the latest governor's executive order, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by telephone, facsimile or other means to at least three bona fide, qualified bidders. Whenever possible, at least one of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

C. All requests for quotations covering exempt commodities having an estimated cost which exceeds $2,000 (or the dollar limit listed in the latest governor's executive order, whichever is higher) but which do not exceed $25,000 (or the latest revision to R.S. 48:205, whichever is higher) shall be awarded on the basis of the lowest responsive price quotation solicited by facsimile or written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be certified economically disadvantaged businesses. Facsimile quotations shall allow for bids to be accepted for a minimum period of five calendar days. Written solicitations shall allow for bids to be accepted for a minimum period of 10 calendar days. All facsimile or written solicitations shall include the bid closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

D. All requests for quotations shall be publicly opened and read whenever interested parties are present at the bid opening.

E. Purchase of exempt commodities having an estimated cost which exceeds $25,000 (or the latest revision to R.S. 48:205, whichever is higher) will be processed as sealed bids and shall be advertised in accordance with R.S. 48:205.

F. Request for quotations for exempt commodities may also be referred to as "invitation for bids" throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:608 (April 2003).

§313. Request for Sealed Bids Covering Exempt Commodities

A. Purchases of exempt commodities having an estimated cost which exceeds $25,000 (or the latest revision to R.S. 48:205, whichever is higher) are referred to as sealed bids.

B. All sealed bids shall be advertised in the Official Journal of the State. Advertisements shall be published not less than 10 days prior to the date set for opening the bids. In the event the purchase pertains to a particular parish, the advertisement shall also be published in a newspaper of general circulation printed in the parish. The published advertisement shall fix the exact place and time for presenting and opening of bids.

C. For bids over $25,000 (or the latest revision to R.S. 48:205, whichever is higher), a minimum of 21 days should be provided unless the DOTD procurement director or designee deems that a shorter time is necessary for a particular procurement. However, in no case shall the bidding time be less than 10 days unless the DOTD procurement director has declared the purchase to be an emergency.

D. Sealed bids shall be awarded on the basis of the lowest responsive price quotation solicited by written solicitation to at least five bona fide, qualified bidders. Whenever possible, at least two of the bona fide, qualified bidders shall be a certified economically disadvantaged business. All written solicitations shall include the bid closing date, time, and all pertinent specifications, including quantities, units of measure, packaging, delivery requirements, terms and conditions, and basis of award.

E. The practice of dividing proposed or needed purchases into separate installments for the purpose of evading the bid advertisement requirement is expressly prohibited.

F. Sealed bids shall be publicly opened on the bid opening day.

G. Bids will be publicly read whenever interested parties are present.

H. Sealed bids may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:609 (April 2003).

§315. Single Purchase or One-Time Purchase

A. A single purchase or a one-time purchase refers to a purchase for a specific quantity to be delivered in one shipment.

B. A single purchase or a one-time purchase may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:609 (April 2003).

§317. Term Contract

A. A term contract (also referred to as an indefinite quantity purchase) is a purchase by which a source of supply is established for a specific period of time. Term contracts are usually based on indefinite quantities to be ordered as needed, and no quantities are guaranteed. This type of contract can also be used to specify definite quantities with deliveries extended over the contract period.

B. Term contracts may contain an option for renewal or extension of the contract; however, this provision must be included in the bid solicitation. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at the discretion of the department only and shall be with the mutual agreement of the contractor.

C. A term contract or indefinite quantity purchase may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:609 (April 2003).

§319. Proprietary Purchase

A. A proprietary purchase is defined as a purchase that cites brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

B. Because use of a proprietary specification is restrictive, it may be used only when written documents verify and substantiate that only the identified brand name item or items will satisfy the needs of the department.

C. In order to declare a purchase a proprietary procurement, a "Justification For Sole Source or Proprietary Purchase" document must be submitted to the DOTD procurement director.

D. The use of a proprietary specification covering a non-exempt commodity requires approval of the DOTD procurement director and also requires the approval of the director of state purchasing if the purchase exceeds the delegated purchasing authority of the Department of Transportation and Development.

E. The use of a proprietary specification covering an exempt commodity requires approval of the DOTD procurement director.

F. The DOTD procurement section shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made as a sole source procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:609 (April 2003).

§321. Sole Source Procurement

A. A sole source procurement is the purchase of a required supply, service, or major repair without competition.

B. A sole source procurement is permissible only if the required supply, service, or major repair is available from only a single supplier.

C. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder, supplier or distributor for that item.

D. Examples of circumstances which could necessitate a sole source procurement:

1. compatibility of equipment, accessories, or replacement parts is the paramount consideration;

2. sole supplier's item is needed for trial use or testing.

E. In cases of reasonable doubt, competitive bids will be solicited.

F. Because use of a sole source procurement is restrictive, it may be used only when written documents verify and substantiate that only the identified brand name item or items will satisfy the needs of the department, and that there is only one single source.

G. In order to declare a purchase a sole source procurement, a "Justification For Sole Source or Proprietary Purchase" document must be submitted to the DOTD procurement director.

H. The request for a sole source procurement covering a non-exempt commodity requires approval of the DOTD procurement director and also requires the approval of the director of state purchasing if the purchase exceeds the delegated purchasing authority of the Department of Transportation and Development.

I. The request for a sole source procurement covering an exempt commodity requires approval of the DOTD procurement director.

J. The DOTD procurement director shall submit reports of all sole source purchases to the Office of State Purchasing upon their request. This report shall cover the preceding fiscal year and shall list the following:

1. contractor's name;

2. amount and type of contract;

3. list of the supplies, services or major repairs procured under the contract; and

4. contract number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:609 (April 2003).

§323. Emergency Purchase of Exempt Commodities

A. In order for the purchase of an exempt commodity to be declared an emergency purchase without solicitation of bids, the emergency must conform to the definition set forth in R.S. 48:207.

B. Purchases which conform to this definition are made in accordance with the Department's Policy and Procedure Memorandum No. 38 which states the internal procedures which must be followed before proceeding with an emergency purchase.

C. Prior to all emergency procurements of exempt commodities, the DOTD procurement director or designee shall approve the procurement if the emergency occurs during normal working hours. Facsimile requests for emergency procurement should be submitted to the DOTD procurement director if time permits, and must contain adequate justification for the emergency.

D. The procurement method used shall be selected so that required supplies, services, or major repair items are procured in time to meet the emergency. Given this constraint, such competition as is practicable should be obtained.

E. Any bid accepted shall be confirmed in writing.

F. The DOTD procurement director shall submit reports of all emergency purchases to the Office of State Purchasing upon request.

G. This report shall cover the preceding fiscal year and shall list the following:

1. contractor's name;

2. amount and type of contract;

3. the supplies services or major repairs procured under the contract;

4. the contract number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:610 (April 2003).

§325. Emergency Procurement of Non-Exempt Commodities

A. The provisions of this Section apply to every non-exempt procurement made under emergency conditions that will not permit other source selection methods to be used.

B. Emergency procurement shall be limited to only those supplies, services, or major repair items necessary to meet the emergency.

C. The Department of Transportation and Development is authorized to make emergency procurement of non-exempt commodities of up to $10,000 (or the delegated purchasing authority, whichever is higher) when an emergency condition arises and the need cannot be met through normal procurement methods.

D. Prior to all such emergency procurement of non-exempt commodities above the delegated purchasing authority, both the DOTD procurement director and the director of state purchasing shall approve the procurement. Facsimile requests for emergency procurement should be submitted to the DOTD procurement director if time permits, and must contain adequate justification for the emergency.

E. The source selection method used shall be selected to insure that the required supplies, services, or major repair items are procured in time to meet the emergency. Given this constraint, such competition as is practicable should be obtained.

F. Any bid accepted shall be confirmed in writing.

G. If emergency conditions exist as a result of an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:610 (April 2003).

§327. Goods Manufactured or Services Performed by Sheltered Workshops

A. R.S. 39:1595.4 provides in part that a preference shall be given by all governmental bodies in purchasing products and services from state operated or state supported sheltered workshops for persons with severe disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29:610 (April 2003).

§329. Purchase of Used or Demonstrator Equipment

A. R.S. 39:1645 authorizes the procurement of any equipment which is used or which has been previously purchased by an individual or corporation.

B. The DOTD procurement director must first determine that the procurement of said equipment is cost effective to the state.

C. After receiving the approval of the DOTD procurement director to proceed, the section or district will obtain a letter from the secretary of the Department of Transportation and Development certifying in writing to the director of state purchasing the following:

1. the price for which the used equipment may be obtained;

2. the plan for maintenance and repair of the equipment;

3. the cost of the equipment;

4. the savings that will accrue to the state because of the purchase of the used equipment;

5. the fact that following the procedures set out in the Louisiana Procurement Code will result in the loss of the opportunity to purchase the equipment.

D. If approved, the used equipment shall be purchased within the price range set by the director of state purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:611 (April 2003).

§331. Exclusive Statewide Contracts

A. If the Office of State Purchasing has entered into an exclusive statewide competitive contract for non-exempt commodities or services, the Department of Transportation and Development shall use such statewide competitive contracts when procuring such supplies or services unless given written exemption by the director of state purchasing.

B. A lower local price is not justification for exception.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:611 (April 2003).

§333. Non-Exclusive Statewide Contracts

A. If the Office of State Purchasing has entered into a non-exclusive contract for non-exempt commodities or services, the Department of Transportation and Development has the option of either using the contract or seeking competitive bids.

B. Non-exclusive contracts may be by-passed if the district or section can obtain the item at a better price or if the delivery time is more acceptable. Approval to by-pass a non-exclusive contract is not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:611 (April 2003).

§335. Brand Name Contracts

A. Brand name contracts are non-exclusive contracts entered into by the Office of State Purchasing. Because these contracts are not competitively bid, they are usually not considered cost effective.

B. The department also discourages the use of brand name products which come in concentrated form.

C. The only exception to the use of brand name contracts is computers and computer equipment which have been mandated by the DOTD Information Technology Director for approved usage. Purchases must be made against brand name contracts for this equipment if the item appears on the information technology approved list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:611 (April 2003).

§337. DOTD Contracts

A. DOTD contracts for exempt commodities are exclusive contracts entered into by the DOTD procurement section. Approval to by-pass a DOTD contract requires written approval from the DOTD procurement director and will only be approved in cases of emergency.

B. DOTD contracts may also be referred to as invitation for bids throughout this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:611 (April 2003).

§339. Cost-Plus-a-Percentage-of-Cost Contracts

A. The cost-plus-a-percentage-of-cost system of contracting shall not be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:611 (April 2003).

§341. Vendor Commodity Lists

A. Vendor commodity lists are maintained to provide the department with the names and addresses of businesses that may be interested in competing for various types of state contracts. Unless otherwise provided, inclusion or exclusion of the name of a business does not indicate whether the business is responsible with respect to a particular

procurement or otherwise capable of successfully performing the contract.

B. It shall be the responsibility of the bidder to confirm that his company is in the appropriate bid category.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:611 (April 2003).

§343. Qualified Products List

A. Qualified products lists have been developed by evaluating brands and models of various manufacturers of an item and listing those determined to be acceptable products. These qualified products lists have been developed by the DOTD Materials and Testing Laboratory when testing or examination of the supplies or major repair items prior to issuance of the solicitation is desirable or necessary in order to best satisfy the needs of the department.

B. When developing a qualified products list, the DOTD Materials and Testing Laboratory shall contact a representative group of potential suppliers soliciting products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer products for consideration.

C. Inclusion on a qualified products list shall be based on results of tests or examinations conducted by the DOTD Materials and Testing Laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:611 (April 2003).

§345. Availability of Funds

A. The continuation of a term contract which extends beyond the fiscal year is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of a contract, or if such appropriation is reduced by the veto of the governor or by any means provided in the Appropriations Act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:612 (April 2003).

§347. Bid Documents

A. All invitations for bids issued by the Department of Transportation and Development shall be solicited on the department's bid form and shall contain all pertinent information and shall be full and complete including, but not limited to, the following:

1. purchase description;
2. specifications;
3. special instructions and conditions;
4. instructions for submitting bids;
5. terms and conditions;
6. delivery requirements;
7. packaging;
8. bid evaluation and award criteria.

B. The bid solicitation may incorporate documents by reference, provided that the bid solicitation specifies where such documents can be obtained.

C. If any special conditions are to apply to a particular contract, they shall be included in the bid solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:612 (April 2003).

§349. Specifications

A. A specification is defined as any description of the physical, functional, or performance characteristics of a supply, service, or major repair item.

B. The specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or item for delivery.

C. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this rule.

D. The purpose of a specification is to serve as a basis for obtaining a supply, service, or major repair item adequate and suitable for the needs of the department in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition costs.

E. It is the policy of the Department of Transportation and Development that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the requirements of the department.

F. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or major repair item, or procurement from a sole source, unless no other manner of description will suffice. In that event, a written determination shall be made that it is not practicable to use a less restrictive specification.

G. It is the general policy of the Department of Transportation and Development to procure standard

commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided to the extent practicable.

H. Bid specifications may contemplate a fixed escalation or de-escalation in accordance with a recognized escalation index.

I. Specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection.

J. This Section applies to all persons who may prepare a specification for use by the Department of Transportation and Development, including consultants, architects, engineers, designers, and other draftsmen of specifications used for public contracts.

K. To the extent feasible, a specification may provide alternate descriptions of supplies, services, or major repair items where two or more design, functional, or performance criteria will satisfactorily meet the requirements of the Department of Transportation and Development.

L. Whenever a manufacturer's name, trade name, brand name, catalog number or approved equivalent is used in a solicitation, the use is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:612 (April 2003).

§351. Bid Samples and/or Descriptive Literature

A. Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, packaging or operation of an item which enables the department to consider whether the item meets its specifications and needs.

B. Bid sample means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

C. Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

D. If the invitation for bids states that either a sample or descriptive literature must be submitted with bid, the bid will be rejected if bidder fails to comply.

E. When the invitation for bids states that bidders may be required to submit a sample prior to award, the sample must be received by the deadline set at time of request. Failure to submit samples within the time allowed will result in disqualification or non-consideration of bid.

F. Requirements for Samples

1. When required, samples must be submitted free of expense to the department.

2. Samples shall be marked plainly with name and address of bidder and the purchase requisition number.

3. The bidder must state if he desires that the sample be returned after evaluation, provided that the sample has not been used or made useless through testing procedures. When requested, samples will be returned at bidder's risk and expense. Unsolicited bid samples will not be evaluated and will not be returned to the bidder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:613 (April 2003).

§353. New Products

A. Unless specifically called for in the invitation for bids, all products for purchase must be new, never previously used, and the current model and/or packaging. No remanufactured, demonstrator, used or irregular product will be considered for purchase unless otherwise specified in the invitation for bids.

B. The manufacturer's standard warranty will apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29:613 (April 2003).

§355. Brand Names

A. Unless otherwise specified in the invitation for bids, any manufacturer's name, trade name, brand name, or catalog number used in the solicitation is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:613 (April 2003).

§357. Product Acceptability

A. The invitation for bids shall set forth the evaluation criteria to be used in determining product acceptability. The invitation for bids may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for inspection or testing of a product prior to award for such characteristics as quality or workmanship.

B. Examination of the product to determine whether the product conforms with purchase description requirements, such as unit of measure or packaging, shall be performed. If a bidder changes the unit or packaging, the bid for the changed item shall be rejected.

C. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the invitation for bids. Any bidder's

offering which does not meet the acceptability requirements shall be rejected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:613 (April 2003).

§359. Estimated Quantities

A. Term contracts and/or indefinite quantity contracts contain no specific quantities given or guaranteed. Only such quantities as required by the department during the contract period will be ordered.

B. Estimated quantities are based on the previous contract usage or estimates. Where usage is not available, a quantity of one indicates a lack of history on the item.

C. The contractor must supply actual quantities ordered, whether the total of such quantities are more or less than the estimated quantities shown on the bid schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:613 (April 2003).

§361. Guarantee and Liability

A. The Department of Transportation and Development requires that all contractors submit to the following guarantees.

1. Guarantee that the supplies delivered are free from defects in design and construction.

2. Guarantee that the supplies are the manufacturer's standard design in construction and that no changes or substitutions have been made in the items listed in the contract.

3. Guarantee that the contractor holds and saves the Department of Transportation and Development, its officers, agents and employees harmless from liability of any kind, including cost and expenses on account of any patented or non-patented invention, articles, devices or appliances manufactured or used in the performance of any DOTD contract, including use by the government.

4. Guarantee to replace free of charge all defective equipment, materials or supplies delivered under the contract. All transportation charges covering return and replacement shall be paid by the contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:613 (April 2003).

§363. Pre-Bid Conferences Covering Exempt Commodities

A. Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an invitation for bids and shall be advertised in the Official Journal of the State if the estimated cost is over $25,000 (or the latest revision to R.S.48:205, whichever is higher).

B. The conference will be held after an interval following the issuance of invitation for bids in order to allow bidders to become familiar with the invitation, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids.

C. Nothing stated at the pre-bid conference shall change the invitation for bids unless an addendum is issued.

D. If the pre-bid conference requires mandatory attendance, bidders not attending the conference will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:614 (April 2003).

§365. Modifying Written Bid Solicitations

A. Addenda modifying written bid solicitations covering purchases above the non-competitive bid level shall not be issued within three working days prior to the scheduled bid opening date for the opening of bids, excluding Saturdays, Sundays and any other legal holidays.

B. If the necessity arises to issue an addendum modifying an invitation for bids within the three working day period prior to the bid opening date, then the opening of bids shall be extended exactly one week, without the requirement of re-advertising.

C. An addendum shall be sent to all prospective bidders known to have received an invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:614 (April 2003).

§367. Cancellation of Invitation for Bids

A. A solicitation may be canceled in whole or in part when the DOTD procurement director determines, in writing, that such action is in the best interest of the department, for reasons including, but not limited to the following:

1. the department no longer requires the supplies, services, or major repairs;

2. proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;

3. ambiguous or otherwise inadequate specifications were part of the solicitation;

4. the solicitation did not provide for consideration of all factors of significant cost to the state;

5. prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

6. all otherwise acceptable bids received are at unreasonable prices;

7. there is reason to believe that the bids or proposals may not have been independently calculated in open competition, may have been collusive, or may have been submitted in bad faith.

B. When a solicitation is canceled prior to the bid opening, a notice of cancellation shall be sent to all businesses solicited. The notice of cancellation shall:

1. identify the solicitation;

2. briefly explain the reason for cancellation;

3. where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar supplies, services, or major repairs.

C. The reasons for cancellation shall be made a part of the procurement file and shall be made available for public inspection.

D. If the solicitation is canceled prior to the bid opening, all bids will be returned to the bidders.

E. If the solicitation is canceled after the bid opening, all bids will be retained by the DOTD procurement section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:614 (April 2003).

§369. Modification or Withdrawal of Bids

A. Bids covering requests for quotations may be modified or withdrawn by written, telegraphic or fax notice received at the address designated in the invitation for bids prior to the time set for bid opening, as recorded by date stamp at the DOTD procurement section.

B. Bids covering sealed bids may only be modified if the modification is received in writing prior to the time set for bid opening, as recorded by date stamp at the DOTD procurement section. Telegraphic or fax modifications will not be accepted on a sealed bid.

C. A written request for the withdrawal of a bid or any part thereof will be granted if the request is received prior to the specified time of bid opening. If a bidder withdraws a bid prior to the bid opening, the bid document will be returned to the bidder.

D. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 29:614 (April 2003).

§371. Postponed Bid Openings

A. In the event that bids are scheduled to be opened on a day that is a federal holiday, or if the governor, by proclamation, creates an unscheduled holiday, or for any cause that creates a non-working day, bids scheduled to be opened on that day shall be opened on the next working day at the same address and time specified in the invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:614 (April 2003).

§373. Receipt, Opening and Recording of Bids

A. Upon receipt, all bids and modified bids will be time-stamped, but not opened. They shall be stored in a secure place until time for bid opening.

B. Bids and modified bids shall be publicly opened and publicly read at the time and place designated in the invitation for bids if prospective bidders attend the bid opening.

C. The names of the bidders and the bid price shall be read aloud or otherwise be made available and shall be recorded.

D. Bidders may attend the bid opening but no information or opinion concerning the ultimate award will be given at the bid opening or during the evaluation process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:615 (April 2003).

§375. Late Bids

A. Formal bids and addenda thereto, received at the address designated in the invitation for bids after the time specified for bid opening will not be considered, whether delayed in the mail or for any other causes whatsoever. In no case will late bids be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:615 (April 2003).

§377. Bid Results

A. Information pertaining to results of bids may be secured by visiting the Department of Transportation and Development during normal working hours, except weekends and holidays.

B. Written tabulations may be obtained by submitting a stamped self-addressed envelope with the bid.

C. Information pertaining to completed files may be secured by visiting the department during normal working hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:615 (April 2003).

§379. Rejection of Bids

A. All written bids, unless otherwise provided for, must be submitted on, and in accordance with, forms provided. Bids submitted in the following manner will not be accepted:

1. bid contains no signature indicating an intent to be bound;

2. a typed name without either a printed or written signature will not be accepted;

3. bid completed in pencil;

4. bids received after the bid opening time;

5. bids not submitted on the Department of Transportation and Development's bid form indicating an intent not to be bound by the department's special instructions and conditions;

6. bids which contain special conditions and terms which differ from the department's special instructions and conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:615 (April 2003).

§381. Mistakes in Bids

A. Bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under these regulations.

B. A request to withdraw a bid after the bid opening must be made within three business days after bid opening, and must be supported in writing.

C. Requests to withdraw a bid after three business days will be considered by the DOTD procurement director and the bidder may or may not be allowed to withdraw the bid based on the best interest of the Department of Transportation and Development.

D. Minor informalities are matters of form rather than substance which are evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders. The DOTD procurement director may waive such informalities or allow the bidder to correct them depending on which is in the best interest of the state. Examples include, but are not limited to:

1. failure to return the number of signed bids required by the invitation for bids;

2. failure to sign the bid, but only if the unsigned bid is accompanied by other signed material indicating the bidder's intent to be bound;

3. failure to sign or initial a write-over or correction in bid;

4. failure to get certification that a mandatory job-site visit was made;

5. failure to return non-mandatory pages of the bid proposal.

E. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn.

F. Some examples of mistakes that may be clearly evident on the face of the bid document are:

1. typographical errors;

2. errors in extending unit prices;

3. failure to return an addendum provided there is evidence that the addendum was received.

G. When an error is made in extending total prices, the unit bid price will govern.

H. Under no circumstances will a unit bid price be altered or corrected unless the bid price is clearly marked stating the unit of measure used. However, if the invitation for bids states that bids submitted in a different unit of measure will not be considered for award, the bid will be rejected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:615 (April 2003).

§383. Increase or Decrease in Quantities

A. Bidders must quote in the quantity shown on the invitation for bids.

B. Bidders increasing or decreasing quantity due to packaging will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:615 (April 2003).

§385. Alternate Bids

A. Any bidder quoting an alternate product which does not fully comply with the specifications contained in the invitation for bids must state in what respect the product deviates.

B. Failure to note exceptions on the bid form will be considered an indication that the product meets the specifications contained in the invitation for bids.

C. Bidders quoting an equivalent brand or model should submit with the bid information such as illustrations, descriptive literature and /or technical data sufficient for the Department of Transportation and Development to evaluate quality, suitability and compliance with the specifications.

D. Failure to submit descriptive information may cause bid to be rejected.

E. Any change made to a manufacturer's published specification submitted for a product should include verification by the manufacturer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:616 (April 2003).

§387. "All or None" Bids Covering Non-Exempt Commodities

A. Bidders may limit a bid on acceptance of the whole bid, whereupon the department shall not thereafter reject part of such bid and award on the remainder.

B. An award shall be made to the "all or none" bid only if it is the overall low bid on all items, or on those items bid.

C. The overall low bid shall be that bid whose total bid, including all items bid, is the lowest dollar amount; be it an individual bid or a computation of all low bids on individual items of those bids that are not conditioned "all or none."

D. When multiple items are contained on any solicitation and the department chooses to make a group award in order to save the department the cost of issuing another purchase order, an award may be made to a vendor already receiving a purchase order if the total bid for said item is $1,000 or less, and the total difference between the low bidder and the bidder receiving the award is $100 or less.

E. Bidders quoting "all or none" will not be considered for award if the invitation for bids specifically states that "all or none" bids will not be considered for award. The only exception to this is if the bidder is the low bidder on all items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:616 (April 2003).

§389. "All or None" Bids Covering Exempt Commodities

A. Bidders may limit a bid on acceptance of the whole bid, whereupon the department shall not thereafter reject part of such bid and award on the remainder.

B. When multiple items are contained on any solicitation and the department chooses to make a group award in order to save the department the cost of issuing another purchase order, an award may be made to a vendor already receiving a purchase order if the total bid for said item is $1,000 or less, and the total difference between the low bidder and the bidder receiving the award is $100 or less.

C. The decision to award on the basis of all of none or on individual items will be determined by the DOTD procurement director taking into consideration the best interest of the Department of Transportation and Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:616 (April 2003).

§391. Preferences

A. Preference in awarding contracts will be given for all types of products produced, manufactured, assembled, grown, or harvested in Louisiana in accordance with the Louisiana Procurement Code.

B. Preferences will not be considered in the award of service contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:616 (April 2003).

§393. Bid Prices

A. All bid prices shall remain firm for the contractual period.

B. Unit prices must not exceed four digits to the right of the decimal point. Unit prices submitted beyond four digits will be rounded off to the nearest fourth digit.

C. All bid prices quoted shall include all costs incidental to any license or patent that may be held by any company. The bidder agrees to hold the Department of Transportation and Development harmless from any claims, suits, costs or penalties for infringement or use of licensed or patented products.

D. Bid prices, unless otherwise specified, must be net including transportation and handling charges fully prepaid to destination. Bids containing C.O.D. requirements will not be considered for award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:616 (April 2003).

§395. Bids Binding

A. Unless otherwise specified, all invitations for bid shall be binding for a minimum of 30 calendar days. Nevertheless, if the lowest responsive and responsible bidder is willing to keep his price firm in excess of 30 days, the department may award to this bidder after this period has expired, or after the period specified in the bid has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:616 (April 2003).

§397. Taxes

A. Pursuant to Act 1029 of the 1991 Regular Session of the Louisiana Legislature, the state and any of its agencies, boards or commissions are exempt from the Louisiana State Sales and Use Taxes.

B. Vendors are responsible for including any other applicable taxes in the bid price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:616 (April 2003).

§399. Rejection of Bids

A. The Department of Transportation and Development reserves the right to reject any or all bids in whole or in part, waive any informalities, and to award by items, parts of items, or by any group of items specified and/or waive any informalities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:617 (April 2003).

§401. Bid Evaluation and Award

A. Contracts are awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

B. No bid shall be evaluated for any requirements or criteria that are not disclosed in the invitation for bids.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:617 (April 2003).

§403. Determination of Lowest Bidder

A. Following determination of product acceptability, bids will be evaluated to determine which bidder offers the lowest cost to the Department of Transportation and Development in accordance with the evaluation criteria set forth in the invitation for bids.

B. Only objectively measurable criteria which are set forth in the invitation for bids shall be applied in determining the lowest bidder. Evaluation factors shall treat all bids equitably.

C. A contract shall not be awarded to a bidder submitting a higher quality item than that required by the invitation for bids unless the bid is also the lowest bid meeting specifications. There shall be no negotiation with any bidder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:617 (April 2003).

§405. Tie Bids

A. Tie bids are defined as low responsive bids from responsible bidders that are identical in price and which meet all requirements and criteria set forth in the invitation for bids.

B. Resident businesses shall receive preference over nonresident businesses where there is a tie bid and where there will be no sacrifice or loss of quality.

C. A written determination justifying the manner of award must be made a part of the file. This would include, but is not limited to consideration of such factors as:

1. resident business;
2. proximity;
3. past performance;
4. delivery;
5. completeness of bid proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:617 (April 2003).

§407. Discounts

A. Discounts will be considered in determining low bidder on one-time purchases or definite quantity purchases if the discount is at least 1 percent for a minimum of 30 days.

B. In the event the discount is for less than 1 percent or less than 30 days, the discount will be taken but will not be a determining factor in the bid evaluation.

C. Discounts will not be considered in determining low bidder on term contracts or indefinite quantity purchases.

D. Discounts will be taken but will not be a determining factor in the bid evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:617 (April 2003).

§409. Standards of Responsibility

A. A responsible bidder is a company or person who has the capability in all respects to perform fully the contract requirements, and which has the integrity and reliability which will assure good faith performance.

B. Capability, as used in this rule, means capability at the time of award of the contract, unless otherwise specified in the invitation for bids.

C. Factors to be considered in determining whether the standard of responsibility has been met include, but are not limited to, whether a prospective contractor has the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain

them, necessary to indicate capability of meeting all contractual requirements.

D. The prospective contractor shall supply information requested concerning the responsibility of such contractor.

E. If such contractor fails to supply the requested information, the DOTD procurement director shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsive.

F. Before awarding a contract, the procurement officer must be satisfied that the prospective contractor is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:617 (April 2003).

§411. Signatory Authority

A. By signing a bid form, the bidder certifies that the bid is made without collusion or fraud.

B. In accordance with R.S.39:1594, the person signing the bid must be:

1. a current corporate officer, partnership member or other individual specifically authorized to submit a bid as reflected in the appropriate records on file with the Secretary of State; or

2. an individual authorized to bind the vendor as reflected by an accompanying corporation resolution, certificate or affidavit; or

3. an individual listed on the State of Louisiana Bidder's Application as authorized to execute bids.

C. Evidence of authority to submit the bid shall be required in accordance with R.S. 39:1594(C)(4).

D. By signing the bid, the bidder certifies compliance with the provisions listed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:617 (April 2003).

§413. Documentation of Award

A. Following award, all files shall contain documentation including, but not limited to, the following:

1. a list of all solicited bidders;

2. a list of all bids received;

3. the bid tabulation; and

4. the basis of award.

B. In the event that the low bidder was by-passed and the award was made to a higher bidder, the file shall contain documentation that states the reason for the rejection of the lower bid.

C. If no bid was solicited from a certified economically disadvantaged business, the file shall contain an explanation of why such a bid was not solicited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:618 (April 2003).

§415. Insurance Requirements

A. Any contractor performing any service on any premises of the Department of Transportation and Development must furnish proof of:

1. public liability insurance;

2. property damage insurance;

3. workmen's compensation insurance; and

4. automobile public liability insurance, if applicable before work can commence.

B. The certificates of insurance, issued by a company licensed to do business in the state of Louisiana, must be furnished within 10 days after notification of award.

C. The contractor shall not suspend, void, cancel or reduce the coverage or limits of any of the required insurance while the contract is in effect. In the event of any such occurrence, the DOTD procurement director must be immediately notified and acceptable alternate coverage must be furnished.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:618 (April 2003).

§417. Workman's Compensation Insurance

A. If applicable, contractors and subcontractors shall secure and maintain workman's compensation insurance for all of their employees employed at the site of a project.

B. In case any class of employees is engaged in hazardous work as defined by the Workman's Compensation Statute, the contractor and subcontractor shall provide employer's liability insurance for the protection of their employees not otherwise protected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:618 (April 2003).

§419. Public Liability and Property Damage Insurance

A. If applicable, contractors and subcontractors shall secure and maintain comprehensive public general liability insurance, including but not limited to:

1. bodily injury;

2. property damage;

3. contractual liability;

4. products liability; and

5. owner's protective liability, with combined single limits of $500,000 per occurrence with a minimum aggregate of $1,000,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:618 (April 2003).

§421. Automobile Public Liability Insurance

A. If applicable, contractors and subcontractors shall take and maintain automobile public liability insurance in an amount not less than combined single limits of $500,000 per occurrence for bodily injury and/or property damage.

B. If any non-licensed motor vehicles are engaged in operations at a Department of Transportation and Development jobsite, such insurance shall cover the use of all such motor vehicles engaged in operating within the terms of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:618 (April 2003).

§423. Performance Bond

A. When specified in the invitation for bids, a performance bond made payable to the Department of Transportation and Development must be submitted prior to award.

B. Failure to submit a performance bond within the time allowed will result in disqualification or non-consideration of the bid.

C. Performance bonds shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the Federal Register, or by a Louisiana domiciled insurance company with at least an "A-" rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to 10 percent of policyholders' surplus as shown in the A.M. Best's Key Rating Guide.

D. No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U.S. Department of the Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an "A-" rating by A.M. Best up to a limit of 10 percent of policyholders' surplus as shown by A.M. Best; companies authorized by this Paragraph who are not on the Treasury List shall not write a performance bond when the penalty exceeds 15 percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Louisiana Department of Insurance.

E. The requirement of a performance bond cannot be waived. The conditions of the performance bond shall provide that failure to meet delivery requirements and specifications shall constitute a forfeiture of said bond to the extent of loss suffered by the department or shall constitute a forfeiture of said bond to the extent required to enable the Department of Transportation and Development to meet the requirements of the contract hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:618 (April 2003).

§425. Deliveries

A. Any extension of time on delivery or project completion time must be requested in writing by the vendor and accepted or rejected in writing by the DOTD procurement director.

B. Such extension is applicable only to the particular item or shipment affected.

C. No delivery charges shall be added to invoices except when express delivery is requested by the DOTD procurement director and is substituted on an order for less expensive methods specified in the contract. In such cases, when requested by the DOTD procurement director, the difference between freight or mail and express charges may be added to the invoice.

D. The Department of Transportation and Development reserves the right to weigh shipments if deemed appropriate.

E. Deliveries shall be subject to reweighing on official scales designated by the department.

F. Payments shall be made on the basis of net weight of materials delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:619 (April 2003).

§427. Invoices

A. Upon each delivery and its acceptance by the department, the contractor shall bill the department by means of an invoice and such invoice shall make reference to the purchase order number on which delivery was made.

B. At the time of delivery, the contractor is to make a delivery ticket on his own form showing:

1. complete description;

2. the exact quantity delivered;

3. price;

4. extension; and

5. purchase order number.

C. Invoices shall be submitted by the contractor in triplicate directly to the address shown on the purchase order.

D. Invoice price must agree with contract price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:619 (April 2003).

§429. Payment

A. After receipt and acceptance of order and receipt of valid invoice, payment will be made by the Department of Transportation and Development within the discount period or within 30 calendar days from receipt of correct invoice.

B. If contractor proposes a discount, the discount period will start from receipt of correct invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:619 (April 2003).

§431. Default of Contractor

A. Failure to deliver within the time specified in the invitation for bids will constitute a default and may cause cancellation of the contract.

B. If the contractor is considered to be in default, the Department of Transportation and Development reserves the right to purchase any or all products or services covered by the contract on the open market and to charge the contractor with costs in excess of the contract price.

C. Until such assessed charges have been paid, no subsequent bid from the defaulting contractor will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:619 (April 2003).

§433. Assignments

A. No contract or purchase order or proceeds thereof may be assigned, sublet or transferred without a written request from the contractor.

B. Contractors are required to submit an "assignment of proceeds of contract" document and an "assignment of contract" document to the DOTD procurement director.

C. If the contract covers an exempt commodity, the assignment must be approved by the DOTD procurement director.

D. If the contract covers a non-exempt commodity, the assignment must be approved by the director of state purchasing and the commissioner of administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:619 (April 2003).

§435. Reduction in Contract Price

A. The Department of Transportation and Development cannot accept a reduction in price on any non-exempt commodity contract unless the price reduction is offered to all state agencies using the contract.

B. The Department of Transportation and Development reserves the right to accept a reduction in price on any exempt commodity contract if it is considered in the best interest of the department.

C. Inspection of Facilities Contracts entered into by the Department of Transportation and Development may provide that the state may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or after award, to contract requirements, and are therefore acceptable.

D. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract and shall be performed so as not to unduly delay the work of the contractor or subcontractor.

E. No inspector may change any provision of the specifications or the contract without written authorization of the DOTD procurement director. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

F. When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:619 (April 2003).

§437. Audit of Records

A. The state may enter a contractor's or subcontractor's plant or place of business to:

1. audit cost or pricing data; or

2. audit the books and records of any contractor or subcontractor;

3. investigate in connection with an action to debar; or

4. suspend a person from consideration for award of contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:620 (April 2003).

§439. Contract Renewal

A. When a contract contains an option for renewal clause, notice of such provision shall be included in the solicitation.

B. When such a contract is awarded by competitive sealed bidding, exercise of the option shall be at the department's discretion only, and shall be with the mutual agreement of the Department of Transportation and Development and the contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:620 (April 2003).

§441. Exercise of Renewal Option

A. Before exercising any option for renewal, the DOTD procurement director or designee shall attempt to ascertain whether a re-solicitation is practical.

B. Factors to be considered include but are not limited to:

1. current market conditions;

2. trends;

3. cost factors;

4. price comparisons with similar service in other states; and

5. various other factors as determined by the DOTD procurement director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:620 (April 2003).

§443. Termination of Contract

A. The Department of Transportation and Development reserves the right to terminate any contract prior to the end of the contract period upon providing a 10 day written notice to the contractor for:

1. failure to deliver within the time specified in the contract;

2. failure of the product or service to meet specifications;

3. failure to conform to sample quality;

4. failure to be delivered in good condition;

5. unsatisfactory performance;

6. unsatisfactory delivery;

7. unsatisfactory service;

8. misrepresentation by the contractor;

9. fraud;

10. collusion;

11. conspiracy or other unlawful means of obtaining contract;

12. conflict of contract provisions with constitutional or statutory provisions of state or federal law;

13. breach of contract; or

14. if termination is in the best interest of the department.

B. Should the contractor find that due to increase in price or lack of product availability an order cannot be filled, the contractor must submit a request for cancellation to the DOTD procurement director.

C. The DOTD procurement director will make a determination as to whether the contract will be cancelled based upon the reasons sited in the request.

D. All orders delivered prior to the effective date of such termination shall be paid for by the department in accordance with the terms of the contract, whereupon all obligations of both parties to the contract shall cease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:620 (April 2003).

§445. Debarment

A. This Section applies to a debarment or suspension for cause from consideration for award of contracts where there is probable cause for such action.

B. After reasonable notice to the party involved, the appropriate chief procurement officer shall have authority to suspend or debar a party for cause.

C. The DOTD procurement director serves as the hearing officer for exempt commodities, and the director of state purchasing serves as the hearing officer for non-exempt commodities.

D. Should the party involved desire a formal hearing, he shall, within five days of receipt of the notice referred to Subsection B, inform the chief procurement officer in writing of said desire.

E. Formal hearings will be conducted pursuant to the provisions of Title 49, Chapter 13 of the Louisiana Revised Statutes.

F. Within 14 days after the date of mailing of the notice referred to in Subsection B, the chief procurement officer will issue a written decision stating the reasons for the action taken and informing the party, aggrieved person or interested person of the right to administrative review and thereafter judicial review, where applicable.

G. A copy of the decision or order shall be mailed or otherwise furnished to all interested parties.

H. Appeals from a suspension or debarment decision must be filed with the commissioner of administration within 14 days of the receipt of the decision.

I. The commissioner shall decide within 14 days whether, or the extent to which, the debarment or suspension was in accordance with the constitution, statutes, regulations, and the best interest of the state, and was fair.

J. The decision of the commissioner of administration on the appeal shall be final and conclusive unless:

1. the decision is fraudulent; or

2. the debarred or suspended party has timely appealed to the court in accordance with R.S. 39:1691(B).

K. The filing of the petition in the Nineteenth Judicial District Court shall not stay the decision of the commissioner of administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:620 (April 2003).

§447. Protest of Bid Solicitation or Award

A. In accordance with R.S. 39:1671, any person who is aggrieved in connection with the solicitation, award, or issuance of written notice of intent to award may protest to the chief procurement officer.

B. The chief procurement officer for exempt commodities is the DOTD procurement director and the chief procurement officer for non-exempt commodities is the director of state purchasing.

C. Protests with respect to a solicitation shall be submitted in writing at least two days prior to the opening of bids.

D. In the event of protest, the chief procurement officer will suspend the bid opening until a decision on the protest has been determined.

E. Protests with respect to the award of a contract or the issuance of written notice of intent to award a contract shall be submitted in writing within 14 days after contract award.

F. In the event of protest, the chief procurement officer will issue a stay until a decision on the protest has been determined.

G. Within 14 days of receipt of protest, the chief procurement officer shall issue a written decision stating the reasons for the action taken and informing the party, aggrieved person, or interested person of the right to administrative review and thereafter judicial review where applicable.

H. An aggrieved person or an interested person must appeal to the commissioner of administration within seven days of receipt of the decision of the chief procurement officer.

I. The commissioner of administration shall decide within 14 days whether the solicitation or award or intent to award was in accordance with the constitution, statutes, regulations and the terms and conditions of the solicitation.

J. The decision of the commissioner of administration on the appeal shall be final and conclusive unless:

1. the decision is fraudulent; or

2. the person adversely affected by the decision of the commissioner of administration has timely appealed to the court in accordance with R.S. 39:1691.

K. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a bidder or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1551-1736 and 48:204-210.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Purchasing, LR 8:148 (March 1982), amended LR 29:621 (April 2003).

Title 70
TRANSPORTATION
Part XXV. Ferry Operations

Chapter 1. Toll Collections

§101. Applicability

A. This Part shall apply to all ferries owned and operated by the Department of Transportation and Development (DOTD) within the state of Louisiana, including but not limited to, ferries operating in the metropolitan New Orleans area. The metropolitan New Orleans area ferries currently consist of those ferries, when in operation, that cross at the following locations:

1. Lower Algiers/Chalmette (Chalmette ferry);
2. Algiers Point/Canal Street ferry;
3. Gretna/Canal Street ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:2597 (December 2014).

§103. Ferry Toll Charges

A. Tolls will be collected from only one side of the ferry landings.

B. Except as provided in Subsection D of this Section, the following toll charges shall apply to all ferries operated by DOTD.

Ferry Toll Classification Rate Schedule	
	Toll
Each Pedestrian	$ 0.50
Each Vehicle	$ 1.00

C. Each vehicle, its owner or operator, and all occupants of such vehicle shall be jointly and solidarily liable for the payment of the ferry tolls.

D. Notwithstanding any other provision to the contrary, if DOTD enters into a cooperative endeavor agreement with a political subdivision of the state for the continued operation of the Chalmette ferry, the political subdivision and its ferry service contractor shall use best practices to operate and manage ferry service and to establish and collect ferry fares.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48.25 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:2597 (December 2014).

§105. Exemptions

A. Unless otherwise indicated, the following exemptions from payments of tolls shall be applicable to ferry passengers using DOTD ferries, including ferries operating in the metropolitan New Orleans area.

1. Students. Students attending a school, including universities, colleges, and secondary schools, shall have free passage during the hours of 6 a.m.-9:30 a.m., and 2:30 p.m.-9:30 p.m., for the purpose of traveling to and from school.

a. Procedures for Students

i. For all DOTD operated ferries, the appropriate school official, the registrar of the college or university attended by the student, or the principal, headmaster, or administrator of the school attended by the student, shall provide DOTD with a letter certifying that the student is enrolled at the school and the length of the school year and mail same to the DOTD annex building located at 1212 E. Highway Drive, Baton Rouge, LA 70802, certifying that the student is enrolled at the school and the length of the school year.

ii. Upon approval, the student will receive a student pass for free passage.

iii. Lost, stolen, or damaged vehicle passes will not be replaced.

iv. Loss of Privilege. Any prohibited use of student vehicle passes will result in the loss of the privilege to obtain and use passes and toll tags and any other remedy provided by law.

v. Student exemptions shall expire with each school year.

2. School Buses. All easily identified and clearly marked school buses shall be exempt from the payment of tolls. This exemption shall include publicly-owned school buses, school buses carrying public students under contract, parochial school buses, and private school buses funded in a fashion that allows them to publicly display "school bus" thereon or identified in a like fashion.

3. Militia. Any person belonging to the organized militia of the state who is in uniform or presents an order for duty shall be allowed free passage for himself, his conveyance, and the military property of the state in his charge, on ferries while going to, engaged in, or returning from any parade, drill, or meeting which he is required to attend, or upon being called to, engaging in, or returning from any active state duty ordered by the governor.

4. Disabled Veterans. A disabled American veteran who provides proper identification shall be allowed free passage for himself, his conveyance, and his passengers. This exemption shall not apply to the Algiers Point/Canal Street ferry.

5. Firemen/Volunteer Firemen. Firemen as defined in R.S. 33:1991(A) shall have free and unhampered passage on and over toll bridges and ferries in this state, regardless of whether the firemen are in uniform or in civilian clothes, when the firemen are performing firefighting or related duties. For purposes of this Rule, "related duties" shall include traversing to and from their place of employment. Volunteer firemen as defined in R.S. 33:1975(B) shall have free and unhampered passage on and over toll bridges and ferries in this state only when such firemen are performing official firefighting or fire prevention services.

a. Procedures

i. Firemen and volunteer firemen wishing to obtain free passage over any ferry shall present a picture identification card for inspection by the toll collector. The identification card must be issued by the municipality, parish or district as referred to in R.S. 33:1991(A).

ii. Fireman and volunteer fireman shall be required to sign a register at the ferry station and shall provide the name of the agency, municipality, parish or district for which they are employed or engaged.

iii. Off-duty firemen are not exempt unless, as part of the off duty employee's official duties, he or she is on call for immediate duty.

6. Law Enforcement Personnel. Free passage shall be granted to all law enforcement personnel employed by a law enforcement agency on a full-time basis when operating law enforcement agency equipment.

a. Law enforcement agency means any agency of the state or its political subdivisions and the federal government, responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state or similar federal laws and who are employed in this state. This exemption does not apply to officers who serve in a voluntary capacity or as honorary officers.

b. Agencies eligible for this exemption shall include the Louisiana State Police, enforcement division agents of the Louisiana Department of Wildlife and Fisheries, sheriff departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and United States law enforcement agencies such as United States Secret Service, the United States Marshal Service, United States Customs and Border Protection, and the Federal Bureau of Investigation if employed within Louisiana.

c. Law enforcement personnel wishing to gain free passage on ferries must sign a register at the toll collections site and must produce picture identification.

7. All emergency vehicles performing a public service that permits them, under existing laws and regulations, to display emergency vehicle lights in order to carry out police, fire and ambulance functions in accordance with the laws relative thereto, when such lights are in actual use. This exemption shall also apply to emergency vehicles privately owned but entitled to such public emergency usage. This exemption shall not apply to those vehicles operated by off duty personnel unless, as part of the off duty employee's official duties, he or she is on call for immediate duty.

8. Youth Groups. In accordance with R.S. 48:999, members of the Boy Scouts of America, the Girls Scouts of America, and Camp Fire Girls, when assembled in uniform in a parade or group consisting of not less than fifteen and under the supervision of a scout master or other responsible person, shall have free and unhampered passage at all times. This exemption shall not apply to ferries operating under contract with the Department of Transportation and Development.

9. Parish Employees. In accordance with R.S. 48:1000, all employees of parish governing authorities in official parish governing authority vehicles in their passage to and from work, or on an official project of the parish governing authority, shall be exempt from the payment of ferry tolls provided the ferry landings are located in the same parish and leased or controlled by the state. This exemption shall not apply to ferries operating under contract with the Department of Transportation and Development.

10. DOTD official vehicles displaying the DOTD logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:157, R.S. 17:158, R.S. 29:27, R.S. 33:1975, R.S. 40:1392, R.S. 48:999, and R.S. 48:1000.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:2598 (December 2014).

Title 70
TRANSPORTATION
Part XXVII. Louisiana Transportation Research Center (LTRC)

Chapter 1. LTRC Transportation Training and Education Fund

§101. General Provisions

A. All fees collected shall be deposited in the fund or disbursed from the fund as provided in R.S. 48:105.1 and in the following rules.

B. All monies deposited in the fund in compliance with the statute shall be used to defray the expenses associated with workforce development activities of the Louisiana Transportation Research Center (LTRC) and LTRC's Transportation and Training Education Center (TTEC).

C. Allowable expenses include (but are not limited to):

1. course development and delivery costs for courses organized and managed by LTRC;

2. direct workforce development training costs, such as reimbursement for events or courses organized and managed by LTRC;

3. maintenance and upkeep of the TTEC building not funded by Louisiana State University;

4. maintenance, upkeep, upgrade, or replacement of the audio visual equipment, to include all software and hardware used by LTRC for workforce development activities, such as classes, conferences, meetings, etc.;

5. purchase, maintenance, upkeep, upgrade, or replacement of computer equipment, including peripherals, used in the development and dissemination of training materials used for workforce development;

6. supplies and other items purchased in direct support of workforce development activities.

D. Prohibited expenses include:

1. purchase of supplies not directly related to workforce development activities;

2. any and all travel expenses;

3. individual membership dues to professional organizations;

4. conference/meeting/training registration fees;

5. any form of personal use, such as cash advances, gifts, entertainment-related expenses;

6. alcohol.

E. Authorized Account Agents

1. Signatory authority for the fund will be the same as that authority granted for department individuals to sign contracts.

2. The chief engineer of the department will have authority to disburse funds in single transaction amounts not to exceed $50,000.

3. The Director of LTRC will have authority to disburse funds in single transaction amounts not to exceed $20,000.

4. The Associate Director of Training for LTRC will have authority to disburse funds in single transaction amounts not to exceed $2,000.

F. Fund Accounting

1. Standard accounting procedures will be administered by the LTRC Business Office.

2. The LTRC Business Office duties will include preparation of monthly reconciliation reports to be approved by the LTRC Associate Director of Training.

3. The LTRC Business Office will serve as technical advisor for accounting matters associated with this fund.

G. Ethics

1. Agents authorized to collect and disburse funds from the account must comply with the regulations relative to ethical conduct under the Code of Governmental Ethics, Chapter 15 of Title 42 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated by the Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, pursuant to R.S. 48:105.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, LR 37:254 (January 2011).

§103. Calculation of Fees

A. Governmental attendees shall be charged the actual cost of the program attended.

B. Non-governmental attendees shall be charged the actual cost of the program plus a 66 percent surcharge (approximate).

AUTHORITY NOTE: Promulgated by Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, pursuant to R.S. 48:105.1.

HISTORICAL NOTE: Promulgated by Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, LR 37:354 (January 2011).

Title 70
TRANSPORTATION
Part XXIX. Information Technology

Chapter 1. Geospatial Database

§101. Purpose

A. The purpose of the Geospatial Database is to provide standards to facilitate and integrate the collection of geospatial data by state, local, and federal agencies, to be maintained by the department in the statewide geospatial database of Louisiana. To establish the geographic features that create a common base map for geospatial data analysis that support official state business and to be used by state government when representing or analyzing its business data using geographic information systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:36.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 39:1058 (April 2013).

§103. Definitions

Base Map—a collection of one or more geospatial data layers that form the background of a cartographic presentation or form the basis for a geospatial data analysis.

Business Data—data (geospatial or otherwise) collected, purchased, developed, or maintained by an organization for the purposes of performing its work or accomplishing its mission(s).

Cartographic Presentation—the process of depicting or rendering geospatial data. This may include the production of paper maps, digital maps, websites, or other means of visualizing geospatial data.

Data Layer—a spatially integrated, areally distributed set of spatial data, usually representing one theme (water, transportation, etc.) or having a common set of attributes among spatial objects.

Department—the Louisiana Department of Transportation and Development.

Geographic Information System (GIS)—an integrated collection of computer software and data used to view and manage information about geographic places, analyze spatial relationships, and model spatial processes. A GIS provides a framework for collecting and organizing spatial data and related information so that it can be analyzed and displayed.

Geospatial—refers to the identification of the geographic location and characteristics of a feature on the earth. This information may be derived from, among other things, remote sensing, mapping, and surveying technologies. This also refers to approaches such as GIS for manipulating geographic data.

Geospatial Database—digital database containing information that identifies and incorporates the geographic location and characteristics of features on the earth and the metadata that describes them. This information may be derived from various sources, including GIS, GPS, remote sensing, mapping, and surveying technologies.

Mapping—the process, methods, and techniques of creating digital geospatial data from source material. The source may be derived from surveying, aerial photography, remote sensing data, or global positioning systems (GPS).

Metadata—data describing the content, quality, condition, and other characteristics of a dataset. Various metadata standards exist for different types of data. The geospatial metadata standard shall be as specified by the Federal Geographic Data Committee (FGDC) and posted on their website (http://www.fgdc.gov/metadata).

Raster Data—the representation of geospatial objects as collections of elements represented as rows and columns of data spaced apart from each other, usually on an equal linear interval in the x and y directions. Raster data can only represent data as accurately as the x and y dimensions of each cell will support.

Statewide Geodatabase of Louisiana—a digital database that contains the official geospatial data of Louisiana. These data represent statewide coverage of the topographic map features of Louisiana and are intended to provide consistent geographic data for use in geospatial analysis, cartographic presentation, and mapping for the state.

Vector Data—the representation of geospatial objects as sets of points, lines, or polygons. Lines can accurately represent linear features or edges of polygon features to the level of accuracy that is supported by the scale of the source data and the data collection technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:36.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 39:1058 (April 2013).

§105. Department Responsibilities

A. The department shall create, maintain, and manage a geospatial database which will include data layers consisting of, but not limited to:

1. elevation and bathymetry;
2. transportation;
3. hydrography (water features);
4. boundaries;

5. land cover (vegetation);

6. land use;

7. structures (buildings and other infrastructure);

8. public land survey system (PLSS); and

9. geographic names.

B. The department shall manage the Geospatial Database of Louisiana.

C. The department shall establish standard formats, metadata, and other requirements for the database.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:36.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 39:1058 (April 2013).

§107. Data Layer Descriptions and Features

A. Elevation and Bathymetry

1. General Description

a. Elevation is the altitude, with reference to mean sea level (MSL) of the land surface. Bathymetry is the depth to bottom of a waterbody, with respect to MSL.

2. Feature Standards

a. The North American Vertical Datum of 1988 (NAVD1988) shall be the official datum for representing elevation and bathymetry. This will remain the standard until replaced by the by the National Oceanic and Atmospheric Administration-National Geodetic Survey (NOAA-NGS).

b. Standards for elevation data will be as specified by The National Map National Elevation Dataset Program of the U.S. Geological Survey, as published on their website (http://ned.usgs.gov).

c. Digital elevation models (DEM) represent elevation as a raster (rows and columns) of elevations at a specified interval. The standards for creating these raster datasets are published by the USGS National Elevation Program (http://nationalmap.gov/standards/demstds.html).

d. Hypsography (elevation represented as contours) shall be derived from elevation data meeting the standards specified above and produced using the standards for topographic mapping established by the U.S. Geological Survey (http://nationalmap.gov/standards/qmapstds.html).

e. Bathymetry, whether represented as a raster, point locations, or contours, must conform to the standards developed by the NOAA-NGS and published in their hydrographic surveys specifications and deliverables document (http://www.nauticalcharts.noaa.gov/hsd/specs/specs.htm).

B. Transportation

1. General Description

a. Transportation refers to the features that represent roads, railroads, pipelines, and other means of conveyance of persons or commodities, whether by vehicle or other means.

2. Feature Standards

a. The transportation layer shall follow the standards of the Louisiana Department of Transportation and Development, as modified from the U.S. Bureau of the Census, TIGER data specification (http://www.fgdc.gov/standards/projects/FGDC-standards-projects/framework-data-standard/GI_Framework Data Standard_Part7_Transportation_Base.pdf).

C. Hydrography

1. General Description

a. Linear and aerial surface water features, including:

i. streams;

ii. rivers;

iii. bayous;

iv. lakes;

v. ponds; and

vi. all areal water bodies.

2. Feature Standards

a. The standard for water features shall be the national hydrography dataset (NHD). This is the surface water component of the national map designed to be used for mapping and in the analysis of surface-water systems by the federal government. The standards are maintained by the USGS NHD Program (http://nhd.usgs.gov).

D. Boundaries

1. General Description

a. Boundaries consist of features such as legal and administrative boundaries (parishes, cities, etc.). These represent the delineation of official boundaries, but do not necessarily constitute the legal, surveyed boundary of an entity.

2. Feature Standards

a. Feature standards will follow those established by the USGS The National Map Program (http://nationalmap.gov/standards/qmapstds.html). All boundary changes and updates will be coordinates with the U.S. Census Boundary and Annexation Survey.

E. Land Cover and Land Use

1. General Description

a. Land cover constitutes the natural vegetative cover on the earth's surface (forest, water, open space, grassland, etc.). Land use is the manmade designations for an area. These include such features as urban or urbanized areas.

2. Feature Standards

a. Shall follow those established by the USGS The National Map Program (http://nationalmap.gov/standards/qmapstds.html).

F. Structures

1. General Description

a. Structures consist of features such as significant buildings, critical infrastructure, and other manmade structures.

2. Feature Standards

a. Shall follow those established by the USGS The National Map Program (http://nationalmap.gov/standards/qmapstds.html).

G. Public Land Survey System (PLSS)

1. General Description

a. PLSS is comprised of the surveyed townships, sections, and section corners established by the federal Land Ordinance of 1785, which provided for the systematic survey and monumentation of public domain lands, and the Northwest Ordinance of 1787. Features in this layer represent the survey results that conform to the standards set forth in The Manual of Instructions for the Survey of the Public Lands of The United States (1973), available from the U.S. Department of the Interior, Bureau of Land Management (http://www.blm.gov/cadastral/Manual/73man/id1.htm).

2. Feature standards:

a. shall follow those established by the U.S. Department of the Interior, Bureau of Land Management http://www.geocommunicator.gov/GeoComm/lsis_home/home/index.htm).

H. Geographic Names

1. General Description

a. The names of features on official maps and in geospatial databases with the purpose to maintain uniform feature name usage throughout state and local government and to provide standard names to the public.

2. Feature Standards

a. Shall be established using the Geographic Names Information System (GNIS), the federal standard for geographic nomenclature. The USGS developed the GNIS for the U.S. Board on Geographic Names (http://geonames.usgs.gov).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:36.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 39:1059 (April 2013).

§109. Database

A. The database shall serve as:

1. a repository for the data layers contained in §105 and as described in §107;

2. a standard source for authoritative geospatial information for carrying out official business by all state agencies; and

3. the standard source for base map geospatial information of the common operational picture (COP) for all state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:36.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 39:1060 (April 2013).

§111. Liability Disclaimer

A. The department shall not be liable to any person, entity or third party as the result of the use of information by any person, entity or third party of the information and data contained in the Geospatial Database of Louisiana; nor does the department warrant or guarantee the accuracy of any of the information and data contained in the Geospatial Database of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:36.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 39:1060 (April 2013).

§113. Geographic Names

A. The department shall act as the authority for all geographic names.

B. Geographic names shall be consistent with the standards established by the Geographic Names Information System (GNIS), established by the U.S. Board of Geographic Names (http://geonames.usgs.gov).

C. The department, through its IT GIS manager, will work with state agencies, political subdivisions, other governmental entities, and local authoritative entities within the state to establish a uniform use of geographic names.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:36.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 39:1060 (April 2013).

§115. Availability

A. The department will make available its geospatial information system (GIS) services and data to all state agencies, the federal government, political subdivisions of the state, and private persons. As each data layer is developed it will be available on the Department of Transportation and Development website, http://gis.dotd.la.gov, at no cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:36.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 39:1060 (April 2013).