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Thomas G. Grumbles

VISTA

To Mike Hayes

Date 2/26

Fyi - To be sure you
Recieved a copy

TGG

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proval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Sandra L. Robinson, M.D., M.P.H.
Secretary and State Health Officer

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of the Secretary

The Department of Health and Human Resources, Office of the Secretary, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 B, to change the wording of the rules on rate setting for residential care providers, other than nursing homes and hospitals, to redefine the limits on the revaluation of assets when a facility is sold to the acquisition costs of the previous owner increased by 50 percent of the Consumer Price Index. This change is effective December 19, 1986.

This change is necessary because of changes in federal regulations brought about by the Consolidated Omnibus Budget Reconciliation Act, Section 9509 (Public Law 99-272).

Sandra L. Robinson, M.D., M.P.H..
Secretary and State Health Officer

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Police

HAZARDOUS MATERIAL INFORMATION DEVELOPMENT, PREPAREDNESS, AND RESPONSE RULES

These rules will implement the initial phase of the Hazardous Material Information Development, Preparedness, and Response Act. It is important to note that the data generated during this initial phase will enable the Department of Public Safety and Corrections to comprehensively address all components of this Act in carefully coordinated states. These rules are hereby issued pursuant to the authority granted by Act 435 of the 1985 Regular Legislative Session.

1. PURPOSE

The purpose of these rules is to insure that the hazards of all chemicals produced, stored, distributed, transported, imported, consumed, applied, emitted or disposed in Louisiana are communicated to appropriate emergency response organizations, local information repositories, and to the general public upon request. This communication system shall be intended to provide information to medical personnel for emergency medical diagnosis, adequately prepare for disasters, centralize and coordinate regional and local long-range planning concerning the environmental hazards in various localities, to develop a data base which will facilitate research into possible chronic health risks which may appear as the result of the presence of hazardous materials and to allow the Department of Public Safety and Corrections, Office of State Police to coordinate hazardous material emergency response. Nothing contained herein shall be so construed as to conflict with the U.S. Department of Labor's Hazard Communication Standard 29 CFR 1910.1200.

2. SCOPE

A. These rules apply to all persons, corporate or real, in Louisiana, not otherwise excluded in this Section, who produce, store, distribute, transport, import, consume, apply, emit, or dispose any hazardous materials listed pursuant to these rules.

b. These rules do not apply to -

- i. hazardous materials under the direct control of the military forces of the United States;
- ii. consumer products when packaged for distribution to, and intended for use by, the general public;
- iii. products used by a facility when used from a container for, and in a manner consistent with, the intended use of the consuming public;
- iv. substances reported to the Department of Agriculture under the Louisiana Pesticide Law, or the Louisiana Structural Pest Control Law, provided that pertinent data has been transmitted to the department as provided for in R.S. 30:1150.67;
- v. nuclear materials required to be reported under 40:1299.100 or R.S. 30:1101-1120 et seq.;
- vi. small businesses operating in the state of Louisiana. The term "small business" shall mean a single business establishment employing a maximum of nine employees and showing a maximum of \$2 million in average annual gross receipts;
- vii. cosmetology and barber salons as defined by R.S. 47:301(4)(b) and (11);
- viii. household non-commercial use of hazardous materials, provided the use, storage, or application is from a package purchased from a retail outlet and is specifically designed and intended for use by a person who requires no special information other than what information is supplied on the manufacturer's label;
- ix. forensic laboratories mandated by applicable state law to conduct analyses for law enforcement or regulatory functions. This exemption does not apply to commercial laboratories contracted by government agencies;
- x. persons regulated under 29 CFR 1910.1200 only when compliance with Paragraph v of Subsection B clearly conflicts with federal regulations.

3. DEFINITIONS

Board means the Hazardous Material Information Development, Preparedness, and Response Board.

Chemical means any element, chemical compound, or mixture of elements and/or compounds.

Chemical name means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation, such as the name located in Appendices A, B, or C of these rules.

Code means three letter designation corresponding with identity listed in Appendix D of these rules.

Container means any bag, barrel, bottle, box, can, cylinder, drum, storage tank, or the like that contains a hazardous material. For purposes of these rules, pipes or piping systems are not considered to be containers.

Distributor means a business, other than a chemical manufacturer or importer, which supplies hazardous materials to other distributors or to manufacturing purchasers.

Emission means a discharge into the atmosphere, land, or water, of any material regulated by these rules, whether permitted or not, where such discharge may reasonably be considered dangerous if it escapes beyond the confines of the facility.

Explosive means a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature, and meets the definition of Part 173.50 of the Louisiana hazardous materials/hazardous waste regulations.

Facility means the physical premises used by the owner or operator at which the hazardous materials are manufactured, used, or stored.

Hazardous material means any substance listed in Appendices A, B, or C of these Rules. **Hazardous material** also means any substance designated by the deputy secretary by rule on recommendation of the board which meets criteria established for adding other material to the list.

Identity means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous materials, the label, and the MSDS.

Label means any written, printed, or graphic material displayed on or affixed to containers of hazardous materials.

Material Safety Data Sheet (MSDS) means written or printed material concerning a hazardous material. An MSDS prepared in accordance with the OSHA Hazard Communication Standard 1910.1200, Paragraph g, or identical to the U.S. Coast Guard Chemical Hazard Response Information System (CHRIS), shall be deemed to be in compliance with these rules. In any case, an MSDS must be prepared in a manner that provides basic chemical identity, health, safety, and emergency response information, consistent with the purpose of these rules.

Person means a natural person, whether or not employed at a given facility, a member of the general public, or a firm, association, partnership, co-partnership, joint venture, corporation, or other legal entity.

Produce means to manufacture, process, formulate, or repackage.

Trade secret means any confidential formula, pattern, process, device, information, or compilation of information (including chemical name or other unique chemical identifier) that is used in an employer's business, and gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

Use means to package, handle, react, or transfer.

4. SURVEY FORM

All persons subject to these rules shall complete and submit the following Hazardous Material Survey Form within 90 days after the effective date of these rules, and no later than March 31 of each subsequent year.

HAZARDOUS MATERIALS SURVEY FORM

PART A GENERAL INFORMATION

- 1) Facility Name: _____
- 2) Location: _____
- 3) Mailing Address (if different from location): _____
- 4) Business Phone: _____ 5) Emergency Phone: _____
- 6) Facility Type (check as many as appropriate):

a. Alternate means of compliance

- | | |
|-------------------------------|------------------------------------|
| 1. building industry jobsite | 8. oil & gas production facility |
| 2. wharf or dock (maritime) | 9. natural gas, crude oil, |
| 3. electric substation | hydrocarbon product pipeline |
| 4. liquefied petroleum gas | 10. hydrocarbon storage facilities |
| (only when tanks are | (other than refinery) |
| clearly marked as such) | 11. railcar storage area (if |
| 5. hazardous waste commercial | placarded appropriately) |
| disposal | 12. explosive storage magazine |
| 6. gasoline retail sales | 13. other |
| 7. tank truck storage area | |
| (if placarded appropriately) | |

b. Full survey form

- | | |
|-------------------------------|---------------------------------|
| 1. manufacturing | 12. hardware or building supply |
| 2. storage | warehouse |
| 3. mixing | 13. refining |
| 4. coatings applicator | 14. oil recycler |
| 5. fiberglass repair | 15. solvent recycler |
| 6. tank or equipment cleaning | 16. laboratory |
| 7. sewerage treatment | 17. hospital |
| 8. waste water treatment | 18. medical facility |
| 9. drinking water treatment | 19. dry cleaner or laundry |
| 10. coatings warehouse | 20. other |
| 11. food store warehouse | |

PART B.

HAZARDOUS MATERIALS INVENTORY

HAZARDOUS MATERIAL IDENTITY AND CODE	INVENTORY RANGE	AGENCY REPORTED TO (if applicable)	SHIPPING PAPER LOCATION (if applicable)

PART C. CERTIFICATION

This Hazardous Material Survey Form must be certified as true and correct by a responsible person as follows:

"I hereby certify the information contained herein is true and correct to the fullest extent of my knowledge".

SIGNATURE

DATE

Name: _____

Position: _____

Phone Number: _____

DO NOT WRITE BELOW THIS LINE

Approved by: _____

Date: _____

Disapproved by: _____

Reasons: _____

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5. NOTIFICATION

A. Any emission of any hazardous material, when such hazardous material is reported under these rules, which escapes the boundary of any facility, where such emission may reasonably be considered dangerous, must be reported to the Hazardous Materials Unit of the Office of State Police via telephone within 30 minutes of the discovery of that release. Actual notification may be accomplished through local emergency response officials; however, it remains the responsibility of the facility experiencing the release that a proper notification is accomplished.

B. Any person required to report under Sections 8.1, 8.1.1, 8.1.2, or 8.1.3 of Part II of the Department of Environmental Quality's (DEQ) "Notification Regulations and Procedures for Unauthorized Discharges" shall also be required to notify the Hazardous Materials Unit within 30 minutes of discovery of the reportable incident. Upon receipt of emergency notification, the state police shall notify the Department of Environmental Quality. However, it remains the responsibility of the facility experiencing the release that a proper notification of Department of Environmental Quality is accomplished.

C. This emergency reporting does not relieve any person or facility of written or follow-up reporting as may be required under applicable laws, rules, or regulations; e.g., "Prompt Notification," "Written Report after Prompt Notification," or "Written Report Following Emergency/Notification," as contained in "Notification Regulation Procedures for Unauthorized Discharges" of DEQ.

D. Transportation incidents shall be reported according to R.S. 32:1510.

E. All emergency notifications required by these rules shall be reported to (504)925-6595.

6. REPORTING

A. Alternate means of compliance

i. Facilities indicating only Block 6a (of the Hazardous Materials Survey Form) who currently report chemical identities and quantities as may be required by applicable law to any other state agency shall list the agency to whom said chemical is reported, and the names of the hazardous materials reported, on the survey form.

ii. Facilities indicating only Block 6a who do not currently report to any other state agency, and are not solely engaged in transportation, shall list on the survey form all materials listed in Appendix A if the maximum quantity which may be encountered at any given time exceeds 10 pounds "Explosives," as defined by Part 173.50 of the hazardous materials/hazardous waste regulations, must be reported regardless of quantity. Mixtures containing materials listed in Appendix A need not be reported if the aggregate weight of Appendix A materials in said mixture does not exceed 10 percent, provided said mixture was formulated prior to its arrival at the reporting facility. Each material found in Appendix B and Appendix C shall be reported if the maximum quantity exceeds 60 gallons or 600 pounds.

iii. Fees -

a) Facilities checking only Block 6a shall submit a \$15 fee upon filing the survey form, for each form submitted.

b) Facilities in compliance with the Liquefied Petroleum Gas Commission regulations shall have their fees paid by the Liquefied Petroleum Gas Commission.

c) Said fee shall not exceed \$90 per parish, or \$270 for multi-parish facilities.

d) Agencies of the state or of the state's political subdivisions must file the survey form, but are exempt from the fees.

iv. Facilities indicating Block 6a engaged solely in the transportation of hazardous materials, or facilities whose storage of hazardous materials is purely incidental to the transportation of hazardous materials, shall -

a) report to the fullest extent possible, hazard classes and total quantities which may be experienced at any given time within the confines of their yard;

b) maintain a copy of the shipping papers as defined by Part 172.200 of the Louisiana hazardous material/hazardous waste regulations, in a central, accessible location, and include this location on the survey form. Shipping papers will not be required to be maintained for any wheeled vehicle which has been emptied to the fullest possible extent and is awaiting cleaning or refill, provided said vehicle is properly placarded according to the last hazardous material contained;

c) maintain all markings, labeling, or other communication devices required by law on all transportation containers, until such time as said container is cleaned, purged, refilled, or discarded, in accordance with applicable state law.

v. Facilities indicating "hazardous waste commercial disposal" shall report previous year's total waste received. Identification of wastes received shall be indicated using the alpha numeric designation as listed in Appendix C.

B. Full Survey Form

i. facilities indicating Block 6b, refer to Appendices A, B, C, D;

ii. any material found listed in Appendix A shall be reported in quantities which exceed 10 pounds; however, mixtures containing materials listed in Appendix A need not be reported if the aggregate weight of Appendix A materials in said mixture do not exceed 10 percent, provided said mixture was formulated prior to its arrival at the reporting facility. Hazardous materials meeting the definition of "explosives," as contained in Part 173.50 of the hazardous materials/hazardous waste regulations, shall be reported regardless of quantity;

iii. any material listed in Appendices B or C shall be reported when the total quantity at one facility exceeds 60 gallons or 600 pounds per material, unless previously provided for;

iv. any material listed in Appendices A, B, or C, which is also listed in Appendix D, shall also be reported using the three-letter code supplied in Appendix D;

v. hazardous materials required to be reported, but not listed in Appendices A or D, shall be reported by attaching an appropriate material safety data sheet (MSDS) to the survey form.

vi. the facility submitting the MSDS shall be responsible for supplying the most recent MSDS made available by the person supplying the facility;

vii. facilities checking Block 6b shall submit a fee of \$50 per survey form reported. In no case shall the fee exceed \$300 for any one person reporting multiple facilities in one parish; and in no case shall this fee exceed \$1,000.

C. Inventory Range

Materials listed in Appendices A, B, C, or D shall be listed according to the following range:

Range	Maximum Quantity for any given time
1	10 - 100 lbs.
2	101 - 1,000 lbs.
3	1,001 - 10,000 lbs.
4	10,001 - 100,000 lbs.
5	100,001 - 1,000,000 lbs.
6	Greater than 1,000,000 lbs.

7. TRADE SECRETS

A. If an owner or operator believes that disclosing information as required by these rules will reveal a trade secret, he may file a trade secret claim with the Department of Public Safety and Corrections (hereinafter referred to as the department) at the time of submission of the survey form(s). He shall first disclose the identity of the material which is the subject of the trade secret claim to the department. In filing such a claim, the owner or operator shall include for each claim -

i. a statement in writing that reporting the information requested would reveal a trade secret, stating that concealment is justified, and the reasons for such concealment;

ii. all appropriate information regarding procedures, including emergency treatment procedures for responding to leaks, spills, and any other exposure to hazardous materials. This information shall also be supplied to designated local governing authorities;

iii. a written statement identifying whether or not the material(s) sought to be protected as part of a trade secret claim appear on the most recent list of the National Toxicology Program Report on Carcinogens or most recent monograph of the International Agency for Research on Cancer.

B. Based on the claim submitted pursuant to Subsection (A) of this Section, the deputy secretary (of the department) shall make an initial determination of the validity of the trade secret claim. If he initially determines that such claim is not valid, he shall set a hearing date to receive information regarding the trade secret claim. The hearing shall be set not more than sixty days from the department's receipt of the owner or operator's claim, and shall be conducted with due regard for confidentiality. The owner or operator shall have the burden of showing the deputy secretary that the trade secret claim is valid. In determining such validity, the deputy secretary shall consider materials provided by the owner or operator regarding -

i. the extent to which the information, for which the trade secret claim is made, is known outside his business;

ii. the extent of measures he has taken to guard the secrecy of the information;

- iii. the value of the information to him or his competitor;
- iv. the amount of effort or money he has expended in developing the information;
- v. the ease or difficulty with which the secret could become known by analytical techniques, laboratory procedures, reverse engineering, or other means;

C. If the deputy secretary determines that the trade secret claim is not valid, he shall notify the owner or operator in writing by certified mail. The owner or operator shall have 15 working days, not to exceed 20 consecutive days, to file an appeal with a court of appropriate jurisdiction. The owner or operator shall notify the department of its filing within five days, in writing, that an appeal has been filed. If no appeal is filed, the owner or operator shall provide the department with a survey form containing the disputed information immediately. If the owner or operator timely notifies the department of filing an appeal, the department shall withhold from public disclosure, any information for which the trade secret claim was made. The deputy secretary's determination shall be considered the final agency review, and he shall inform the owner or operator of his action by certified mail.

D. The subject of any trade secret claim pending or approved shall be treated as confidential information. The department shall protect the confidentiality of trade secrets, provide separate secure storage areas for such information, and shall institute disciplinary procedures, including the firing of department employees who, negligently or intentionally, divulge such information.

E. At such time as the subject of an approved trade secret claim ceases to be a trade secret, the owner or operator shall have the obligation to report such information to the deputy secretary.

F. The provisions of this Section shall not apply to the disclosure of any information required pursuant to any other provision of law or rules adopted pursuant thereto.

G. The department may provide trade secret information to a physician under an agreement of confidentiality, when such information is needed for medical diagnosis or treatment of a person exposed to a hazardous material.

H. Nothing in this Section shall be so construed as to interfere with the duty of a physician to report actual or potential public health problems to the proper authorities.

For reporting purposes Appendices A, B, and C have been derived from the following listings:

Appendix A

EPA's list of 405 acutely toxic chemicals;

Appendix B

Hazardous Materials Table Proper Shipping Names, Section 172.101 of DPSC's Hazardous Materials/Hazardous Waste Regulation; and

Appendix C

The Department of Environmental Quality's list of Reportable Quantities for Notification of Unauthorized Discharges, as found in DEQ's Notification Regulations.

Appendix D

This section is to be used as a reference. It gives three-letter codes for 900 chemicals and hazardous materials.

Copies of these appendices can be viewed from 8 a.m. to 4:30 p.m., Monday through Friday, at the Hazardous Substance Control Section office located at 7901 Independence Boulevard, Baton Rouge, LA.

Colonel Wiley McCormick
Deputy Secretary

DECLARATION OF EMERGENCY

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

The Department of the Treasury, Board of Trustees of the State Employees Group Benefits Program, on December 18, 1986, found there existed an imminent peril to the public health and welfare which required the emergency amendment of its rules as follows:

1. The annual deductible will be increased to \$300 per person.

2. The stop-loss will be increased from \$1,000 to \$2,000. In other words, instead of paying 80 percent of the first \$5,000 of eligible medical expenses, the program will pay 80 of the first \$10,000 of eligible benefits. Thereafter, the program will pay benefits at 100 percent.

3. In-patient confinement for alcoholism or drug abuse treatment is limited to once in a lifetime.

This emergency action is effective January 1, 1987.

James D. McElveen
Executive Director

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the provisions of Act 494 passed during the 1986 Regular Legislative Session which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use the emergency provisions of R.S. 49:953 (B) when setting shrimp seasons, the provisions of R.S. 56:497 (A) (3) and the authority granted to the secretary of Wildlife and Fisheries by the Wildlife and Fisheries Commission at its regular meeting on December 5, the secretary of Wildlife and Fisheries hereby sets a special shrimp season for that portion of Louisiana inside waters from South Pass of the Mississippi River to the Louisiana-Mississippi State line, otherwise known as Shrimp Management Zone 1. The special season will begin at 12:01 a.m. Monday, December 22, 1986 and run until 12:00 p.m. midnight, Wednesday, January 14, 1986. This special season is being allowed on an experimental basis to enable fishermen to harvest large late emigrating shrimp.

J. Burton Angelle
Secretary

Rules

VVV 000009210

RULE

Department of Agriculture and Forestry Office of Management and Finance Agricultural Industry Board

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:3704, the Department of Agriculture and Forestry, Agricultural Industry Board adopted amendments to the rules and regulations as detailed below.