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# Executive Orders

## EXECUTIVE ORDER MJF 01-21

Bond Allocation East Baton Rouge  
Mortgage Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2001 (hereafter "the 2001 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the East Baton Rouge Mortgage Finance Authority has requested an allocation from the 2001 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences of low and moderate income home-buyers throughout the parish of East Baton Rouge, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2001 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$22,200,000	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before August 15, 2001.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The

undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 17th day of May, 2001.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0106#001

## EXECUTIVE ORDER MJF 01-22

Bond Allocation Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2001 (hereafter "the 2001 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation from the 2001 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences of low and moderate income home-buyers throughout the state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2001 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$48,000,000	Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before August 15, 2001.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 17th day of May, 2001.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0106#002

**EXECUTIVE ORDER MJF 01-23**

Bond AllocationCParish of Jefferson Home  
Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2001 (hereafter "the 2001 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 2001 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences of low and moderate income home-buyers throughout the parish of Jefferson, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2001 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$22,500,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before August 15, 2001.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 17th day of May, 2001.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0106#003

**EXECUTIVE ORDER MJF 01-24**

Bond AllocationCThe Finance Authority of New Orleans

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2001 (hereafter "the 2001 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2001 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, The Finance Authority of New Orleans has requested an allocation from the 2001 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences of low and moderate income home-buyers throughout the parish of Orleans, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2001 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$22,500,000	The Finance Authority of New Orleans	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before August 23, 2001.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of May, 2001.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0106#004

**EXECUTIVE ORDER MJF 01-25**

Bond Allocation Industrial Development Board  
of the City of New Orleans, Louisiana, Inc.

WHEREAS, Executive Order No. MJF 2001-17, issued on March 27, 2001, granted a private activity bond allocation from the 2001 private activity bond volume limit to the Industrial Development Board of the City of New Orleans, Louisiana, Inc., in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2001-17 in order to extend the time period in which the bonds may be delivered to initial purchasers;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order No. MJF 2001-17, issued on March 27, 2001, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the year of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before November 30, 2001.

SECTION 2: All other sections of Executive Order No. MJF 2001-17 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 6th day of June, 2001.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
0106#023

# Policy and Procedure Memoranda

## POLICY AND PROCEDURE MEMORANDA

Office of the Governor  
Division of Administration  
Office of State Travel

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

The following PPM 49 supersedes all prior issues of PPM 49 published on pages 1252-1259 of the June 2000 issue of the Louisiana Register. This revised PPM 49 also supersedes and replaces PPM 49 which had been designated as Title 4, Part V, Chapter 15 of the Louisiana Administrative Code.

### Title 4

### ADMINISTRATION

#### Part V. Policy and Procedure Memoranda

#### §1501. Authorization and Legal Basis

A. In accordance with the authority vested in the commissioner of administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2001. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

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

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:0000 (June 2001).

#### §1502. Definitions

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

##### *Authorized Persons*

a. advisors, consultants and contractors or other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed

through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.

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

*Conference/Convention* C is herein defined as a meeting for a specific purpose and/or objective. Meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, or program, or Letter of Invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. (For a hotel to qualify for conference rate lodging, requires that the hotel is hosting or is in "conjunction with hosting" the meeting.)

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

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

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

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

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

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

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

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

*Out-of-State Travel* Travel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands.

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

*State Employee* Employees below the level of state officer.

*State Officer*

a. state elected officials;

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

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

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

*Travel Routes* The most direct and usually traveled route must be used by official state travelers. Travelers may opt to use mileage as shown on the "Mileage Table" of Department of Transportation's Official Highway Map, or from a mileage chart provided by their department which has been approved by the Commissioner of Administration. For all other mileage, it shall be computed on the basis of odometer readings from point of origin to point of return (See Mileage Chart).

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

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR:0000 (June 2001).

### **§1503. General Specifications**

#### **A. Department Policies**

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

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

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

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

#### **5. Authorization to Travel**

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

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

#### **B. Funds for Travel Expenses**

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

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

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

b. employees who applied for the state-sponsored corporate credit card program but were rejected (proof of rejection must be available in agency travel file);

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

d. new employees who have not had time to apply for and receive the card;

e. employees traveling for extended periods, defined as 31 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. advance ticket purchase (until a business travel account with a corporate credit card can be established);

h. registration for seminars, conferences, and conventions;

i. incidental costs not covered by the corporate credit card i.e. taxi fares, tolls, registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance;

j. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipt must be attached to the final reimbursement request;

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

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

4. State Credit Cards (Issued in the name of the agency only). Credit cards issued in the name of the state agency are not to be used for the purpose of securing



transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the commissioner of administration.

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

C. Claims for Reimbursement

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

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

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

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

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

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

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7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:0000 (June 2001).

**§1504. Methods of Transportation**

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc.

B. Air

1. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

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

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

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

i. at the rate of 30 cents per mile; or

ii. at the lesser of state contract rate or coach economy airfare.

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

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

3. Commercial air travel will not be reimbursed in excess of state contract air rates when available, or coach/economy class rates when contract rates are not available. The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification will be attached to the travel voucher.

a. The state encourages but does not require use of lowest priced airfares where circumstances which can be documented dictate otherwise. Lowest logical fares are penalty tickets that can have restrictions and charge penalty fees for changing/canceling ticket purchases. Lowest logical tickets must be purchased from the state's contracted travel agency unless prior approval is granted by the State Travel Office.

b. Where a stopover is required to qualify for a low-priced airfare, the state will pay additional lodging and meals expense subject to applicable limits where a net savings in total trip expenses results from use of the low-priced airfare. For determining whether there is a savings, the state contract airfare should be used for comparison, or coach/economy fare if there is no contract rate. If additional

work time will be lost, then the cost of the traveler's time is to be used in the calculation. The comparison must be shown on the travel voucher.

c. The policy regarding airfare penalties is the state will pay the penalty incurred for a change in plans or cancellation only when the change or cancellation is required by the state. Certification of the requirement for the change or cancellation by the traveler's department head is required on the travel voucher.

d. For international travel only, when an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 110 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

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

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

6. Contract airfares are to be purchased only through the state's contracted travel agencies and are to be used for official state business. State contract airfares are non-penalty tickets. Therefore no penalty fees are charged for changes/cancellations, and no restrictions are imposed on flight schedules. The state contract airfares cannot be used for personal/companion or spouse travel. This is a requirement of the airlines and our failure to monitor the use of these contract airfares could cause their cancellation. (Therefore, persons booking tickets for non-official business using contract rates will be subject to disciplinary action as well as payment of the difference between contract fare and full coach fare.)

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

8. Frequent Flyer miles and/or bump tickets accumulated from official state business must be used to purchase tickets for official business. Each individual is solely responsible for notification to their agency or department.

9. In order for the state to continue to receive state contracted airfares, it is necessary that the contract carrier be utilized when electing to use state contract rates. When using the Contract Airfares there are no restrictions or penalties. In many cases, airlines that did not win an award for a certain city will now offer the same discounted price that was awarded to the contract vendor. This is known as a matched carrier. Matched carriers are not to be used unless there is two or more hours difference in the departure or arrival time. The state does not have a contract with the matched fare carriers; therefore, we do not have last seat availability and certain rules including cancellation penalties will apply to these fares.

NOTE: Some carriers are now offering matched fares at the base cost, plus a surcharge for fuel. This is not considered a matched fare. Once the decision is made not to use the contract fare you are giving up your option for the non-penalty ticket, and must use the lowest logical fare available.

10. When making airline reservations for a conference, inform the travel agency that you are attending a conference giving the name of the conference and the airline that is offering the discount rate, if available. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

11. Use of Corporate Card (currently American Express)

a. The State Travel Office contracts an official state corporate card to form one source of payment for travel. All travelers or agencies shall make application through the State Travel Office.

b. The corporate card or BTA (Business Travel Account) must be used to purchase contract airfare. This is a mandatory requirement by the airlines in order to continue to receive discount, non penalty state contract airline tickets.

c. The corporate card is the liability of the employee and not the state. An employee terminating state service must request their agency have their card cancelled. A retiree may no longer retain his/her card.

C. Motor Vehicle

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license.

2. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

3. State-Owned Vehicles

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

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

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

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

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

#### 4. Personally-Owned Vehicles

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

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of 30 cents per mile. (See acceptable mileage chart included in this guide.)

c. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence.

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

e. Reimbursements will be allowed on the basis of 30 cents per mile to travel between a common carrier/terminal and the employee's point of departure, i.e. home, office, etc., whichever is appropriate and in the best interest of the state.

f. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the travelers convenience, the traveler will be reimbursed for in-route expenses on the basis of 30 cents per mile only. The total cost of the mileage may not exceed the cost of travel by state contract air rate or lowest logical if no contract rate is available. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take their personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

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

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

#### 5. Rented Motor Vehicles

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

b. Only the cost of rental of a compact model is reimbursable, unless:

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

c. Insurance billed by car rental companies is not reimbursable for domestic travel. At the discretion of the department head, CDW costs only may be reimbursed for international travel. Following are some of the insurance packages available by rental vehicle companies that are not reimbursable.

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

ii. Loss Damage Waiver (LDW)

iii. Personal Accident Insurance (PAC). Employees are covered under workmen's compensation while on official state business.

- iv. Auto Tow Protection (ATP)
- v. Emergency Sickness Protection (ESP)
- vi. Supplement Liability Insurance (SLI)

d. Any personal mileage or rental days on a vehicle rented for official state business is not reimbursable and shall be deducted.

e. Reasonable gasoline cost is reimbursable but not mileage on a rental vehicle. Receipts are required.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport limousines, and taxis is reimbursable when the expenses are incurred as part of approved state travel. Taxi reimbursement is limited to \$15 per day without receipts; claims in excess of \$15 per day require receipts to account for total daily amount claimed.

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**§1505. Lodging and Meals**

A. Eligibility

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

2. Travel Period. Travelers may be reimbursed for meals according to the following schedule:

a. breakfast when travel begins at/or before 6 a.m. and extends beyond 9 a.m. on single day travel; or when travel begins at/or before 6 a.m. on the first day of travel or extends beyond 9 a.m. on the last day of travel, and for any intervening days.

b. lunch reimbursement shall only be made for lunch when 1) travel extends over at least one night or 2) if traveler is in travel status for 12 hours or more in duration. If travel extends overnight, lunch may be reimbursed for those days where travel begins at/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

c. dinner when travel begins at/or before 4 p.m. and extends beyond 8 p.m. on single day travel; or when travel begins at/or before 4 p.m. on the first day of travel or extends beyond 8 p.m. on the last day of travel and for any intervening days.

3. Alcohol. Reimbursement for alcohol is prohibited.

B. Exceptions

1. Twenty Five Percent Over Allowances. Department heads may allow prior approval for their employees to exceed the lodging and meals provisions of these regulations by no more than 25 percent on a case-by-case basis. Each case must be fully documented as to necessity (e.g.

proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person. Reimbursement requests must be accompanied by receipt.

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

C. Traveler's Meals (including tax and tips).

1. Travelers may be reimbursed up to the following amounts for meals.

	In-State	O/S	High Cost (Includes N.O. and NYC)
Breakfast	\$6	\$6	\$8
Lunch	\$8	\$9	\$10
Dinner	\$12	\$14	\$19
	\$26	\$29	\$37

2. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. Partial meals such as continental breakfasts or airline meals are not considered meals. If meals of state officials exceed these allowances, receipts are required.

D. Conference Meals. Cost of meals direct billed to agency in conjunction with state-sponsored in-state conferences exclusive of tax and mandated gratuity.

Lunch In-State excluding New Orleans	\$10
Lunch - New Orleans	\$12
Conference Refreshment Expenditures:	Cost for a meeting, conference or convention are to be within the following rates: (note: refreshment expenses are not applicable to an individual traveler) served on agency's property: not to exceed \$2.00 per person, per morning and/or afternoon sessions served on offsite properties that require catered services: not to exceed \$3.50 exclusive of tax and mandated gratuity per person, per morning and/or afternoon sessions.

E. Lodging (Employees will be reimbursed lodging rate, plus tax, receipt required)

\$55	In-state (except as listed)
\$65	Baton Rouge
\$70	Bossier City, Lake Charles, Shreveport (Sulphur will be considered a suburb of Lake Charles )
\$90	New Orleans, (Gretna, Kenner, Metairie will be considered a suburbs of New Orleans, for lodging only)

- \$65 Out-of-State (except those listed)
- \$105 High cost (Atlanta, Baltimore, Boston, Cleveland, Dallas, Denver, Detroit, Houston, Los Angeles, Miami, Nashville, Oakland, Ca., Philadelphia, Phoenix, Pittsburgh, Portland, Or., San Diego, St. Louis, Seattle, Tampa, Fl., Wilmington, De., all of Alaska or Hawaii)
- \$120 Chicago, San Francisco, Washington, D.C.
- \$165 New York City  
The inclusion of suburbs shall be determined by the department head on a case-by-case basis.

**F. Conference Lodging (Employees will be reimbursed lodging rate, plus tax, receipt required)**

1. Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. When reservations are not available at the conference hotel and multi-hotels are offered in conjunction with a conference, traveler shall seek prices and utilize the least expensive. In the event all conference hotels are unavailable, then the traveler is subject to making reservations within the hotel rates as allowed in Section E, above.

- \$65 In-state (except as listed)
- \$70 Baton Rouge
- \$80 Bossier City, Lake Charles, Shreveport
- \$110 New Orleans, state sponsored conferences
- \$140 Out-of-state and New Orleans for non-state sponsored conferences
- \$165 New York City  
\*The inclusion of suburbs shall be determined by the department head on a case-by-case basis

2. For conferences hosted by the state you must either use the state contracted travel services or solicit three competitive quotes to include sleeping rooms, meeting rooms, meals and breaks, etc.

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

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

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**\$1506. Parking and Related Parking Expenses**

1. Parking for the Baton Rouge Airport. Actual expense will be paid up to a maximum daily allowance of \$3.50. No receipt required.

Note: current contract rate is available from the Baton Rouge Airport Parking for the outside, fenced lot. Not in the parking garage.

2. Parking for the New Orleans Airport. Actual expense will be paid up to a maximum daily allowance of \$6. No receipt required. Park 'N Fly : \$6 daily and \$36 weekly.

3. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for all other parking except as listed in #1 and #2 above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

4. Tips for valet parking not to exceed \$1 per in and \$1 per out, per day.

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**\$1507. Reimbursement for Other Expenses**

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

1. Communications Expenses

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

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

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

d. Internet access charges from hotels Cany department that wants to have a policy in this area should submit their request to the Division of Administration, Commissioner's Office for approval.

2. Charges for storage and handling of state equipment.

3. Baggage Tips

a. Hotel Allowances Cnot to exceed \$1 per bag for a maximum of three bags. Tips may be paid one time upon each hotel check-in and one time upon each hotel check-out, if applicable.

b. Airport Allowances Cnot to exceed \$1 per bag for a maximum of three bags. Tips may be paid one time for the airport outbound departure trip and one time for the inbound departure trip.

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

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

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#### **§1508. Special Meals**

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

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

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

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

C. A department head may authorize a special meal within allowable rates to be served in conjunction with a working meeting of departmental staff.

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

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;
2. clear justification of the necessity and appropriateness of the request;
3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;
4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the commissioner of administration to exceed this reimbursement limitation.

E. All of the following must be submitted for review and approval of the department head or their designee prior to reimbursement:

1. detailed breakdown of all expenses incurred, with appropriate receipt(s);
2. subtraction of cost of any alcoholic beverages;
3. copy of prior written approval from the commissioner of administration.

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#### **§1509. International Travel**

A. All international travel must be approved by the commissioner of administration prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), the funding source from which reimbursement will be made, and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

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

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:0000 (June 2001).

#### **§1510. Waivers**

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

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

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1259 (June 2000), LR 27:0000 (June 2001).

Mark C. Drennen  
Commissioner

0106#005

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of the Commissioner

#### Meat Labeling (LAC 7:XXXV.135)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule for the implementation of regulations governing the labeling of meat in accordance with R.S. 3:3(B), R.S. 51:614 and the Emergency Rule provisions of R.S. 49:953(B), in the Administrative Procedure Act.

The Louisiana Legislature, by Act 487 of the 1999 Regular Session, enacted R.S. 51:614 to require the labeling of meat and to provide for the enforcement thereof. As a result of the current outbreak of foot and mouth disease in European livestock and the fact that meat consumed in the United States, including Louisiana, is imported from foreign countries there is an imminent danger that Louisiana citizens will substantially decrease their consumption of meat, including meat raised or processed in Louisiana, if they cannot identify the source of the meat.

Louisiana's livestock industry has suffered severe financial distress as a result of the four-year drought that this state has experienced. The threat of a substantial decline in the consumption of meat poses an imminent peril to Louisiana's livestock industry. Additional economic losses threaten the continuation of the livestock industry in Louisiana. The livestock industry in Louisiana is a vital part of Louisiana's economic base. Therefore, financial deterioration and subsequent failures in the livestock industry pose an imminent peril to Louisiana's economy and to the welfare of the citizens of Louisiana, especially when it occurs in the midst of an economic slowdown.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rules are necessary in order to immediately implement and enforce the labeling of meat in Louisiana as to country of origin.

This Rules become effective upon signature and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXXV. Agro-Consumer Services

#### Chapter 1. Weights and Measures

#### §135. Meat Labeling

A. As used in this Section the following terms are defined.

1. *American* Any meat that is produced in the United States.
2. *Blend* Any combination of American and foreign meat.
3. *Imported* Any meat produced in a foreign country.

B. Unless otherwise provided in this Section, all processed or unprocessed meat sold in Louisiana, whether fresh or frozen, shall indicate the meat's country of origin.

1. The country of origin or designations "American," "imported" or "blend of imported and American meats" Proposed Settlement Agreement" shall be indicated in clear and conspicuous letters in English.

2. All meat shall be labeled with one of the following designations, "American," "imported" or "blend of imported and American meats" or shall contain the name of the country of origin preceded by the "product of." Example: Meat produced in the United States would be labeled "American" or "Product of U.S.A."

3. Meat displayed for sale or sold unwrapped shall contain the proper designation as to the country of origin on the meat, or on the immediate container or wrapping, or on a sign included with the display.

4. If an establishment sells only American meat, then a placard indicating that only American meat is sold will be sufficient to meet the requirements of these regulations.

C. The provisions of this Section shall not apply to prepared meat that is sold at retail for consumption on the premises and fully cooked meat as defined by the United States Department of Agriculture Food Safety Inspection Service rules and regulations.

D. The Commissioner of Agriculture and Forestry, the Weights and Measures Commission and the Department of Agriculture and Forestry shall have the power and authority granted under the Weights and Measures Law to enforce the provisions of this Section.

E. The penalty for any violation of this Section shall be as provided in R. S. 51:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 27:

Signed and attested to this 17<sup>th</sup> day of May 2001.

Bob Odum  
Commissioner

0106#006

## DECLARATION OF EMERGENCY

### Department of Natural Resources Office of Conservation

Pollution ControlCStatewide Order No. 29-B  
(LAC 43:XIX.501 and 503)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefor are now

adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by continuing a procedure for testing E&P waste after receipt at a commercial facility and identifying acceptable storage, treatment and disposal methods for certain E&P wastes at commercial facilities.

#### **Need and Purpose for Emergency Rule**

Certain oil and gas exploration and production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana state regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for storage, treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted the Commissioner of Conservation to issue a first Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at permitted commercial E&P waste disposal facilities within the state of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998 Emergency Rule that sampling and testing should be extended for an additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The second Emergency Rule required continued comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the terms of the first and second Emergency Rules, approximately 1,800 E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, determined that the number of raw data sets of E&P waste types, along with other published analytical results of E&P waste testing, provided adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation was unnecessarily redundant, and was discontinued. The third Emergency Rule adopted on October 1, 1998, required continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in Section D. Such continued testing

was required to assure that E&P waste shipments received for disposal at commercial facilities were consistent with evolving E&P waste profiles.

A fourth Emergency Rule, adopted January 29, 1999, a fifth Emergency Rule, adopted May 29, 1999, a sixth Emergency Rule, adopted September 26, 1999, a seventh Emergency Rule, adopted January 24, 2000, an eighth Emergency Rule, adopted May 23, 2000, and a ninth Emergency Rule, adopted September 20, 2000 and a tenth Emergency Rule, adopted January 18, 2001, provided requirements for continued testing of all E&P waste shipments received for disposal at commercial E&P waste disposal facilities, as well as identifying acceptable methods of storage, treatment and disposal of certain E&P waste types at such commercial facilities. However, since evaluation of data generated by Emergency Rules 1 and 2 has not been completed and a permanent rule has not been promulgated, it is necessary to adopt an eleventh Emergency Rule, effective May 18, 2001, to continue the requirements of the tenth Emergency Rule.

Concurrent with implementation of this Emergency Rule, the Office of Conservation will continue development of a permanent rule for the management and disposal of E&P waste at commercial facilities within the state of Louisiana. Best E&P waste management practices, based on established E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific storage, treatment and disposal options for the various categories of E&P waste.

#### **Synopsis of Emergency Rule**

1. E&P Waste Will Be Transported With Identification. Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers;
- 2) stored in enclosed tanks at a commercial facility; and
- 3) disposed by deepwell injection. Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Each Load of E&P Waste Will Be Tested At Commercial Facility. Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each load of E&P waste shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

3. Identification of Acceptable Storage, Treatment and Disposal Methods (Options) for E&P Waste

It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved



technologies that are protective of public health and the environment. Therefore, this Emergency Rule requires that injection in Class II wells, after storage in a closed system, shall be utilized for Waste Types 01 and 14. As a result of the E&P waste study conducted by Louisiana State University and CSI, Inc. (available for review on Conservation's web page), commercial land treatment facilities will not be permitted to receive, treat or dispose of natural gas plant processing waste (Waste Type 12). The remainder of the E&P waste types are currently under study to confirm acceptable storage, treatment and disposal methods. Any additional acceptable storage, treatment and disposal methods will be promulgated in the near future.

**Reasons**

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, and by the identification of acceptable storage, treatment and disposal methods for certain types of E&P waste, it has been determined that failure to establish such procedures and requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing is performed and acceptable storage, treatment and disposal methods for certain types of E&P waste are employed at commercial facilities. The Emergency Rule, Amendment to Statewide Order No. 29-B (Emergency Rule) set forth hereinafter, is now adopted by the Office of Conservation.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of ConservationC General Operations**

**Subpart 1. Statewide Order No. 29-B**

**Chapter 5. Off-Site Storage, Treatment and/or disposal of Nonhazardous Oilfield Waste Generated from Drilling and Production of Oil and Gas Wells**

**§501. Definitions**

\*\*\*

*Commercial Facility*Ca legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term *transfer station*.

\*\*\*

*Exploration and Production (E&P) Waste*Cdrilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following.

Waste Type	Waste Description
01	salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations
02	oil-base drilling mud and cuttings
03	water-base drilling mud and cuttings
04	completion, workover and stimulation fluids
05	production pit sludges
06	production storage tank sludges
07	produced oily sands and solids
08	produced formation fresh water
09	rainwater from ring levees and pits at production and drilling facilities
10	washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material
11	washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material
12	natural gas plant processing (E&P) waste which is or may be commingled with produced formation water
13	waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases
14	pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	salvageable hydrocarbons
99	other approved E&P waste

\*\*\*

*NOW*Cexploration and production waste

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), LR 27:

**§509. Criteria for the Operation of Commercial Facilities and Transfer Stations**

A. - H.3. ...

I. Receipt, Sampling and Testing of E&P Waste

1. ...

2. Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

a. pH, electrical conductivity (EC-mmhos/cm) and chloride (Cl) content; and

b. the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX;

c. the sample temperature (degrees Fahrenheit) representing actual testing conditions of the sample obtained for BTEX analysis by methodology that will assure sufficient accuracy; and

d. the presence and concentration of hydrogen sulfide (H<sub>2</sub>S) using a portable gas monitor.

3. ...

4. The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX, BTEX sample temperature and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

5. Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H<sub>2</sub>S measurement in (a) above if the following conditions are met:

- a. if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and
- b. if stored in an enclosed container at a commercial facility; and
- c. if disposed by deep well injection.

6. Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in § 511.D.

J. - L. ...

M. It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The following chart includes acceptable and required storage, treatment and disposal methods for each type of E&P waste disposed of at commercial facilities within the state of Louisiana.

Waste Type	Required Storage, Treatment and Disposal Method(s)
01	Injection in Class II well utilizing a closed system
02	(reserved)
03	(reserved)
04	(reserved)
05	(reserved)
06	(reserved)
07	(reserved)
08	(reserved)
09	(reserved)
10	(reserved)
11	(reserved)
12	Commercial land treatment facilities shall not receive, treat or dispose of natural gas plant processing waste (Waste Type 12)
13	(reserved)
14	Pipeline test water - Injection in Class II well utilizing a closed system Pipeline pigging waste - (reserved)
15	(reserved)
16	(reserved)
50	Commercial salvage oil facility
99	(reserved)

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30.4 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), LR 27:

#### Summary

The Emergency Rule adopted herein above evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare of the citizens of Louisiana, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes

again that a copy of the permanent Amendment to Statewide Order No. 29-B will be developed in the immediate future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the state of Louisiana, the Attorney General of the state of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the Office of the State Register of the adoption of this Emergency Rule and reasons for adoption.

#### Effective Date and Duration

1. The effective date for this Emergency Rule shall be May 18, 2001.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an Amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Signed at Baton Rouge, Louisiana, this 18<sup>th</sup> day of May, 2001.

Philip N. Asprodites  
Commissioner of Conservation

0106#008

### DECLARATION OF EMERGENCY

#### Department of Social Services Office of Family Support

Categorical Eligibility for Certain Recipients  
(LAC 67:III.1987)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following change to Title 67, Part III, Subpart 3, Food Stamps, effective June 1, 2001. This Rule shall remain in effect until the final rule takes effect July 1, 2001.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act, and subsequent amendments thereof, and to Public Law 106-387, the Agriculture Appropriations Act, signed into law on October 28, 2000, the agency proposes to amend §1987 in order to eliminate the certification of categorically -eligible households of three or more members whose net income exceeds the level at which benefits are issued. This change is federally mandated, and failure to implement the change by

this date would result in penalties and sanctions. The Notice of Intent pertaining to this amendment was published in the March 20, 2001, issue of the *Louisiana Register*.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

##### **Subpart 3. Food Stamps**

#### **Chapter 19. Certification of Eligible Households**

##### **Subchapter J. Determining Household Eligibility and Benefit Levels**

#### **§1987. Categorical Eligibility for Certain Recipients**

##### **A. Households Considered Categorically Eligible**

1. - 9. ...

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One and two person households will receive a minimum benefit of \$10. Effective June 1, 2001, households of three or more shall be denied if net income exceeds the level at which benefits are issued.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:

J. Renea Austin-Duffin  
Secretary

0106#007

### **DECLARATION OF EMERGENCY**

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

Boating Traffic CSt. Martin-Lafayette  
Fish and Game Preserve  
(LAC 76:III.333)

In accordance with the emergency provisions of the Administrative Procedure Act, the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries do hereby close a portion of Lake Martin, St. Martin Parish, to all boating traffic, both motorized and non-motorized.

The closed zone encompasses one of the largest and most significant bird rookeries in not only the state, but also the U.S.; and is both a natural treasure, as well as a significant eco-tourism attraction and economic asset to the local area and the state as a whole. Continued boating traffic through the rookery is extremely disruptive to the rookery and could

even lead to its relocation or demise, which would pose an imminent peril to this natural and economic asset, and to those citizens who value it. Therefore this closure is necessary on an emergency basis, particularly in light of the fact that the nesting birds will begin returning to the rookery during the month of February.

This Declaration of Emergency will become effective on June 14, 2001 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

#### **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part III. State Game and Fish Preserves and Sanctuaries**

##### **Chapter 3. Particular Game and Fish Preserves and Commissions**

#### **§333. St. Martin-Lafayette Fish and Game Preserve**

A. That portion of the St. Martin-Lafayette Fish and Game Preserve, particularly the following described portion of Lake Martin, St. Martin Parish is hereby closed to all boating traffic, both motorized and non-motorized, said closure to remain in effect each year from February 15 through July 31 inclusive. The closed zone is described as follows. All that certain property containing 131.94 acres more or less located in Section 31, Township 9 South, Range 6 East and Section 6, Township 10 South, Range 6 East, St. Martin Parish, Louisiana described as follows. Beginning at a point on the lake's edge located N 1 degree 59 minutes E a distance of 330 ft from a 4" x 4" concrete post, the post having State Plane Coordinates Louisiana South of X=1819303.09 ft, Y=561651.02 ft; thence N 1 degree 59 minutes E as distance of 1100 ft; thence S 88 degrees 1 minute E a distance of 2320 ft; thence S 36 degrees 54 minutes 58 seconds E a distance of 500 ft; thence S 1 degree 59 minutes W a distance of 2350 ft; thence N 88 degrees 1 minute W a distance of 660 ft; thence S 1 degree 59 minutes W a distance of 1320 ft; thence N 88 degrees 1 minute W a distance of 660 ft; thence N 1 degree 59 minutes E a distance of 2970 ft; thence N 88 degrees 1 minute W a distance of 1320 ft to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610C and R.S. 56:1861 et seq.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:

Dr. H. Jerry Stone  
Chairman

James H. Jenkins, Jr.  
Secretary

0106#025

# Rules

## RULE

### Department of Agriculture and Forestry Agricultural Commodities Commission

#### Fees Amount and Time of Payment (LAC 7:XXVII.128)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, amends regulations regarding the Agricultural Commodities Commission; grain grading and inspection fees.

The Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission intends to amend these rules and regulations in order to revise the fee schedule for inspections of grading grains.

This Rule is enabled by R.S. 3:3405.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXVII. Agricultural Commodity Dealer and Warehouse Law

##### Chapter 1. Agricultural Commodities Commission Subchapter E. Assessments and Fees

#### §128. Fees: Amount, Time of Payment

A. - B. ...

C. Schedule of Fees

1. The regular hours shall be 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays and declared half-holidays. All hours worked, that are not regular hours, shall be considered as overtime. Legal holidays and half-holidays shall be those legal holidays designated by the legislature in R.S. 1:55.B and any other time declared to be a holiday or half-holiday by the governor of Louisiana in accordance with R.S. 1:55.

2. The hourly rate shall be \$26 per hour, including travel time. Overtime hours shall be billed at one and one-half times the hourly rate and shall be assessed in half-hour increments.

3. Mileage shall be billed at the rate established under the Division of Administration, Policies and Procedures Memorandum Number 49 for actual miles traveled from nearest inspection point.

4. Official Services (including sampling except as indicated):

Online D/T sampling inspection service (sampling, grading and certification) per regular hour	\$ 26.00
Over time hourly rate, per hour (assessed in half hour increments)	\$ 39.00
<b>Unit Inspection Fees (each unit is assessed the appropriate hourly rate for the time involved in addition to unit fee)</b>	
Rail Car, per car	\$ 20.50
Truck/trailer, per carrier	\$ 10.00
Barge, per 1,000 bushels	\$ 2.60

Submitted sample inspection (assessment of overtime hourly rate, in addition to the regular fee for submitted sample inspection, whenever the applicant requests samples to be inspected during overtime hours)	\$ 12.30
<b>Reinspection Service (based on official file sample)</b>	
Rail car, per sample	\$ 10.30
Truck or trailer, per sample	\$ 5.30
Barge, per sample	\$ 25.30
Factor only determination, per factor (not to exceed full grade fee)	\$ 5.20
StarLink™ (if applicant supplies kit), per test	\$ 6.00
StarLink™ (if we provide kit), per test	\$ 12.00
<b>Sampling Only Service</b>	
Probe sampling barge, per barge	\$100.00
On-Line sampling barge, per hour	\$ 20.00

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:527 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001).

Bob Odom  
Commissioner

0106#027

## RULE

### Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators  
Policy for Louisiana's Public Education Accountability System  
(LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 741, referenced in LAC 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The changes more clearly explain and refine the existing policy as it pertains to the paired/shared status of schools, the inclusion of alternative education students enrolled in a GED/Skill Option program in school accountability, the awarding of bonus points for all 4 subjects for schools with grade 4 and Option I Eighth grade students, growth in subgroups for rewards, and the removal of references to the Graduation Index from policy.

#### Title 28

### EDUCATION

#### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

##### Subchapter A. Bulletins and Regulations

#### §901. School Approval Standards and Regulations

A. Bulletin 741

\* \* \*

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:815 (June 2001).

Indicators for School Performance Scores

**2.006.01** A school's School Performance Score shall be determined using a weighted composite index derived from three or four indicators: criterion-referenced tests (CRT), norm-referenced tests (NRT), student attendance for grades K-12, dropout rates for grades 7-12.

Each school shall receive one School Performance Score under one sitecode regardless of its grade structure.

- K-9 schools (excluding grades 10 and 11) shall follow K-8 Accountability Policy
- Schools with grades 10 and 11 shall follow 9-12 SPS calculation policy

Louisiana's 10- and 20-Year Education Goals  
[K-8 and 9-12]

**2.006.02** Each school shall be expected to reach 10- and 20-Year Goals that depict minimum educational performances.

**2.006.03 School Performance Scores for K-8**

A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0."

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The comparison SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data. Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- An average of the most recent two year's test data and
- Attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two years data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

During the summer of 1999 for K-8 schools, each school shall receive two School Performance Scores as follows:

- A score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students.
- A score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.
- For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools, the School Performance Score that includes only regular education students shall be used.

Formula for Calculating an SPS [K-8]

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 \* 60%) + (75.0 \* 30%) + (50.0 \* 10%)] = 67.1

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			<i>SPS = 67.1</i>

Criterion-Referenced Tests (CRT) Index Calculations [K-8]

A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
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K-8 Indicators and Weighting			
Indicators and Weighting	Grades Administered	10-Year Goal	20-Year Goal
CRT (60% K-8)	Grades 4, 8	Average student score at BASIC	Average student score at PROFICIENT
NRT (30% K-8)	Grades 3, 5, 6, 7	Average composite standard score corresponding to the 55th percentile rank in the tested grade level	Average composite standard score corresponding to the 75th percentile rank in the tested grade level
Attendance (10% K-6; 5% 7-8)		95% (grades K-8)	98% (grades K-8)
Dropout Rate (5% 7-8)		4% (grades 7-8)	2% (grades 7-8)

Indicator	Weight		Grades Administered	10-Year Goal	20-Year Goal
	Cycle				
	1	2			
CRT—English/ language arts and mathematics	60%	30%	10	Average student score at Basic	Average student score at Proficient
CRT—science and social studies	--	30%	11	Average student score at Basic	Average student score at Proficient
NRT		30%	9	Average composite standard score corresponding to the 55 <sup>th</sup> percentile rank in the tested grade level	Average composite standard score corresponding to the 75 <sup>th</sup> percentile rank in the tested grade level
Attendance Rate		5%		93%	96%
Dropout Rate		5%		7%	3%

Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

Formula for Calculating a CRT Index for a School [K-8]

- Calculate the total number of points by multiplying the number of students at each performance level times the points for those respective performance levels, for all content areas.
- Divide by the total number of students eligible to be tested times the number of content area tests.
- Zero shall be the lowest CRT Index score reported for accountability calculations.

**Option I students:** those students failing the 8<sup>th</sup> grade LEAP 21 that have been

- retained on the 8<sup>th</sup> grade campus
- must retake all parts of the 8<sup>th</sup> Grade LEAP 21

If, during spring testing, a repeating fourth grade student or Option I 8<sup>th</sup> grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics, English language arts, science or social studies, for which he/she received a score of Unsatisfactory the previous spring; the retaining school shall receive 50 bonus points per subject in its CRT index. A student may earn a maximum of 200 bonus points for his/her school. (No bonus points will be given for passing parts of tests in the summer school of the year he/she first failed in spring testing.)

Initial Transition Years [K-8]

To accommodate the phase-in of Social Studies and Science tests for K-8 schools, the following CRT scores shall be used for each year:

1999 Baseline CRT Score	1999 Math & English Language Arts (Grades 4 & 8)
2001 Comparison CRT Score	2000 & 2001 Math & English Language Arts (both years averaged for each subject and each grade)
2001 <i>New</i> Baseline CRT Score	2000 & 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
2003 Comparison CRT Scores	2002 & 2003 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)

This re-averaging shall result in a re-calculated baseline to include science and social studies for K-8 schools in 2001.

Norm-Referenced Tests (NRT) Index Calculations [K-8]  
 For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.

NRT Goals and Equivalent Standard Scores					
Composite Standard Scores Equivalent to Louisiana's 10- and 20- Year goals, by Grade Level*					
Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55 <sup>th</sup>	187	219	231	243
20-Year Goal	75 <sup>th</sup>	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks respectively and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3rd grade = (4.167 * SS) - 679.2 SS = (Index 3rd grade + 679.2)/4.167
Grade 5:	Index 5th grade = (2.941 * SS) - 544.1 SS = (Index 5th grade + 544.1)/2.941
Grade 6:	Index 6th grade = (2.500 * SS) - 477.5 SS = (Index 6th grade + 477.5)/2.500
Grade 7:	Index 7th grade = (2.174 * SS) - 428.3 SS = (Index 7th grade + 428.3)/2.174

Formula for Calculating a School's NRT Index [K-8]

- Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
- Zero shall be the lowest NRT Index score reported for accountability calculations.
- Compute the total number of index points in all grades in the school.
- Divide the sum of NRT Index points by the total number of students eligible to be tested.

Attendance Index Calculations [K-8]

An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years indexes shall be calculated using the prior two year's average attendance rates as compared to the state goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%

Attendance Index Formulas

Grades K-8  
 Indicator (ATT K-8) = (16.667 \* ATT) - 1483.4

Where ATT is the attendance percentage, using the definition of attendance established by the Louisiana Department of Education

Lowest Attendance Index Score

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations [7-8]

A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two year's average dropout rates as compared to the state goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of dropout shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas	
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) / 25

Lowest Dropout Index Score

Zero shall be the lowest Dropout Index score reported for accountability calculations.

### School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0 - 100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates.

Transition Years [9-12]							
To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced, the following indicators shall be used for each year:							
Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	Growth SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Drop-out
1	2000-01	2002-03	✓	✓		✓*	✓*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	✓	✓	✓	✓*	✓*
*Indicates use of prior year data for these indexes.							

#### Formula for Calculating an SPS – Accountability Cycle 1 [9-12]

During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:  
 $SPS = (.60 * \text{Grade 10 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$

All intermediate results and the final result shall be rounded to the nearest tenth.

The following is an example of how this shall be done:  
 $[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
<b>SPS</b>			<b>69.0</b>

#### Formula for Calculating an SPS – Accountability Cycle 2 [9-12]

During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:  
 $SPS = (.30 * \text{Grade 10 CRT Index}) + (.30 * \text{Grade 11 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$

In this example,  
 $[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8
CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
<b>SPS</b>			<b>67.2</b>

#### Norm-Referenced Tests (NRT) Index Calculations [9-12]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.

#### NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 <sup>th</sup>	264
20-Year Goal	75 <sup>th</sup>	288

#### NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

Where the 10-Year and 20-Year Goals are the 55<sup>th</sup> and 75<sup>th</sup> percentile ranks respectively and where SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index } 9^{\text{th}} \text{ grade} = (2.083 * \text{SS}) - 449.9$$

$$\text{SS} = (\text{Index } 9^{\text{th}} \text{ grade} + 449.9) / 2.083$$

**Option II students:** those students failing the 8<sup>th</sup> grade LEAP 21 that have been

- retained and placed on the high school campus
- must take the 9<sup>th</sup> grade NRT
- must retake only the parts of the 8<sup>th</sup> grade LEAP 21 they originally failed (English language arts and/or mathematics)

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring; the high school shall receive 50 bonus points per subject in its accountability index. A student may earn a maximum of 100 bonus points for his/her school.

#### Criterion-Referenced Tests (CRT) Index Calculations [9-12]

A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

#### Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

- Sum the number of points earned by all students. For the NRT, there shall be one score for each student—the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
- Divide by the total number of students eligible to be tested times the number of content area tests. This provides the raw achievement index for the grade.
- Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and all the previous grades. This means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This shall yield the Adjusted Achievement Index.
- Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

Example 1 – Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is:  
 $(5/50) = .100$
- The number of points earned on the NRT is 5000.
- The raw achievement index is:  
 $5000/45 = 111.1$
- The adjusted achievement index is:  
 $111.1 * (1 - .100) = 100.0$

**Example 2 – Grade 10:**

▪ Another 5 students drop before October of grade 10. The grade 10 dropout rate is:

$$5/45 = .111$$

▪ The 40 students remaining in the class earn 10000 points on the two CRT tests. The raw achievement index is:

$$10000/(40 * 2) = 125.0$$

▪ The adjusted achievement index is:

$$125.0 \times (1 - .100) \times (1 - .111) = 100.0$$

**Attendance Index Calculations for Grades 9-12**

An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two year' average attendance rates as compared to the state goals.

**Attendance Goals**

	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%

**Attendance Index Formula for Grades 9-12**

Where the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and where ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

$$\text{Indicator (ATT 9-12)} = (16.667 * \text{ATT}) - 1450.0$$

Example:

▪ If the average attendance percentage is 94.3%, the Attendance Index would be

$$(16.667 * 94.3) - 1450.0 = 121.7$$

Zero shall be the lowest Attendance Index score reported for accountability calculations.

**Dropout Index Calculations for Grades 9-12**

A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the state goals.

**Dropout Goals**

	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

**Dropout Index Formula for Grades 9-12**

$$\text{Dropout Index} = 187.5 - (12.5 \times \text{dropout rate})$$

Example:

▪ If the dropout rate is 4.5%, the Dropout Index would be

$$187.5 - (12.5 * 4.5) = 131.3$$

Zero shall be the lowest Dropout Index score reported for accountability calculations.

The national definition of dropout shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

**Rewards/Recognition**

**2.006.08** A school shall receive recognition and possible monetary awards when it meets or surpasses its Growth Targets and when it shows growth in the performance of students who are classified as high poverty and special education students.

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salary or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Targets.

**Pairing/Sharing of Schools with Insufficient Test Data**

**2.006.15** In order to receive an SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this requirement must either be @paired or shared@ with another school in the district as described below. For the purpose of

the Louisiana Accountability System, such a school shall be defined as a @non-standard school.@

A school with a grade-level configuration such that it participates in neither the CRT nor in the NRT (e.g., a K, K-1, K-2 school) must be @paired@ with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This @pairing@ means that a single SPS shall be calculated for both schools by averaging both schools attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration where students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school), must @share@ with another school that has at least one grade level of the type of testing missing. Both schools shall @share@ the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either @paired or shared.@ The @paired or shared@ school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the @paired or shared@ school must be the school into which the largest percentage of students @feed.@ If two schools receive an identical percentage of students from a non-standard school, the district shall select the @paired or shared@ school.

If a school is not paired/shared at the beginning of Cycle 1, it shall not be paired/shared at the end of Cycle 1.

Beginning with Cycle 2, requirements for the number of test units shall be the sum of the test units over a two-year period (not the number of test units in one year). Beginning with Cycle 2, a school's sharing/pairing status at the beginning of the cycle shall be its status at the end of the cycle.

If a school has too few test units to be a standalone school, it may request to be considered standalone.

- It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units.
- The request shall be in writing to the Department from the LEA superintendent.

The school forfeits any right to appeal its growth status based on minimum test unit counts.

Once the identification of @paired or shared@ schools has been made, this decision is binding for 10 years. An appeal to SBESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

**Inclusion of Alternative Education Students**

**2.006.17** Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the Louisiana Accountability System for the system's alternative education schools.

*Option I* The score for every alternative education student at a given alternative school shall be returned to @sent back@ and included in the home-based school's SPS. The alternative school itself shall receive a @diagnostic@ SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

Students included in the GED/Skills Option program will be included in School Accountability. They will be required to take the 9<sup>th</sup> grade Iowa Test or participate in out-of-level testing while enrolled. All programs will be considered Option I for alternative education purposes and student data will be sent back to the sending high schools for attendance, drop out and Iowa Test scores.

*Option II* The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Correct Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- ! The alternative school must have its own site code and operate as a school;
- ! The alternative school must have a required minimum number of students



in the tested grade levels. The definition of "required minimum" is stated in section 2.006.19, and

! At least fifty percent (50%) of the total school population must have been enrolled in the school for the entire school year, October 1 - May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curriculum developed from Louisiana Content Standards, shall be included in the state-testing program, with those scores included in an SPS.

Information on these students, e.g., number receiving a GED, shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

#### Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent" schools and cannot be "paired" or "shared" with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based" district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive an SPS. Instead, the state shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1999-2000 academic school year, detention and Department of Corrections facilities shall not receive an SPS.

Weegie Peabody  
Executive Director

0106#022

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Educational Technology Facilitation and Educational Technology Leadership (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The amendment establishes certification requirements for teachers who serve as building level technology facilitators and as technology coordinators at the district, state, or regional levels. Additionally, a "grandfather clause" is included, enabling those who have served in these capacities to receive the certification by meeting certain qualifications by August 31, 2002.

## Title 28

## EDUCATION

### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans

#### Subchapter A. Bulletins and Regulations

#### §903. Teacher Certification Standards and Regulations C Bulletin 746

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411, LR 27:

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 26:459 (March 2000), LR 26:635-638 (April 2000); LR 26:638-639 (April 2000), LR 27:820 (June 2001).

#### Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Educational Technology Facilitation and Educational Technology Leadership Educational Technology Facilitation

1. A valid Type B Louisiana Teaching Certificate\*
2. A minimum of 9 semester hours of graduate credit in educational technology including:

A. Educational Technology 9 semester hours  
Coursework

1. Design and Development of 3 semester hours  
Multimedia Instructional Units

2. Educational 3 semester hours  
Telecommunications,

Networks, and the Internet  
3. Technology Leadership in 3 semester hours  
Schools

3. Persons who have met requirements 1 and 2 may be issued an Educational Technology Facilitation certification endorsement.

4. Certified teachers who have served as a facilitator of educational technology at the state, regional, district, or building level may petition Certification and Higher Education, Division of Teacher Standards, Assessment, and Certification to be "grandfathered" in with an Educational Technology Facilitation certification endorsement if they meet the following qualifications by August 31, 2002:

A. hold certification in computer literacy and have earned an additional six semester hours in educational technology, and have served as a facilitator of educational technology at the school, district, regional, or state level successfully for the past three years as verified by the employing authority; or

B. have served as a facilitator of educational technology at the school, district, regional, or state level successfully for the past five years as verified by the employing authority.

\*Requires three years of teaching experience.

#### Educational Technology Leadership

1. A valid Type A Louisiana Teaching Certificate\*
2. An earned master's degree from a regionally accredited institution of higher education.
3. A minimum of 21 semester hours of graduate credit.

- A. Education Technology coursework 9 semester hours
  - 1. Design and Development of Multimedia Instructional Units 3 semester hours
  - 2. Educational Telecommunications, Networks, and the Internet 3 semester hours
  - 3. Technology Leadership in Schools 3 semester hours
- B. Educational Technology Leadership coursework 12 semester hours
  - 1. Technology Planning and Administration 3 semester hours
  - 2. Professional Development for K-12 Technology Integration 3 semester hours
  - 3. Educational Technology Research, Evaluation, and Assessment 3 semester hours
  - 4. Advanced Telecommunications and Distance Education 3 semester hours

4. Persons who have met the requirements of 1 and 3-A may be issued a nonrenewable, nonextendable Educational Technology Leadership provisional certificate valid for three years.

5. Persons who have met the requirements of 1 through 3-B may be endorsed for Educational Technology Leadership.

6. Certified teachers who have served as coordinators of educational technology at the district, regional, and/or state levels may petition Certification and Higher Education, Division of Teacher Standards, Assessment, and Certification to be "grandfathered" in with an Educational Technology Leadership certification if they meet the following qualifications by August 31, 2002:

A. hold certification in computer literacy and have earned an additional nine semester hours in educational technology courses, and have served as a coordinator of educational technology above the building level (at the district, regional, or state level) for the past three years as verified by the employing authority; or

B. have served as a coordinator of educational technology above the building level (at the district, regional, or state level) successfully for the past five years as verified by the employing authority.

\*Requires five years of teaching experience.

Weegie Peabody  
Executive Director

0106#017

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School Personnel  
Elimination of Ancillary Program Evaluator Certification (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. This amendment repeals ancillary program evaluator certification.

The amendment eliminates the certification of program evaluators, which was established in 1981. Program evaluators are persons employed by state or local education

agencies who design, approve, and/or direct program evaluations and research on educational programs, projects, and materials in the state of Louisiana. They are responsible for assuring that evaluation plans are executed and reported according to prescribed requirements and specifications.

The consensus of the members of the Board of Elementary and Secondary Education (SBESE) at the July 1999 meeting was that this certification should not be required for program evaluators, which provides more flexibility in the employment of persons who provide this service.

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Subchapter A. Bulletins and Regulations  
§903. Teacher Certification Standards and Regulations C Bulletin 746**

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

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**Bulletin 746C Louisiana Standards for State Certification of School Personnel**

Ancillary Program Evaluator Certification C Repealed

Weegie Peabody  
Executive Director

0106#020

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School Personnel  
CK-12 Certification Structure (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The new PS-12 teacher certification structure will allow teachers to develop greater in-depth content knowledge and instructional expertise in four targeted focus areas: PS-3, 1-6, 4-8, and 7-12. Particularly beneficial, the new structure allows for enhanced preparation of teachers for middle school grades. The present teacher certification structure for the state has focus areas of nursery school, kindergarten, grades 1-8, and grades 7-12.

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 9. Bulletins, Regulations, and State Plans  
Subchapter A. Bulletins and Regulations  
§903. Teacher Certification Standards and Regulations C Bulletin 746**

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 26:459 (March 2000), LR 26:635-638 (April 2000), LR 26:638-639 (April 2000), LR 27:821 (June 2001).

**Bulletin 746C Louisiana Standards for State Certification of School PersonnelC K-12 Certification Structure**

New Certification Structure

A. Recommended Changes

1. Have the universities recommend that teachers be issued Level 1 Teaching Certificates when they have met state certification requirements and hold the universities accountable for the success of the teachers that they recommend for certification.

a. This would eliminate the need for the Department of Education to count hours on transcripts and allow the department to become more involved in providing support to universities to improve the quality of teacher preparation programs.

(Note: The Department of Education would still continue to review transcripts and issue certificates to out-of-state teachers.)

2. Change the certification structure to allow teachers to develop more content knowledge in the grade levels in which they are expected to teach and provide them with more flexible hours to add special education and other grade levels to their certification areas. This would allow new teachers to be certified in one or two areas when completing a 124 credit hour undergraduate degree program.

See B.New Certification Areas and Courses for the areas of certification that are more content specific.

See C.Additional Certifications for requirements to add additional areas of certification.

3. Require all new teachers to receive mentoring during their first year of the Louisiana Teacher Assistance and Assessment Program and have them undergo the assessment during the second year.

4. Require all teachers to pass the teacher assessment and teach for a total of three years before being issued a Level 2 teaching certificate.

5. Require all new teachers to undergo a predetermined amount of professional development during a five year time period in order to have their teaching certificates renewed for five years. Have the Blue Ribbon Commission on Teacher Quality develop the details for the professional development system during 2000-2001.

B. New Certification Areas And Courses

1. Common Elements of Basic Certification for All Grade Levels

a. General Education Coursework. Same general coursework areas and hours (e.g., 54 hours) for Grades 1-6 and 4-8.

b. Knowledge of the Learner and Learning Environment. Same general coursework areas and hours (e.g., 15 hours) for all PK-12 teachers.

c. Teaching Methodology. Varying requirements based upon focus areas.

d. Student Teaching. Same requirements and hours (e.g., 9 hours) for all PK-12 teachers.

2. Differing Elements of Basic Certification. Four new focus areas.

a. Focus Areas

(1) Preschool to Grade 3 (Focus: greater depth in early childhood, reading/language arts, and mathematics)

(2) Grades 1-6 (Focus: greater depth in reading/language arts and mathematics)

(3) Grades 4-8 (Focus: greater depth in content Cgeneric or two in-depth teaching areas)

*Primary Teaching Area*Cpreservice teachers must complete at least 31 credit hours in a specific content area (e.g., english, mathematics, etc.).

and

*Secondary Teaching Area*Cpreservice teachers must complete at least 19 credit hours in a second content area (e.g., Science, Social Studies, etc.).

b. Flexible University Hours. Flexible hours that may be used by the universities to create quality teacher preparation programs.

3. Additional Certifications. Additional grade level certifications that would require approximately 12-15 credit hours. Universities could create programs that would allow teachers to obtain more than one type of certification within the 124 total hours by using the flexible hours to add additional grade level or special education certifications.

Areas		Grades PK - 3 Basic Certification (Focus: Greater Depth In Early Childhood, Reading/Language Arts, And Mathematics)	Grades 1-6 Basic Certification (Focus: Greater Depth In Reading/Language Arts And Mathematics)	Grades 4-8 Basic Certification (Focus: Greater Depth In Content C Generic Or Two In-Depth Teaching Areas)	Grades 7-12 Basic Certification (Focus: Greater Depth In Content C Primary Teaching Area And Secondary Teaching Area)
General Education Course- Work	English	12 Hours	12 hours	12 hours	6 hours
	Mathematics	9 Hours	12 hours	12 hours	6 hours
	Sciences	9 Hours	15 hours	15 hours	9 hours
	Social Studies	6 Hours	12 hours	12 hours	6 hours
	Arts	3 Hours	3 hours	3 hours	3 hours

Focus Areas	Young Child		Reading/Language Arts and Mathematics		Generic or Two In-depth Teaching Areas				Primary Teaching Area and Secondary Teaching Area	
	Nursery School and Kindergarten	12 hours	Reading/ Language Arts (Additional Content and Teaching Methodology)	12 hours	Generic		Two In-depth Teaching Areas		Primary Teaching Area	22 or more hours if in Science or 25 or more hours if in English, Social Studies, or Math. or 31 or more hours if in other areas
					Additional Content:		In-depth Teaching Area #1			
Reading/ Language Arts (Additional Content and Teaching Methodology)	12 Hours				English	3 hours	English/ Social Studies/ Mathematics or Science	7 or more hours	General Education (if applicable) and Focus Area hours should equal 31 total hours.	
Mathematics (Additional Content and Teaching Methodology)	9 hours				Mathematics	3 hours	General Education and Focus Area hours should equal 19 total hours.	4 or more hours		
			Mathematics (Additional Content and Teaching Methodology)	9 hours			In-depth Teaching Area #2: English/ Social Studies/ Mathematics or Science General Education and Focus Area hours should equal 19 total hours.	7 or more hours 4 or more hours	Secondary Teaching Area	13 or more hours if in English, Social Studies, or Math or 10 or more hours if in Science or 19 or more hours if in other areas

New Certification Areas and Courses

Areas		Grades PK - 3 Certification (Focus: Greater Depth In Early Childhood, Reading/Language Arts, And Mathematics)	Grades 1 -6 Certification (Focus: Greater Depth In Reading/Language Arts And Mathematics)	Grades 4 -8 Certification (Focus: Greater Depth In Content Generic Or Two In-Depth Teaching Areas)	Grades 7 -12 Certification (Focus: Greater Depth In Content Primary Teaching Area And Secondary Teaching Area)	
Knowledge Of Learner And The Learning Environment  <i>(These hours may be integrated into other areas when developing new courses.)</i>	Child/Adolescent Development/Psychology, Educational Psychology, The Learner with Special Needs, Classroom Organization and Management, Multicultural Education  (Note: All of these areas should address the needs of the regular and exceptional child.)	15 hours  Emphasis Upon Early Childhood	15 hours  Emphasis Upon Elementary School Student	15 hours  Emphasis Upon Middle School Student	15 hours  Emphasis Upon Middle and High School Student	
Methodology And Teaching	Reading			6 hours	3 hours	
	Teaching Methodology	6 hours	6 hours	9 hours	6 hours	
	Student Teaching**	9 hours	9 hours	9 hours	9 hours	
Flexible Hours For The University's Use		22 hours***	19 hours	Generic	Two In-depth Teaching Areas	17-26 hours
				19 hours	17-20 hours	
Total Hours****		124 hours	124 hours	124 hours		124 hours

\* If students do not possess basic technology skills, they should be provided coursework or opportunities to develop those skills early in their program.

\*\*Students must spend a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis.

\*\*\* Three of the flexible hours must be in the "humanities." This must occur to meet General Education Requirements for the Board of Regents.

\*\*\* In addition to the student teaching experience, students should be provided actual teaching experience (in addition to observations) in classroom settings during their sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that preservice teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

Notes: Minimum credit hours have been listed. Programs may use the flexible hours to add more content hours to the various elements of the program.

The Board of Regents defines a "major" as being 25% of the total number of hours in a degree program; thus, 25% of 124 credit hours is 31 credit hours.

The Board of Regents defines a "minor" as being 15% of the total number of hours in a degree program; thus 15% of 124 credit hours is 19 credit hours.

C. Additional Certifications. It is recommended that universities consider using their flexible hours to provide preservice teachers opportunities to select additional areas to add to their certification, either special education or extended grade level certifications, when they obtain their

Bachelor degree. The additional hours would provide preservice teachers with the necessary core knowledge to teach the additional content necessary for the new certification areas.

Basic Certifications	Add-On Certifications		Total Hours
	New Certifications	Additional Courses And Hours	
Grades PK - 3	Grades 1-6	Content Emphasis: Sciences 6 Hours Social Studies 6 Hours Mathematics 3 Hours	15 Hours
Grades 1-6	Grades PK - 3	Content Emphasis: Nursery School and Kindergarten 12 Hours	12 Hours
Grades 1-6	Grades 4-8 (Generic)	Content Emphasis: English 3 Hours Mathematics 3 Hours Science 4 Hours Social Studies 3 Hours	13 Hours
Grades 4-8	Grades 1-6	Reading/Language Arts and Math Emphasis: Reading/Language Arts 9 Hours Mathematics 3 Hours	12 Hours
Grades 1-6, Grades 4-8, Or Grades 7-12	Mild/Moderate Special Education	Special Education Emphasis*: Methods and Materials for Mild/Moderate Exceptional Children, Assessment and Evaluation of Exceptional Learners, Behavioral Management of Mild/Moderate Exceptional Children, and Vocational and Transition Services for Students with Disabilities 12 Hours  Practicum in Assessment and Evaluation of Mild/Moderate Exceptional Children 3 Hours  (Note: This should not be required if students participate in student teaching that combines regular and special education teaching experiences.)  * General knowledge of exceptional students and classroom organization should be addressed in the curriculum for all teachers under "Knowledge of Learner and the Learning Environment."	12 Hours  (Additional 3 Hour Practicum if not Integrated Into Other Field-Based Experiences and Student Teaching)

Weegie Peabody  
Executive Director

0106#018

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Practitioner Teacher Program (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. This Practitioner Teacher policy provides for a streamlined alternate certification option that allows individuals to become certified with a Type B certificate after three years of full-time teaching and combined coursework, if they demonstrate required content knowledge, instructional expertise, and classroom management skills. Practitioner teachers who complete the required course requirements (or equivalent contact hours) and demonstrate proficiency during their first year of teaching can obtain a Level B Professional License after successfully completing all requirements of the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS) and completing a total of three years of teaching.

#### Title 28

#### EDUCATION

#### Part I. Board of Elementary and Secondary Education

#### Chapter 9. Bulletins, Regulations, and State Plans

#### Subchapter A. Bulletins and Regulations

#### §903. Teacher Certification Standards and RegulationsC Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 26:459 (March 2000), LR 26:635-638 (April 2000), LR 26:638-639 (April 2000), LR 27:825 (June 2001).

#### Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Practitioner Teacher Program

A. Major Components of the Practitioner Teacher Program

1. Universities, school districts, or private providers (e.g., Teach for America) will be able to offer a Practitioner Teacher Program.

2. Individuals will be considered for admission to a Practitioner Teacher Program if they possess a baccalaureate degree from a regionally accredited university with a 2.5 or higher GPA\* and already possess the content knowledge to teach the subject area(s). To demonstrate knowledge of subject area(s), all individuals (with the exception of those who already possess a graduate degree) will be required to pass the Pre-Professional Skills Test (e.g., reading, writing,

and mathematics) for the PRAXIS. Teachers of grades 1-6 (regular and special education) must pass the *Elementary School: Content Area* specialty examination on the PRAXIS, and teachers of grades 4-8 (regular and special education) must pass the *Middle School Content Area* specialty examination. Teachers of grades 7-12 (regular and special education) must pass the *specialty examination* on the PRAXIS in the content area(s) (e.g., English, Mathematics, Science, Social Studies, etc.) in which they intend to be certified. (\*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)

3. All individuals admitted to the Practitioner Teacher Program, who intend to be certified to teach grades 1-6, 4-8, or 7-12, must successfully complete 9 credit hours (or 135 contact hours) of instruction during the summer prior to the first year of teaching. Practitioner teachers will be exposed to teaching experiences in field-based schools while involved in course work.

4. All practitioner teachers will teach during the regular school year in the area(s) in which they are pursuing certification and participate in 9 credit hours (or 135 contact hours) of seminars and supervised internship during the fall and spring that will address their immediate needs. Practitioner teachers will be observed and provided feedback about their teaching from the program provider. In addition, practitioner teachers will be supported by school-based mentors from the Louisiana Assistance and Assessment Program and principals.

5. Practitioner teachers who complete the required course requirements (or equivalent contact hours) with a 2.5 or higher GPA and demonstrate *proficiency* during their first year of teaching can obtain a Level B Professional License after successfully completing all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS) and completing a total of three years of teaching.

6. Practitioner teachers who complete the required courses (or equivalent contact hours) and demonstrate *weaknesses* during their first year of teaching will be required to complete from 1 to 12 additional credit hours/equivalent contact hours. A team composed of the program provider, school principal, mentor teacher, and practitioner teacher will determine the types of courses and hours to be completed. Number of hours will be based upon the extent of the practitioner teachers' needs and must be completed within the next two years. The team will also determine when the practitioner teachers should be assessed for the Louisiana Assistance and Assessment Program during the next two year time period. The practitioner teachers must successfully complete all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS in the specialty areas) and teach for a total of three years before receiving a Level B Professional License.

7. The state's new Teacher Preparation Accountability System will be used to evaluate the effectiveness of all Practitioner Teacher Programs.

B. Structure for a Practitioner Teacher Program

**Program Providers**

Practitioner Teacher Programs may be developed and administered by:

- universities;
- school districts; and

- other agencies (e.g., Teach for America, Troops for Teachers, Regional Service Centers, etc.).

The same state Teacher Preparation Accountability System will be utilized to assess the effectiveness of the Practitioner Teacher Programs provided by universities, school districts, and other agencies.

**Program Process**

Areas	Course/Contact Hours	Activities	Support
1. Admission to Program (Spring and Early Summer)		<p>Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring.</p> <p>To be admitted, individuals must:</p> <ol style="list-style-type: none"> <li>a. Possess a baccalaureate degree from a regionally accredited university.</li> <li>b. Have a 2.5 GPA on undergraduate work. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)</li> <li>c. Pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) on the PRAXIS. (Individuals who already possess a graduate degree will be exempted from this requirement.)</li> <li>d. Pass the content specific examinations for the PRAXIS:               <ol style="list-style-type: none"> <li>(1) Practitioner candidates for Grades 1-6 (regular and special education): Pass the Elementary School Content Knowledge examination;</li> <li>(2) Practitioner candidates for Grades 4-8 (regular and special education): Pass the Middle School Content Knowledge examination;</li> <li>(3) Practitioner candidates for Grades 7-12 (regular and special education): Pass the content specialty examination(s) (e.g., English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.</li> </ol> </li> <li>e. Meet other non-course requirements established by the program providers.</li> </ol>	
2. Teaching Preparation (Summer)	9 credit hours or 135 equivalent contact hours (5-8 weeks)	<p>All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).</p> <p>Grades 1-6, 4-8 and 7-12 practitioner teachers will complete courses (or equivalent contact hours) pertaining to child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships.</p> <p>Mild/moderate special education teachers will take courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.</p>	Program Providers
3. Teaching Internship and First Year Support (Fall and Spring)	9 credit hours or 135 equivalent contact hours throughout the year. (Note: No fewer than 45 contact hours should occur during the fall.)	Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.	Program Providers, Principals and Mentors
4. Teaching Performance Review (End of First Year)		Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment portion of	

		the Louisiana Teacher and Assessment Program during the next fall.  If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from 1 to 12 credit hours (or 1-180 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine if the practitioner teachers should participate in the new teacher assessment during the fall or if the practitioner teachers should receive additional mentor support and be assessed after the fall.	
<b>5. Prescriptive Plan Implementation</b> (Second Year)	1-12 credit hours (or 15-180 equivalent hours)	Practitioner teachers who demonstrate areas of need will complete prescriptive plans.	Program Providers
6. Louisiana Assessment Program (Second Year)		Practitioner teachers will be assessed during the fall or later depending upon their teaching proficiencies.	Program Providers
7. Praxis Review (Second Year)		Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.	Program Providers
8. Certification Requirements (Requirements must be met within a 3-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met within these three years.)		Program providers will submit signed statements to the Louisiana Department of Education which indicate that the practitioner teachers completed Practitioner Teacher Programs and met the following requirements within a three year time period: <ol style="list-style-type: none"> <li>1. Passed the PPST components of the PRAXIS. (Note: This test was required for admission.)</li> <li>2. Completed the Teaching Preparation and Teaching Internship segments of the program with a 2.5 or higher GPA.</li> <li>3. Passed the Louisiana Teacher Assistance and Assessment Program.</li> <li>4. Completed prescriptive plans (if weaknesses were demonstrated).</li> <li>5. Passed the specialty examination (PRAXIS) for their area(s) of certification. <ol style="list-style-type: none"> <li>a. Grades 1-6: Elementary School Content Knowledge (Note: This test was required for admission)</li> <li>b. Grades 4-8: Middle School Content Knowledge (Note: This test was required for admission.)</li> <li>c. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)</li> <li>d. Mild/Moderate Special Education: Special Education</li> </ol> </li> <li>6. Passed the Principals of Learning and Teaching examination (PRAXIS) <ol style="list-style-type: none"> <li>a. Grades 1-6: Principles of Learning and Teaching;</li> <li>b. Grades 4-8: Principles of Learning and Teaching;</li> <li>c. Grades 7-12: Principles of Learning and Teaching.</li> </ol> </li> </ol>	
9. Ongoing Support (Second and Third Year)		Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.	Program Providers
10. Practitioner Certificate to Type B Professional License		Practitioner teachers will be issued a Practitioner Certificate when they enter the program. They will be issued a Level B Professional License once they complete the Practitioner Teacher Program and have a total of 3 years of teaching.	

**Undergraduate/Graduate Courses and Graduate Programs**

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if pursuing a graduate degree.

Weegie Peabody  
Executive Director

0106#016

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School Personnel  
Temporary Employment Permit (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC



28:I.903.A. A temporary employment permit, valid for one school year, will be granted to those candidates who meet all requirements for a Type C certificate except the NTE/PRAXIS and who have the appropriate scores on the NTE/PRAXIS in all but one of the tests required, with an aggregate score that is equal to or above the total qualifying score on all the tests required for standard certification.

To employ an individual on a temporary employment permit, a local superintendent must verify that no regularly certified teacher is available for employment. Names of the individuals employed on a temporary employment permit are to be listed on the addendum to the Annual School Report with verification that no regularly certified teacher is available.

**Title 28**  
**EDUCATION**

**Part I. Board of Elementary and Secondary Education**

**Chapter 9. Bulletins, Regulations, and State Plans**

**Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations**  
**Regulations**  
**Bulletin 746**

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**Bulletin 746 Louisiana Standards for State Certification of School Personnel**  
**Temporary Employment Permit**

A temporary employment permit, valid for one school year, will be granted to those candidates who meet all requirements for a Type C certificate except the NTE/PRAXIS and who have the appropriate scores on the NTE/PRAXIS in all but one of the tests required, with an aggregate score that is equal to or above the total qualifying score on all the tests required for standard certification.

To employ an individual on a temporary employment permit, a local superintendent must verify that no regularly certified teacher is available for employment. Names of the individuals employed on a temporary employment permit are to be listed on the addendum to the Annual School Report with verification that no regularly certified teacher is available.

An individual can be reissued a permit three times under the Board policy, only if evidence is presented to the State Department of Education that the NTE/PRAXIS has been retaken within one year from the date the permit was last issued. Beginning with the fifth year, to receive a Temporary Employment Permit, an individual must present the following.

1. Evidence that the NTE/PRAXIS has been taken within one year from the date the permit was last issued.
2. Verification from the employing superintendent that the individual is applying for employment in a specific teaching position for which there is no regularly certified teacher available.
3. A recommendation from the employing superintendent.

4. Verification of successful local evaluations for the previous four years.

Temporary employment permits will be issued at the request of individuals who meet all requirements for regular certification with the exception of the NTE/PRAXIS scores. When applying for issuance of a temporary employment permit, an individual must submit to Teacher Certification and Higher Education all application materials required for issuance of a regular certificate.

Weegie Peabody  
Executive Director

0106#019

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 746 Louisiana Standards for State Certification of School Personnel  
School Social Worker Certification  
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The amendment revises the certification requirements for School Social Workers to comply with Act 1309 of the 1999 Regular Session of the Legislature which amended the Louisiana Social Work Practice Act.

**Title 28**  
**EDUCATION**

**Part I. Board of Elementary and Secondary Education**

**Chapter 9. Bulletins, Regulations, and State Plans**

**Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations**  
**Regulations**  
**Bulletin 746**

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**Bulletin 746 Louisiana Standards for State Certification of School Personnel**  
**School Social Worker Certification**

**D. Social Worker**

Provisional Certificate in School Social Work (Valid for three years, nonrenewable)

Individual holds a Provisional Graduate Social Work Certificate (GSW) issued under R.S. 37:2701 et seq. and must work under the supervision of a Licensed Clinical Social Worker (LCSW), if providing clinical social work services. The supervision is for a minimum of one hour per week.

Qualified School Social Worker (Valid provided the holder maintains current licensure as a Social Worker)

1. Individual holds a license as a Licensed Clinical Social Worker (LCSW) in accordance with R.S. 37:2701 et seq.

or  
2. Individual holds a certificate as a Graduate Social Worker (GSW) in accordance with R.S. 37:2701, et seq. and receives a minimum of one hour per week supervision by a LCSW, if providing clinical social work services.

and  
a. Work experience in one or more of the following social work practice settings within the past five years:

- (1) school setting;
- (2) mental health setting;
- (3) corrections setting;
- (4) Family/Child/Community Service Agency;
- (5) Medical Social Services in which social services were delivered to families and children;

(6) private clinical practice in which social work services were delivered to adults, children, and families;

or  
b. graduate social worker field experience in the above social work practice settings plus two years of work experience is to be judged by the Board of Certified Social Work Examiners.

Weegie Peabody  
Executive Director

0106#021

#### **RULE**

#### **Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division**

#### **Waste Tire Clarifications (LAC 33:VII.Chapter 105)(SW030)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.Chapter 105 (Log #SW030).

This Rule clarifies the notification and submittal processes for the waste tire regulations. Prior to this Rule, all submittal notices and notifications were referenced to the department or referenced to the Solid Waste Division, which has been reorganized through departmental reengineering. This Rule will give specific instructions as to where the general public should submit all documents pertinent to the waste tire chapter of the solid waste regulations, making the submittal process easier for both the general public and the department. This Rule also eliminates obsolete wording that was mistakenly left in the waste tire regulations. Departmental reengineering has necessitated the clarification of all submittal and notification processes for all regulations promulgated by the department. Without these clarifications, the general public would not be able to submit pertinent information in an easy and timely manner. The basis and rationale for this rule are to clarify the submittal and notification process for the general public and to remove all mention of incorrect division references.

This Rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is

required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### **Title 33 ENVIRONMENTAL QUALITY**

#### **Part VII. Solid Waste**

#### **Chapter 105. Waste Tires**

#### **§10505. Definitions**

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

\*\*\*

[See Prior Text]

*Administrative Authority*—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

\*\*\*

[See Prior Text]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2411-2422.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001).

#### **§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities**

\*\*\*

[See Prior Text in A]

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a waste tire standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

\*\*\*

[See Prior Text in A.2-B]

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the Office of Environmental Services, Permits Division. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

\*\*\*

[See Prior Text in B.2-D]

1. The applicant shall make available to the department the assistance of registered engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

\*\*\*

[See Prior Text in D.2-F.1.c]

d. one copy to a department regional office; and

\*\*\*

[See Prior Text in F.1.e-5]

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, a notice shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in the official journal of the parish or municipality where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. Those persons on the department's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

\*\*\*

[See Prior Text in F.7-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), LR 27:829 (June 2001).

**§10515. Agreements with Waste Tire Processors**

Standard permitted waste tire processors may apply to the Office of Management and Finance, Financial Services Division for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the Office of Management and Finance, Financial Services Division.

\*\*\*

[See Prior Text in A-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001).

**§10517. Standard Waste Tire Permit Application**

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application, including, but not limited to, the information included in this Section and submit it to the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text in A-C.3]

4. governmental agency collection centers may accept waste tires from roadside pickup, from rights-of-way, individual residents, and unauthorized waste tire piles. For the tires from unauthorized waste tire piles to be eligible for the \$1.50 per 20 pounds marketing payment to permitted processors as indicated in LAC 33:VII.10535, the

governmental agency must notify the Office of Management and Finance, Financial Services Division, in writing, of the agency's intent prior to removing the tires from said site;

\*\*\*

[See Prior Text in C.5-6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001).

**§10519. Standards and Responsibilities of Generators of Waste Tires**

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the Office of Environmental Services, Permits Division of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the Office of Environmental Services, Permits Division.

\*\*\*

[See Prior Text in B-C]

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted to the Office of Management and Finance, Financial Services Division, along with the Monthly Waste Tire Fee Report Form WT01 obtained from the Office of Management and Finance, Financial Services Division. Until December 31, 2001, the fee shall be reported on Form WT01 in the following tire categories: passenger/light truck, medium truck, and off-road. On January 1, 2002, the fee shall be reported on Form WT02 and shall include all categories of tires listed in Appendix C. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

E. Tire dealers must provide notification to the public sector via signs, made available by the Office of Management and Finance, Financial Services Division, indicating that:

\*\*\*

[See Prior Text in E.1-K]

L. A generator who ceases the sale of tires at the registered location shall notify the Office of Environmental Services, Permits Division within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

\*\*\*

[See Prior Text in M-O]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

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

Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001).

**§10523. Standards and Responsibilities of Waste Tire Transporters**

A. Transporters of waste tires shall complete the application for transporter authorization form and submit the application, with the payment of the transporter fees as specified in LAC 33:VII.10535.A, to the Office of Management and Finance, Financial Services Division.

\*\*\*

[See Prior Text in B-F]

G All persons subject to this Section shall notify the Office of Management and Finance, Financial Services Division in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000), LR 27:831 (June 2001).

**§10525. Standards and Responsibilities of Waste Tire Processors**

\*\*\*

[See Prior Text in A]

B. On a form obtained from the Office of Management and Finance, Financial Services Division, all processors shall submit to the Office of Management and Finance, Financial Services Division a monthly report, which shall include a certified record of pounds of tires processed during the month, along with all completed manifests for the month and the log recording all unmanifested waste tires deposited at the facility. The monthly report shall also include a certified record of the pounds of waste tire material that have been marketed and delivered as a product or raw material for beneficial reuse. An alternative method of reporting sale of waste tire material shall be developed and approved for each processor that uses a process other than shredding. The alternative method shall be approved by the administrative authority.

\*\*\*

[See Prior Text in C-D.13]

a. the waste tire facility operator shall submit to the Office of Management and Finance, Financial Services Division an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit to the Office of Management and Finance, Financial Services Division two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

\*\*\*

[See Prior Text in D.13.c-E.6]

7. Mobile processors are responsible for notifying the Office of Environmental Services, Permits Division in

writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the Office of Management and Finance, Financial Services Division before initiating any processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001).

**§10531. Standards And Responsibilities of Qualified Recyclers**

A. Within 30 days of promulgation of these rules and regulations, recyclers shall notify the Office of Environmental Services, Permits Division of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Environmental Services, Permits Division, including, but not limited to:

\*\*\*

[See Prior Text in A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001).

**§10533. Manifest System**

\*\*\*

[See Prior Text in A-B.2]

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the Office of Management and Finance, Financial Services Division with the monthly processor report. The designated processing facility shall send all remaining copies to the generator no later than seven days after delivery;

\*\*\*

[See Prior Text in B.4]

5. a generator must submit to the Office of Management and Finance, Financial Services Division written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

\*\*\*

[See Prior Text in B.5.a-b]

C. Upon discovering a discrepancy in the number or type of tires in the load, the designated destination facility must attempt to reconcile the discrepancy with the generator(s) or transporter(s). The destination facility operator must submit to the Office of Management and Finance, Financial Services Division, within five working days, a letter

describing the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved a corrected copy is to be sent to the Office of Management and Finance, Financial Services Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001).

#### **§10535. Fees and Fund Disbursement**

A. Permit and Application Fees. Each applicant shall submit to the Office of Environmental Services, Permits Division a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

\*\*\*

[See Prior Text in A.1-C]

1. the entire waste tire fee shall be forwarded to the Office of Management and Finance, Financial Services Division by the tire dealer and shall be deposited in the Waste Tire Management Fund.

\*\*\*

[See Prior Text in C.2-D.6]

7. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the Office of Management and Finance, Financial Services Division. Reporting forms will be provided by the Office of Management and Finance, Financial Services Division.

\*\*\*

[See Prior Text in D.8-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001).

#### **§10536. Remediation of Unauthorized Tire Piles**

\*\*\*

[See Prior Text in A]

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the Office of Management and Finance, Financial Services Division with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the Office of Management and Finance, Financial Services Division.

\*\*\*

[See Prior Text in C]

D. State agencies, parish, or local governments may consolidate several smaller waste tire piles provided they obtain prior approval from the Office of Management and Finance, Financial Services Division. Consolidating the piles

for the purpose of remediation may increase the priority ranking of the site in question.

E. Waste tires may not be removed from unauthorized waste tire piles without prior approval of the Office of Management and Finance, Financial Services Division.

\*\*\*

[See Prior Text in F-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001).

### **Appendix A**

#### **Louisiana Department of Environmental Quality Financial Assurance Documents for Waste Tire Facilities (August 4, 1994)**

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

##### **Sample Document 1:**

###### **WASTE TIRE FACILITY FINANCIAL GUARANTEE BOND**

Date bond was executed: [Date bond executed]

Effective date: [Effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name and business address]

[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

NOW THEREFORE, if the Principal shall provide alternate financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval from the Office of Management and Finance, Financial Services Division of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform closure in accordance with the closure plan and permit requirements as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Office of Management and Finance, Financial Services Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the Office of Management and Finance, Financial Services Division, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105. Appendix A dated August 4, 1994, effective on the date this bond was executed.

## PRINCIPAL

[Signature(s)]  
[Name(s)]  
[Title(s)]  
[Corporate Seal]

## CORPORATE SURETIES

[Name and Address]  
State of incorporation:  
Liability limit:  
[Signature(s)]  
[Name(s) and title(s)]  
[Corporate seal]  
[This information must be provided for each cosurety]  
Bond Premium: \$

## Sample Document 2:

### WASTE TIRE FACILITY PERFORMANCE BOND

Date bond was executed: [date bond executed]  
Effective date: [effective date of bond]  
Principal: [legal name and business address of permit holder or applicant]  
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]  
State of incorporation:  
Surety:[name(s) and business address(es)]  
[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]  
Total penal sum of bond: \$  
Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond

guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of the Office of Management and Finance, Financial Services Division of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the *Louisiana Administrative Code*, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of such assurance from the Office of Management and Finance, Financial Services Division during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Office of Management and Finance, Financial Services Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]  
[Name(s)]  
[Title(s)]  
[Corporate Seal]

CORPORATE SURETY

[Name and Address]  
State of incorporation:  
Liability limit:  
[Signature(s)]  
[Name(s) and title(s)]  
[Corporate seal]  
[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]  
Bond Premium: \$

### Sample Document 3:

WASTE TIRE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary  
Louisiana Department of Environmental Quality  
Post Office Box 82231  
Baton Rouge, Louisiana 70884-2231

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit Number [number] in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the closure fund for its [list site identification number, site name, and facility name] at [location], Louisiana for any sum or sums up to the aggregate amount of U.S. dollars \$ [number] upon presentation of:

(1) A sight draft, bearing reference to the Letter of Credit Number [number] drawn by the administrative authority together with;

(2) A statement signed by the administrative authority, declaring that the operator has failed to perform closure in accordance with the closure plan and permit requirements and that the amount of the draft is payable into the Waste Tire Management Fund.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date, and on each successive expiration date thereof, unless, at least 120 days before the then current expiration date, we notify both the Office of Management and Finance, Financial Services Division and the [name of

permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft to the Department of Environmental Quality for deposit into the Waste Tire Management Fund in the name of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except as otherwise expressly agreed upon, this credit is subject to the uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication Number 400, or any revision thereof effective on the date of issue of this credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date shown immediately below.

[Signature(s) and Title(s) of Official(s) of issuing Institutions]

[Date]

James H. Brent, Ph.D.  
Assistant Secretary

0106#056

**RULE**

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

Criterion for Passing the Examination for  
the Professional Practice in Psychology  
(LAC 46:LXIII.503)

In accordance with R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended the following rule related to the criterion for passing the Examination for the Professional Practice in Psychology (EPPP).

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXIII. Psychologists**

**Chapter 5. Examinations**

**§503. Criterion for Passing the Examination for the  
Professional Practice in Psychology (EPPP)**

A. The Board of Examiners of Psychologists establishes the criterion for a passing score on the Examination for Professional Practice in psychology be 70 percent correct on the paper and pencil version or a scaled score of 500 on the computer administered version.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 9:551 (August 1983), amended LR 13:291 (May 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 27:835 (June 2001).

John A. Brun, Ph.D.  
Chairman

0106#036

**RULE**

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

Physicians and Surgeons C Licensure and Continuing Medical  
Education (LAC 46:XLV.301-431, 449 and 1181)

In accordance with R.S. 49:950 et seq., that the State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the provisions of the Administrative Procedure Act, has amended its rules governing the licensure of physicians and continuing medical education, LAC 46:XLV.301-431, 449 and 1181.

The Rule amendments are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 3. Physicians**

**Subchapter A. General Provisions**

**§301. Scope of Chapter**

A. The rules of this Chapter govern the licensing of physicians to engage in the practice of medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16:513 (June 1990), LR 27: 835 (June 2001).

**§303. Definitions**

A. As used in this Chapter, the following terms shall have the meanings specified.

*Applicant* Ca person who has applied to the board for a license or permit to engage in the practice of medicine in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate medical education.

*Application* Ca written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice medicine in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate medical education, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

*Good Moral Character* Cas applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would



provide legal cause under R.S. 37:1285 for the suspension or revocation of medical licensure;

b. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

c. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

**License** the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

**Medical Practice Act or the Act** R.S. 37:1261-1292, as hereafter amended or supplemented.

**Permit** the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana for a designated, temporary period of time, subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to a license or to renewal of the permit.

**Physician** a person possessing a doctor of medicine (allopathic/M.D.), doctor of osteopathy or doctor of osteopathic medicine degree (osteopathic/D.O.) or an equivalent degree duly awarded by a medical or osteopathic educational institution approved by the board pursuant to §§333 to 341 of this Chapter.

**Postgraduate Year One (Internship) Registration** the lawful authority of a physician to engage in the first year of continuing postgraduate medical education in the state of Louisiana at a medical education or internship program approved by the board, as evidenced by a certificate of registration duly issued by and under the official seal of the board.

**State** any state of the United States, the District of Columbia and Puerto Rico.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270, R.S. 37:1271 and R.S. 37:1274.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:835 (June 2001).

## **Subchapter B. Graduates of American and Canadian Medical Schools and Colleges**

### **§309. Scope of Subchapter**

A. The rules of this Subchapter govern the licensing of physicians who are graduates of medical or osteopathic schools and colleges approved by the board located within any state or in Canada.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:836 (June 2001).

### **§311. Qualifications for License**

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;

2. be of good moral character as defined by §303.A;

3. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

4. possess:

a. a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college approved by the board; or

b. a doctor of osteopathic medicine or doctor of osteopathy degree issued and conferred on or after June 1, 1971, by a school or college of osteopathic medicine approved by the board;

5. have within the prior 10 years, in conformity with the restrictions and limitations prescribed by §387 of these rules, and subject to the exception provided for certain applicants for licensure by reciprocity provided by §353, taken and passed:

a. all three steps of the United States Medical Licensing Examination (USMLE) of the Federation of State Medical Boards of the United States, Inc. (FSMB); or

b. both components of the Federation Licensing Examination (FLEX) of the FSMB; or

c. all three parts of the examinations of the National Board of Medical Examiners (NBME); or

d. step 1 of the USMLE or Part I of the NBME, Step 2 of the USMLE or Part II of the NBME, and Step 3 of the USMLE or Part III of the NBME; or

e. component 1 of the FLEX and Step 3 of the USMLE; or

f. step 1 of the USMLE or Part I of the NBME and Step 2 of the USMLE or Part II of the NBME and Component 2 of the FLEX; or

g. levels 1 and 2 of the COMLEX-USA examinations or its predecessor, the NBOME, or any combination thereof developed by the National Board of Osteopathic Medical Examiners (NBOME) and Step 3 of USMLE; or

h. subject to the additional requirements set forth in §311.A.6, all three levels of the COMLEX-USA examination, or its predecessor, the NBOME, or any combination thereof; and

6. have completed at least one year of postgraduate clinical training in a medical internship or equivalent program accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, or by the American Osteopathic Association (AOA), or by the Royal College of Physicians and Surgeons (RCPS) of Canada, and approved by the board. Other than physicians seeking licensure by reciprocity, applicants who have taken and successfully passed all three levels of the COMLEX-USA or its predecessor, the NBOME, or any combination thereof, must also provide evidence of the applicant's acceptance, continued participation in and

completion of a postgraduate medical training program (residency training) in a medical school, college or other accredited medical institution in Louisiana which has been approved by the board, which program will make the applicant board eligible for certification by a specialty board recognized by the American Board of Medical Specialties (ABMS).

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 22:207 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:836 (June 2001).

### §313. Procedural Requirements

A. In addition to the substantive qualifications specified in §311, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§359 to 365 of this Chapter and, if applicable, the procedures and requirements for examination provided by §§371 to 391 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 22:207 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:837 (June 2001).

### §315. Waiver of Qualifications

A. Upon request by an applicant, supported by certification from the dean of a medical school or college within the state of Louisiana which is approved by the board, the board may, in its discretion, waive the qualifications for licensure otherwise required by §311.A.5 or 6, in favor of an applicant who has been formally appointed by and with such medical school or college to a:

1. permanent and not time delimited tenured track position as full professor or associate professor; or

2. position as a clinical full professor or clinical associate professor on a full-time clinical track.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:837 (June 2001).

## Subchapter C. International Medical Graduates

### §321. Scope of Subchapter; Definition

A. The rules of this Subchapter specify additional qualifications, requirements, and procedures for the licensing of physicians who are international medical graduates.

B. As used in this Subchapter, the term *international medical graduate* or *IMG* means a graduate of a medical school or college not located in any state or in Canada, recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:212 (April 1986), LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:837 (June 2001).

### §323. Qualifications for License

A. To be eligible for a license, an international medical graduate applicant shall:

1. possess all of the substantive qualifications for license specified by §311 of this Chapter;

2. have taken and successfully passed the examination administered by the Educational Council on Foreign Medical Graduates (ECFMG), or its successor examination having successfully passed the USMLE in accordance with the standards, restrictions and limitations prescribed by §§385 and 387 of this Chapter;

3. be competent and proficient in speaking, understanding, reading, and writing the English language; and

4. have completed at least three years of postgraduate clinical training in the United States or in Canada in a medical residency or equivalent program accredited by the ACGME of the American Medical Association, or by the RCPS of Canada, and approved by the board. To be approved by the board such program must be offered and taken in an institution offering not fewer than two residency or equivalent programs accredited by the ACGME or the RCPS; the program in which the applicant participates must evidence the applicant's progressive responsibility for patient care; and the three years of such a program must be in the same specialty or alternatively, constitute the IMG, upon completion of the three years of such program, as eligible for specialty board certification or for postgraduate year four (PGY-4) training.

B. In addition to the qualifications specified in §323.A, if an IMG applicant has participated in any clinical clerkship program within the United States as part of the academic training requisite to his doctor of medicine degree, such clinical clerkship program shall be subject to approval by the board as a condition of the applicant's eligibility for licensure. Such a clinical clerkship program may be approved by the board only if, at the time the applicant participated in such program, the clinical clerkship program was accredited or approved by the ACGME, the clinical clerkship was served in a hospital or other institution accredited by the Joint Commission on Accreditation of Health Care Organizations, and the applicant's supervising physician within such program held formal appointment as a professor or associate professor of the medical school or college sponsoring such program; provided, however, that notwithstanding a clinical clerkship program's satisfaction of these standards, the board may decline to approve any such program upon a finding that it was not substantially

equivalent to the clinical clerkships offered by the medical schools and colleges accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges.

C. The burden of satisfying the board as to the qualifications and eligibility of the IMG applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:213 (April 1986), LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:514 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:837 (June 2001).

### **§325. Procedural Requirements**

A. In addition to the substantive qualifications specified in §323, to be eligible for a license, an IMG applicant shall satisfy the procedures and requirements for application provided by §§359 to 365 of this Chapter; if applicable, the procedures and requirements for examination provided in §§371 to 391 of this Chapter; and shall provide certified verification of his medical school transcript, reflecting the courses and hours taken and grades achieved together with a detailed description of each clinical clerkship in which the applicant may have participated as part of his medical education, specifying the inclusive dates and sites of any such clerkship and the name and address of the applicant's supervising physician therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:514 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:838 (June 2001).

### **§326. Alternative Qualification [Transitional Rule]**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(b)(1), (6), R.S. 37:1272 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:272 (April 1989), amended LR 16:515 (June 1990), repealed LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), repealed LR 27:838 (June 2001).

### **§327. Waiver of Qualifications**

A. The waiver of qualifications provided by §315 of this Chapter shall be available to international medical graduate applicants.

B. Upon request by an applicant, the board may, in its discretion, waive the necessity of successfully passing the ECFMG examination, as otherwise required by §323.A.2, in favor of an applicant who is currently certified by a specialty board recognized by the American Board of Medical Specialties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:838 (June 2001).

## **Subchapter D. Board Approval of Medical Schools and Colleges**

### **§333. Scope of Subchapter**

A. The rules of this Subchapter provide the method and procedures by which medical schools and colleges and schools or colleges of osteopathic medicine are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:838 (June 2001).

### **§335. Applicability of Approval**

A. Graduation from an approved school is among the qualifications requisite to medical licensure as provided by §311.A.4 (American and Canadian graduates), §323.A.1 (international medical graduates), and §353 (reciprocity applicants). This qualification will be deemed to be satisfied if the school or college from which the applicant graduated was approved by the board as of the date the applicant's degree was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:838 (June 2001).

### **§337. Approval of American Schools and Colleges**

A. A medical school or college located in any state which is currently accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges, or their successors, shall be concurrently considered approved by the board.

B. A school or college of osteopathic medicine located in any state which is currently accredited by the American Osteopathic Association, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), amended LR 27:838 (June 2001).

### **§339. Approval of Canadian Schools**

A. A medical school or college located in Canada which is currently accredited by the RCPS of Canada, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), repromulgated LR 27:838 (June 2001).

### **§341. Recognition of International Medical Schools**

A. To be considered acceptable as evidence of basic medical education, a medical school or college not located in any state or in Canada shall, at a minimum, be recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 27:839 (June 2001).

### **§345. List of Approved Schools**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), repealed LR 27:839 (June 2001).

### **Subchapter E. Licensure by Reciprocity**

#### **§351. Definition**

*Licensure by Reciprocity* Cthe issuance of a license to practice medicine on the basis of medical licensure by another state medical or osteopathic licensing authority pursuant to written examination acceptable to the board as specified by §353.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:839 (June 2001).

#### **§353. Qualifications for Medical Licensure by Reciprocity**

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§311 and 313 of this Chapter, save for successfully passing the examinations in the manner specified by §311.A.5(a)-(h) within the prior 10 years, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license to practice medicine issued by the medical (whether allopathic or osteopathic) licensing authority of another state, and the applicant has, within 10 years prior to the date of application, taken and successfully passed a written certification or recertification examination administered by and leading to certification or recertification by a specialty board recognized by the American Board of Medical Specialties (ABMS).

B. An allopathic physician applicant who possesses all of the qualifications for licensure by reciprocity specified by §353.A, save for having taken or passed a written medical competence examination within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant has, within 10 years prior to the date of application, taken and successfully passed the Special Purpose Examination (SPEX), administered under the auspices of the Federation of State

Medical Boards of the United States, Inc. (FSMB), as may be determined by the board.

C. An osteopathic physician applicant who possesses all of the qualifications for licensure by reciprocity specified by §353.A, but whose passage of a written certification or recertification examination administered by a specialty board recognized by the ABMS was more than 10 years prior to the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant has, within 10 years prior to the date of the application, taken and successfully passed the SPEX, administered under the auspices of the FSMB, as may be determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 14:149 (March 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 22:209 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:839 (June 2001).

### **Subchapter F. Application**

#### **§359. Purpose and Scope**

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensing as a physician in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), repromulgated LR 27:839 (June 2001).

#### **§361. Application Procedure**

A. Application for unrestricted licensing shall be made upon forms supplied by the board.

B. Application forms and instructions pertaining thereto may be obtained at any time from the board's web page at [www.lsbme.org](http://www.lsbme.org) or upon written request directed to the office of the board, 630 Camp Street, New Orleans, LA, 70130. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor.

C. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in this Chapter;

2. three recent photographs of the applicant; and

3. a certified copy of the applicant's birth certificate, along with such other information and documentation as the board may require to evidence qualification for licensing.

D. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

E. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

F. Each application submitted to the board shall be accompanied by the applicable fees, as provided in these rules and the Medical Practice Act.

G. Upon submission of or concurrently with submission of a completed application, an applicant shall, by appointment, make a personal appearance before the board, a member of the board, or its designee, as a condition to the board's consideration of such application. At the time of such appearance, the applicant shall present the original of the documents required under this Chapter. The recommendation of the board, board member, or designee as to the applicant's fitness for licensure shall be made a part of the applicant's file.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 22:209 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:839 (June 2001).

### **§363. Additional Requirements for International Medical Graduates**

A. Any diploma or other document required to be submitted to the board by an IMG applicant which is not in the English language must be accompanied by a certified translation thereof into English.

B. In addition to the procedures and requirements set forth in §361, upon submission of a completed application, an IMG applicant shall, by appointment, make a personal appearance before a member of the board as a condition to the board's consideration of such application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 22:210 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:840 (June 2001).

### **§365. Effect of Application**

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of medicine, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §365.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the medical licensing authority of any state; the Federation of State Medical Boards of the United States; the American Medical Association; the American Osteopathic Association; the Louisiana Osteopathic Association; any component state and county or parish medical society, including the Louisiana State Medical Society and component parish societies thereof; the Federal Drug Enforcement Agency; the Louisiana Office of Narcotics and Dangerous Drugs, Division of Licensing and Registration; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 27:840 (June 2001).

## **Subchapter G. Examination**

### **§371. Designation of Examinations**

A. Examinations recognized by the board pursuant to R.S. 37:1272(5) as qualifying for a license to practice medicine include those examinations set forth and in the manner specified by §311.A.5. Application for taking Step 3 of the USMLE is made to the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 22:210 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:840 (June 2001).

### **§373. Eligibility for Examination**

Repealed

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 22:210 (March 1996), withdrawal LR 22:280 (April 1996), repealed LR 27:840 (June 2001).

### **§375. Dates, Places of Examination**

Repealed

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 22:210 (March 1996), withdrawal LR 22:280 (April 1996), repealed LR 27:840 (June 2001).

**§377. Administration of Examination**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 31:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), repealed LR 27:841 (June 2001).

**§379. Subversion of Examination Process**

A. An applicant-examinee who is reported to the board as having engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §383 of this Chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the entity offering the examination or those administering it;
2. removing from the examination room or rooms any of the examination materials;
3. reproducing or reconstructing, by copy, duplication, written notes, or electronic recording, any portion of the licensing examination;
4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered licensing examination;
5. communicating in any manner with any other examinee or any other person during the administration of the examination or providing substantive examination content or answers thereto to another examinee after the examination;
6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;
7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed, electronic or recorded materials or data of any kind;
8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;
9. permitting another person to appear for and take the examination on one's behalf and in one's name; or
10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June

1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:841 (June 2001).

**§381. Finding of Subversion**

A. When, during the administration of examination, the reasonable cause exists to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the entity administering the examination shall take such action as it deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. When the board, upon information provided by the entity administering the examination, an applicant-examinee, or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §383 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's finding of fact, its conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:841 (June 2001).

**§383. Sanctions for Subversion of Examination**

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and for medical licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by §383.A or B, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend, or impose probationary conditions on any license or permit issued to such applicant;
2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or
3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:841 (June 2001).

### **§385. Passing Scores**

A. An applicant will be deemed to have successfully passed the USMLE, COMLEX-USA or NBME examination if he attains a score of at least 75 on each step, level or part of the examination.

B. An applicant will be deemed to have successfully passed the FLEX examination if he attains a score of at least 75 on each component of the examination or having taken the FLEX when a weighted average was calculated and reported thereon, had attained a FLEX weighted average of at least 75.

C. A person who is required to and does take the SPEX examination will be deemed to have successfully passed the examination if he attains a score of at least 75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:842 (June 2001).

### **§387. Restriction, Limitation on Examinations**

A. An applicant who has failed to attain a passing score upon taking Step 2 or Step 3 of the USMLE more than three times, or who has failed to attain a passing score upon taking Part 2 or Part 3 of the NBME more than three times, or who has failed to attain a passing score upon taking any component of the FLEX more than three times, or who has failed to attain a passing score upon taking Level 2 or Level 3 of the COMLEX-USA or its predecessor, the NBOME or any combination thereof more than three times, shall thereafter be deemed ineligible for licensing. The limitation stated herein with respect to the taking of the USMLE shall be applicable when such examination is taken as a component of obtaining a Standard ECFMG Certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 27:842 (June 2001).

### **§389. Examination In or For Another State**

A. Upon application to the board, an applicant for licensing under this Chapter may be permitted to take Step 3 of the USMLE in another state. The score attained by such applicant on such examination will be accepted by the board as if the applicant had taken the USMLE pursuant to application to the board provided that the examination is administered and taken consistently with the restrictions and limitations prescribed by §387.

B. A USMLE score attained by an applicant on a USMLE examination administered prior to the applicant's application to the board for licensing will be accepted by the board, provided that:

1. the applicant presents or causes to be presented to the board written certification of the date and place that the USMLE was taken and the score achieved;

2. the examination was administered and taken consistently with the rules, regulations, restrictions and limitations prescribed by §387 and by the medical licensing authority of the state for which the examination was taken;

3. the applicant has completed at least one year of postgraduate training, if such training is a condition to medical licensure in the state in which the examination was taken; and

4. the applicant provides the board with a satisfactory written explanation of the applicant's failure to obtain licensing in the state in which the examination was taken.

C. Upon application to the board and payment of the fee prescribed in Chapter 1 of these rules, an individual applying for licensure in another state may sit for the USMLE examination administered in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 27:842 (June 2001).

### **§391. Lost, Stolen, or Destroyed Examinations**

A. The submission of an application for examination to the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, employees, and agents, and the state of Louisiana to the applicant for the loss, theft, or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of the score thereon by the entity offering such examination, other than by intentional act, shall be limited exclusively to the refund of the fees, if any, paid to the board for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:842 (June 2001).

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

### **§397. Restricted Licensure in General**

A. With respect to applicants who do not meet or possess all of the qualifications and requirements for licensing, the board may, in its discretion, issue such restricted licenses as are, in its judgment, necessary or appropriate to its responsibilities under law. Restricted licenses shall be designated and known as permits.

B. A temporary permit entitles the holder to engage in the practice of medicine in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to licensing or renewal of the permit after its expiration.

C. An institutional permit entitles the holder to engage in the practice of medicine only at, in and in association with the medical institution, clinic, or location specified by such permit or within a specified medical training program approved by the board.

D. A permit issued by the board may be either temporary or institutional, or both. Other permits may be issued by the board upon such terms, conditions, limitations, or

restrictions as to time, place, nature, and scope of practice, as are, in the judgment of the board, deemed necessary or appropriate to the particular circumstances of individual applicants or physicians.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:842 (June 2001).

### **§399. Types of Permits**

A. The types of permits which the board may consider issuing, as enumerated in the following sections of this Subchapter, shall not be construed to provide any right or entitlement whatsoever to the described permit, issuance of which shall be determined in the absolute discretion of the board.

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

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

### **§401. Provisional Temporary Permit Pending Application for Visa**

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

B. A provisional temporary permit issued under this section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit;
2. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or
3. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for.

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §401.B.1, in favor of an applicant who holds a provisional temporary permit issued under this section and who has filed a petition for H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such provisional temporary permit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1101 (November 1991), repromulgated LR 27:843 (June 2001).

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

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for the board having received a report from the Louisiana bureau of criminal identification and information of the office of state police within the Department of Public Safety and Corrections (Bureau) or the Federal Bureau of Investigation of the United States Department of Justice (FBI), concerning state and national criminal history record information which the board has requested pursuant to the Medical Practice Act or by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit, submitted or attempted to submit fingerprints and all other required information to the board necessary to obtain criminal history record information and paid all applicable fees and costs prescribed by these rules and the Medical Practice Act.

B. A provisional temporary permit issued under this section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit; or
2. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for following its receipt of criminal history record information.

C. The board may, in its discretion, extend or renew for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §402.B.1, in favor of an applicant who holds a provisional temporary permit issued under this section who has submitted or attempted to submit fingerprints and all other required information and paid all applicable fees and costs attendant thereto but whose criminal history record information has not been received from the Bureau or the FBI within 90 days from issuance of such provisional temporary permit.

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

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

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

A. The board may issue a visiting physician temporary permit to an applicant physician who is invited by one or more physicians licensed under this Chapter to participate or consult in diagnosis or treatment of a patient under care in a Louisiana medical institution, provided that such invited physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;
2. within a reasonable time prior to the intended consultation or treatment, presents or causes to be presented to the board:
  - a. indisputable personal identification;
  - b. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing



authority of another state or, if an alien, holds an unrestricted license or other legal authorization to engage in the practice of medicine in his domicile country; and

c. written recommendations by two physicians licensed under this Chapter attesting to the professional qualifications of the visiting physician and assuming responsibility for his professional activities and patient care; and

3. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

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

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. presents or causes to be presented to the board:

a. indisputable personal identification;

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

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

3. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

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

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. presents or causes to be presented to the board:

a. indisputable personal identification;

b. an H-1 or equivalent visa;

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

d. verification satisfactory to the board that the applicant holds a current unrestricted license to engage in the practice of medicine in his domicile country; and

3. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

D. The board may issue a visiting physician evaluation temporary permit to an applicant physician to conduct a non-invasive evaluation of an individual located in Louisiana, who has given his consent thereto, provided that while acting under the authority of such permit in this state such physician shall not utilize the results of his evaluation to treat any medical condition which he may determine such individual to suffer, or engage in any activity beyond the scope of authority specifically conferred by such permit, provided that such evaluating physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. within a reasonable time prior to the intended evaluation presents or causes to be presented to the board:

a. indisputable personal identification;

b. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state or, if an alien, holds an unrestricted license or other legal authorization to engage in the practice of medicine in his domicile country;

c. a letter setting forth the location and date on and where such evaluation is to be conducted;

d. verification satisfactory to the board that the evaluation sought to be performed will be undertaken with the consent of the individual to be evaluated; and

2. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

E. A temporary permit issued under §403.A or D may be restricted by the board to permit a specific act in consultation or evaluation and/or to restrict consultation, treatment or evaluation to a designated patient. Temporary permits issued under §403.B and C are limited to a term of 12 months from the date of issuance.

F. A temporary permit issued under this section shall expire, and thereby become null, void, and to no effect on the date specified by such permit.

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

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

#### **§404. Continuing Postgraduate Training beyond Year One**

A. The board shall issue an institutional temporary permit to an applicant of an approved American or Canadian medical school or college (whether allopathic or osteopathic) for the purpose of participating in an accredited program of postgraduate medical training (residency training), beyond postgraduate year one, in a Louisiana medical school, college or other accredited medical institution approved by the board.

B. Qualifications for Permit. To be eligible for an institutional temporary permit for postgraduate medical training beyond year one, the applicant shall:

1. possess all of the substantive qualifications for licensure specified by §311.A.1-4;

2. have completed one year of postgraduate training as required by §311.A.6;

3. have submitted documentation to the board from the director of the program certifying the applicant's qualification for and appointment to the postgraduate year two (PGY-2) or higher level of the program; and

4. satisfy the applicable fees prescribed in these rules and the Medical Practice Act.

C. Procedural Requirements. An application form will be supplied by the board only after the qualifications prescribed by §404.B.3 have been documented by an original letter, signed by the director of the program at which the applicant will train, certifying that the qualifications and conditions of such subsection have been met.

D. Restrictions and Limitations. A physician (whether allopathic or osteopathic) holding a permit under this subsection shall not enroll or participate in postgraduate medical training or otherwise engage in the practice of

medicine in this state, other than at and within the scope of the program for which such person has been approved by the board.

E. Term of Permit. A permit issued under this section shall expire and become null and void on the earliest of the following dates:

1. 12 months from the date on which it was issued;
2. effective on the date that the permittee's appointment to the program for which he was approved by the board is terminated; or
3. the date on which the board gives notice to the permittee of its final action granting or denying issuance of a license to practice medicine.

F. Renewal, Reissuance. A permit issued under this section which has expired may be renewed or reissued by the board for one or more successive 12 month periods, provided that:

1. prior to the expiration of the initial institutional temporary permit, permit holder has taken and successfully passed all 3 steps of USMLE or all 3 levels of COMLEX-USA or all steps, levels, parts or components of those examinations in the manner specified by §311A.5(a)-(h), within the limitations and restrictions prescribed by §387 of these Rules; and

2. not less than two months prior to the annual expiration of the permit, the director of the program in which the permittee is enrolled has submitted to the board a written report on the permittee's performance in such program, certifying to the board that:

- a. the permit holder has performed successfully and competently in such program;
- b. the medical school, college or other accredited medical institution will renew the permittee's appointment for an additional year; and
- c. no grounds are known which would provide cause for the board to refuse to renew or to revoke the permittee's permit pursuant to §404.H.

G Causes for Refusal to Issue or Renew. Notwithstanding an applicant's eligibility for an institutional permit under this section, under the standards and criteria set forth in this section, the board may nevertheless deny issuance or renewal of such permit for any of the causes for which it may deny licensure under R.S. 37:1285(A) or for which it may revoke an institutional temporary permit pursuant to §404.H.

H. Causes for Revocation. Upon prior notice and an opportunity to be heard in accordance with the Louisiana Administrative Procedure Act, a permit may be revoked by the board:

1. for any of the causes specified by R.S. 37:1285(A);
2. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of the application, any of the qualifications requisite to eligibility for the permit as prescribed by this section; or
3. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the conditions, restrictions, and limitations prescribed by §404.D hereof.

I. Effect of Revocation. A permittee who has had his institutional temporary permit revoked by the board pursuant to §404.H shall not thereafter be eligible for a permit or a license to practice medicine in the state of Louisiana.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:844 (June 2001).

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

A. The board may issue an institutional temporary permit to an applicant who is a commissioned physician of the Armed Services of the United States for the purpose of receiving postgraduate clinical training in a medical program approved by the board and conducted by a Louisiana medical school, college, or other accredited medical institution provided that such physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. possesses a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state, or has successfully passed the USMLE, FLEX, NBME, COMLEX-USA or NBOME examinations in the manner specified by §311.A.5;

3. will participate in such postdoctoral medical training program pursuant to and within the course and scope of his orders and duties as a commissioned officer of the Armed Services;

4. within a reasonable time prior to the commencement of such training program, presents or causes to be presented to the board:

- a. satisfactory documentation that he possesses the qualifications required by this section, including a certified copy of his military orders authorizing and directing his participation in the specified medical training program; and

- b. written certification by the dean of the medical school or college in which the applicant is to receive such training that the applicant has been accepted for participation in such program subject to the issuance of a permit by the board; and

5. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

B. The board may, in its discretion, issue a temporary permit for the purpose of serving a preceptorship or participating in a short-term residency program conducted by a Louisiana medical school, college, or other accredited medical institution to an applicant who possesses the qualifications for licensure prescribed by §311.A.1-4 and who possesses a current unrestricted license to practice medicine in, and duly issued by, any state; provided that:

1. the preceptorship or residency program is approved by the board;

2. the applicant presents, or causes to be presented, to the board:

- a. a completed application for a short-term residency permit upon the form provided by the board, together with the fees prescribed by these rules and the Medical Practice Act;

- b. satisfactory documentation that the applicant possesses the qualifications required by this section;

- c. written certification of current unrestricted licensure by the state in which the applicant resides at the time of the application or satisfactory documentation of having passed the examinations in the manner specified by §311.A.5; and

d. a letter from the physician under whom he will be serving in the preceptorship or short-term residency, describing the capacity in which the applicant will be serving and the inclusive dates of such service; and

3. the applicant appears in person before and presents to a member of the board his original doctor of medicine, doctor of osteopathic medicine or doctor of osteopathy degree and original certificate of state medical licensure.

C. The holder of a permit issued under this section shall not engage in the practice of medicine in any respect in the state of Louisiana or receive medical educational training other than within the postdoctoral medical educational program, preceptorship, or short-term residency program for which he is approved by the board.

D. A temporary permit issued under this section shall expire, and thereby become null and void and to no effect on the date specified by such permit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:845 (June 2001).

#### **§407. Permit Pending Examination Results**

A. The board may issue an institutional temporary permit for the sole purpose of serving in an approved medical residency training program to a graduate of an American or Canadian medical school or college or school of osteopathic medicine who has taken the USMLE or COMLEX-USA examination but whose scores have not yet been reported to the board or who is scheduled to take the USMLE or COMLEX-USA examination at its next administration, to be effective pending the reporting of such scores to the board, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed all steps of the USMLE or all levels of the COMLEX-USA examination (§311.A.5), or completing the postgraduate medical training program required by §311.A.6, and provided further that the applicant has not previously taken and failed to achieve a passing score, as prescribed by §387 of these rules, on the USMLE, FLEX, NBME, COMLEX-USA or NBOME examination, any component thereof, or any written examination administered by the licensing authority of any state.

B. The board may issue a temporary permit to an applicant for licensure by reciprocity (§§351 to 353) who is required by §353 to take the SPEX or a certification or recertification examination, but who has not yet taken SPEX or a certification or recertification examination or whose scores have not yet been reported to the board or the applicant, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed the SPEX or a certification or recertification examination (§353), and provided further that the applicant has registered for the next available administration of the SPEX or a certification or recertification examination and has not previously taken and failed to achieve a passing score on

SPEX or any portion of a certification or recertification examination more than three times.

C. A permit issued under this section shall expire, and thereby become null, void, and to no effect on the date that:

1. the board gives written notice to the permit holder that he has failed to achieve a passing score on the USMLE, COMLEX-USA or SPEX examination for which he was registered;

2. the board gives written notice to the permit holder pursuant to §381.C that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process;

3. the permit holder is issued a license pursuant to §413.A or another type of permit as provided by §§397 to 405 of this Chapter; or

4. the holder of a permit issued under §407.B fails to appear for and take the SPEX or the certification or recertification examination for which he is registered or the earlier of the date on which the board or the permit holder receives notice from the entity or specialty board administering such examination that he has failed to achieve a passing score on any portion of the certification or recertification examination for which he was registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272, R.S. 37:1273 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 22:212 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:846 (June 2001).

#### **§409. Visiting Foreign National Resident Permit**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:522 (June 1990), repealed LR 22:212 (March 1996), withdrawal LR 22:280 (April 1996), repealed LR 27:846 (June 2001).

#### **§411. Graduate Education Temporary Permit**

A. In General. The board may issue a Graduate Education Temporary Permit (GETP) to an international medical graduate (a graduate of a medical school located outside of the United States, Canada, and Puerto Rico) for the purpose of enrolling and participating in an accredited program of postgraduate medical education (residency or fellowship) at a Louisiana medical school, college, or other accredited medical institution, upon documentation of the qualifications, satisfaction of the procedural requirements and compliance with the conditions and limitations prescribed by this section.

B. Qualifications for Permit. To be eligible for a GETP, an international medical graduate (IMG) shall:

1. be at least 21 years of age;

2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the INS of the United States pursuant to the Immigration and Nationality Act and the commissioner's regulation thereunder, as evidenced by an exchange visitor (J-1), temporary worker (H-1B) or immigrant visa, or INSC issued or approved work permit or by a pending application for such visa or permit;

3. be of good moral character, as defined by §303.A;
4. possess a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college listed, at the time the degree was awarded, in the then-current edition of the *World Directory of Medical Schools* published by the World Health Organization; and
5. possess the standard certificate of the (ECFMG), provided it was issued on the basis of examination taken in accordance with the standards, restrictions and limitations prescribed by §387 of these rules; and
6. have received a written commitment from an accredited Louisiana medical school, college, or other accredited medical institution formally appointing the IMG to a postgraduate medical education training program which is conducted by such medical school, college, or other medical institution and which is fully accredited by (and not on probational status with) the ACGME, subject only to the board's issuance of a GETP to the applicant; and agreeing to furnish to the board the periodic reports required by §411.F.2-3; and
7. satisfy the applicable fees prescribed in these rules and the Medical Practice Act.

C. **Procedural Requirements.** An application form will be supplied by the board only after the qualifications prescribed by §411.B.6 have been documented by an original letter, signed by the director of the postgraduate training program of the Louisiana medical school, college, or other accredited medical institution at which the IMG will train, certifying that the qualifications and conditions of such subsection have been met.

D. **Restrictions and Limitations.** An IMG holding a GETP issued by the board shall not participate in postgraduate medical training or engage in the practice of medicine within the state of Louisiana other than as follows.

1. During the 12 months following the effective date of an initial GETP, an IMG may participate in postgraduate medical training and engage in the practice of medicine solely at the principal location of the sponsoring medical school, college, or medical institution and shall not participate in clinical rotations to or serve at institutions at any other location.

2. An IMG who is enrolled and participating in a first postgraduate year (PGY-1) medical education training program shall not assume independent responsibility for patient care or otherwise engage in the practice of medicine.

3. An IMG shall not engage in the practice of medicine, or participate in any postgraduate medical training program within the state of Louisiana, other than within the scope of the postgraduate medical training program for which such person has been approved by the board, nor other than at the medical school, college, or other accredited medical institution from which such IMG holds his or her appointment, or at medical facilities affiliated with such program.

4. An IMG holding a GETP shall be subject to supervision by the supervising physicians designated by the medical school, college, or medical institution at which the postgraduate medical education training program is conducted.

E. **Term of Permit.** Each GETP issued under this Section shall expire 12 months from the date on which it is issued. A GETP shall also expire, and automatically become null and

void, effective on any date that the permittee's appointment to the designated postgraduate training program is terminated.

F. **Renewal, Reissuance.** A GETP which has expired may be renewed or reissued by the board for one or more successive 12-month period, provided that:

1. not later than 24 months following the effective date of an initial GETP, permit holder has taken and successfully passed Step 3 of the United States Medical Licensing Examination (USMLE) or had previously passed both components of the FLEX;

2. not less than five months nor more than seven months following the effective date of an initial GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that the permit holder has performed successfully and competently in such postgraduate program;

3. not less than two months prior to the annual expiration of a GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that:

- a. the permit holder has performed successfully and competently in such postgraduate program;

- b. the medical school, college, or other medical institution will renew the IMG's appointment for an additional year; and

- c. no grounds are known which would provide cause for the board to refuse to renew or to revoke the permit holder's GETP pursuant to §411.H hereof.

G **Causes for Refusal to Issue or Renew.** Notwithstanding an IMG's eligibility for a GETP, or for renewal of a GETP, under the standards and criteria set forth in this section, the board may nonetheless deny issuance or renewal of a GETP for any of the causes for which it may deny licensure under R.S. 37:1285(A) or for which it may revoke a GETP pursuant to §411.H.

H. **Causes for Revocation.** Upon prior notice and an opportunity to be heard in accordance with the Louisiana Administrative Procedure Act, a GETP may be revoked by the board:

1. for any of the causes specified by R.S. 37:1285(A);

2. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications requisite to eligibility for a GETP as prescribed by this section; or

3. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the GETP or otherwise violated any of the conditions, restrictions, and limitations prescribed by §411.D hereof.

I. **Effect of Revocation.** An IMG whose GETP has been revoked by the board pursuant to §411.H shall not thereafter be eligible for a GETP or license to practice medicine in the state of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1270(A), R.S. 37:1270(B)(6), R.S. 37:1275, R.S. 37:1277 and R.S. 37:1281.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001).

## **Subchapter I. License Issuance, Termination, Renewal and Reinstatement**

### **§413. Issuance of License**

A. If the qualifications, requirements, and procedures prescribed or incorporated by §311 and §313 or §323 and §325, or §353 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of medicine in the state of Louisiana.

B. A license issued under §311 of this Chapter shall be issued by the board within 30 days following the reporting of the applicant's USMLE passing scores to the board or in the case of a doctor of osteopathic medicine or doctor of osteopathy who has successfully passed COMLEX-USA or its predecessor, the NBOME, or any combination thereof, but not USMLE, within 30 days following the receipt of satisfactory documentation of the completion of a postgraduate medical training program required under §311A.6. A license issued under any other section of this Chapter shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 22:212 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:848 (June 2001).

### **§415. Expiration of Licenses and Permits**

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall annually expire and thereby become null, void, and to no effect the following year on the first day of the month in which the licensee was born.

B. A license issued to a doctor of osteopathic medicine or doctor of osteopathy pursuant to successful passage of COMLEX-USA or its predecessor, the NBOME, or any combination thereof, and the completion of the postgraduate medical training program under §311.A.5 and 6 shall not be renewed after the expiration of one year from the date of issuance unless on or before the renewal date the licensee:

1. provides evidence to the board that he has obtained certification in a specialty by a specialty board recognized by the ABMS; or
2. in those specialties for which certification is not possible within a year following completion of a training program, provides satisfactory evidence to the board that he is progressing toward certification in a timely fashion and has not failed any portion of the certification or recertification examination more than three times, in which case the license shall be renewed.

C. A license issued pursuant to the waiver of qualifications provided by §315 of this Chapter shall become null and void on the earlier of the date prescribed by §415.A or the date on which the physician's appointment as a professor to the medical school or college, upon which the waiver was granted by the board, is terminated.

D. The timely submission of a properly completed application for renewal of a license, but not a permit, as provided by §417 of this Chapter, shall operate to continue

the expiring licensing in full force and effect pending issuance of the renewal license.

E. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 22:212 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 24:1500 (August 1998), LR 27:848 (June 2001).

### **§417. Renewal of License**

A. Every license issued by the board under this Chapter shall be renewed annually on or before the first day of the month in which the licensee was born, by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fees prescribed in these rules and the Medical Practice Act, and documentation of satisfaction of the continuing medical education requirements prescribed by Subchapter K of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S., 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:848 (June 2001).

### **§418. Reduced Renewal Fees for Certain Physicians**

A. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. attained the age of 70 years;
2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense, or administer controlled substances; and
3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee and consenting to revocation of any license renewed pursuant to this section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this section, continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense, or administer controlled substances.

B. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. ceased to engage in the practice of medicine in any form in this state as a consequence of physical or mental disability;

2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense, or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee, including independent physician verification of the applicant's physical or mental disability, and consenting to revocation of any license renewed pursuant to this section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this section, engaged or sought to engage in any manner in the practice of medicine in this state or continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense, or administer controlled substances.

C. A physician whose medical license is renewed pursuant to this section shall not thereafter engage or seek to engage in the active practice of medicine in this state or to prescribe, dispense, or administer controlled substances or other prescription medications except upon prior application to and approval by the board, which, in its discretion, as a condition to reinstatement of full licensure, may require that:

1. the physician take and successfully pass all or a designated portion of the USMLE or SPEX examination; and/or

2. the physician provide medical documentation satisfactory to the board that the physician is then physically and mentally capable of practicing medicine with reasonable skill and safety to patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 22:213 (March 1996), withdrawal LR 22:280 (April 1996), repromulgated LR 27:848 (June 2001).

#### **§419. Reinstatement of Expired License**

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided, provided that application for reinstatement is made within four years of the date of expiration. A physician whose license has lapsed and expired for a period in excess of four years or who is otherwise ineligible for reinstatement under this section may apply to the board for an initial original or reciprocal license pursuant to the applicable rules of this Chapter.

B. An applicant seeking reinstatement more than one year from the date on which his license expired shall demonstrate, as a condition of reinstatement, satisfaction of the continuing medical education requirements of .433-.449 of Subchapter K of these rules for each year since the date of the expiration of licensure. As additional conditions of reinstatement the board may require:

1. that the applicant complete a statistical affidavit, upon a form supplied by the board, and provide the board with a recent photograph;

2. that the applicant possess a current, unrestricted license issued by another state; and/or

3. if the applicant does not at the time of the application for reinstatement possess a current, unrestricted license issued by another state, that the applicant take and successfully pass:

a. all or a designated portion of the USMLE or SPEX examination; or

b. a written certification or recertification examination by a specialty board recognized by the ABMS.

C. An applicant whose medical license has been revoked, suspended, or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his medical license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the date on which his Louisiana medical license expired, shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:1285.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable physicians of the former licensee's last professional location, together with the applicable renewal fees prescribed in these rules and the Medical Practice Act, plus a penalty computed as follows.

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 14:86 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 22:213 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:849 (June 2001).

#### **Subchapter J. Postgraduate Year One (Internship) Registration**

##### **§425. Necessity for Registration**

A. As used in this section, *postgraduate year one (PGY-1)* or *internship* means the first year of postgraduate training following graduation from a medical school or college (whether allopathic or osteopathic) approved by the board. For purposes of this section PGY-1 includes only the first year of any such training following graduation from a medical school or college and does not include training which may be designated PGY-1 level subsequent to prior training at such level in any specialty, field, or program.

B. No person who does not possess a license or permit issued under this Chapter shall enroll or participate in a PGY-1 medical educational program, or internship, unless he is duly registered with the board pursuant to this Subchapter.

C. Notwithstanding registration under this Subchapter, no person who does not possess a license or permit issued under this Chapter shall enroll or participate in a first year postgraduate medical educational program, an internship, or any other program howsoever designated or whenever taken, which permits or requires such persons to exercise independent medical judgment, assume independent

responsibility for patient care, or otherwise to engage in the practice of medicine.

D. Upon a finding that a person or registrant has violated the proscriptions of this section, the board may:

1. suspend or revoke such person's registration under this Subchapter or impose probationary conditions thereon;

2. consider and declare such person or registrant ineligible for a medical license or permit under this Chapter; and/or

3. cause the institution of judicial proceedings against such person for injunctive relief, costs, and attorneys fees, pursuant to R.S. 37:1286.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 22:214 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:849 (June 2001).

#### **§427. Qualifications for Registration**

A. To be eligible for registration under this Subchapter, an applicant shall possess all of the substantive qualifications for licensure specified by §311.A.1-4 and shall be a graduate of an approved American or Canadian medical school or college (whether allopathic or osteopathic).

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 27:850 (June 2001).

#### **§429. Procedural Requirements**

A. In addition to the substantive qualifications specified in §427, to be eligible for registration under this Subchapter, an applicant shall:

1. submit to the board a completed application, upon forms supplied by the board, subscribed by the applicant and by the administrator or chief executive officer of the hospital or medical institution in which the postgraduate program is to be conducted, accompanied by a recent photograph of the applicant;

2. make a personal appearance, by appointment, before a member of the board or its designee, or at the office of the board before its designated officer, and present evidence of the qualifications specified by §427; provided, however, that an applicant who has completed his medical (whether allopathic or osteopathic) education but who does not yet possess a degree as required by §311.A.4 may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved medical school or college (whether allopathic or osteopathic), certifying that the applicant has completed his academic and medical education at such school or college, that the applicant is a candidate for the degree of doctor of medicine or doctor of osteopathic medicine or doctor of osteopathy at the next scheduled convocation of such school

or college, and specifying the date on which such degree will be awarded; and

3. pay the applicable fees, as provided in these rules and the Medical Practice Act.

B. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:525 (June 1990), LR 27:850 (June 2001).

#### **§431. Issuance and Term of Registration**

A. If the qualifications, requirements, and procedures prescribed or incorporated by §427 and §429 are met to the satisfaction of the board, the board shall issue a certificate to the applicant evidencing his registration under this Subchapter for enrollment and participation in a first year postgraduate (internship) program in the state of Louisiana.

B. Registration issued under this Subchapter shall be effective on and as of the date on which an applicant's postgraduate medical education program is to commence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:525 (June 1990), LR 22:214 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:850 (June 2001).

#### **Subchapter K. Continuing Medical Education**

##### **§449. CME Requirement for Initial Renewal of License**

A. - D. ...

E. The requirements prescribed by §449.A shall not be applicable to a physician who at the time of the initial renewal of medical licensure resides and practices medicine in another state; provided, however, that such physician shall notify the board in the event that he should return to Louisiana for the purpose of residing or practicing medicine in this state and shall satisfy such requirements prior to the next renewal of licensure or as otherwise directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 27:850 (June 2001).

#### **Chapter 11. License Reinstatement**

Repealed

AUTHORITY NOTE: Promulgated in accordance with 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 14:86 (February 1988), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:850 (June 2001).

Virginia G. Benoist  
Executive Director

0106#015

## RULE

### Department of Health and Hospitals Board of Nursing

#### Nursing Education Programs (LAC 46:XLVII.Chapter 35)

Editor's Note: This Rule is being repromulgated to correct a clerical error upon submission. This Rule was originally published in the December 2000 issue on pages 2789 - 2792.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards pertaining to Nursing Education Programs.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

#### Subpart 2. Registered Nurses

#### Chapter 35. Nursing Education Programs

#### §3503. Definitions

\* \* \*

*Distance Education* Cteaching learning strategies to meet the needs of students who are physically separated from the faculty.

*Distance Education Technology* Cthe methods and technical support used to teach students who may be physically distant from the faculty. The methods may include audio conference, compressed video, electronic mail, and the World Wide Web.

\* \* \*

*Goals* Cthe aims of the program including the expected competencies of the graduate.

*Major Change in Curriculum* Cany one of the following shall be deemed to constitute a major change in curriculum:

1. alteration, other than editorial, in program's mission/philosophy and goals:

\* \* \*

*Nursing Education Program* C a program whose purpose is to prepare graduates eligible to apply to write the registered nurse licensing examination.

1. ...

2. *Baccalaureate* C a program leading to a bachelor's degree in nursing conducted by an educational unit, department, division, college or school, that is an integral part of a college or university.

3. ...

*Objectives* Cthe behavioral expectations of the students in courses and throughout the program that lead to the goals of the program.

\* \* \*

*Preceptorship Experience* C an individualized teaching-learning strategy in which a nursing student participates in clinical nursing practice while assigned to a preceptor.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:913 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:184 (April

1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1208 (December 1991), LR 24:1293 (July 1998), LR 26:2789 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:851 (June 2001).

#### §3511. Standards and Requirements for Nursing Education Program: Mission/Philosophy and Goals

A. The nursing education program shall have a clear statement of mission/philosophy, consistent with the mission of the parent institution and congruent with current concepts in nursing education.

B. The program shall use an identified set of professional standards congruent with the mission/philosophy and from which the goals are developed. The standards shall be consistent with the *Legal Standards of Nursing Practice*, LAC 46:XLVII.3900.

C. Expected competencies of the graduate shall be clearly delineated.

D. Distance education programming is consistent with the mission and goals of the nursing unit and the governing organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1146 (September 1993), LR 26:2789 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:851 (June 2001).

#### §3515. Faculty and Faculty Organization

A. - B.1. ...

2. The program head of a baccalaureate program shall hold a minimum of bachelor's and master's degrees in nursing, or its equivalent, and an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The program head of an associate degree or diploma program shall hold a minimum of bachelor's and master's degrees in nursing and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

4. The nurse faculty shall hold bachelor's and master's degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

5. Nurse faculty shall have a minimum of two years of nursing practice as a registered nurse in a clinical setting prior to their appointment.

6. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

7. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. baccalaureate in nursing prepared individuals who are not enrolled in a masters' in nursing program are limited to a maximum of one calendar year;

b. baccalaureate in nursing prepared individuals who are enrolled in a masters' in nursing program shall be approved annually on an individual basis in accordance with



current board guidelines. Exceptions may be granted to each individual for a maximum of three calendar years.

8. The number of faculty exceptions shall not exceed twenty percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 26:2789 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:851 (June 2001).

### **§3517. Student Selection and Guidance**

A. - F. ...

G. Students shall be provided opportunity for input into the program.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:2790 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:852 (June 2001).

### **§3519. Facilities, Resources, Services**

A. - D. ...

E. Nursing library resources shall be comprehensive, current and accessible.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 26:2790 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:852 (June 2001).

### **§3521. Curriculum**

A. The faculty shall periodically review, evaluate and revise as appropriate the mission philosophy, and goals of the program.

B. The mission/philosophy and goals shall be used by the faculty in planning, implementing and evaluating the total program.

C. The goals shall be consistent with the mission and describe the cognitive, affective and psychomotor capabilities of the graduate.

D. The curriculum shall include, but not be limited to, content from the behavioral, biological, mathematical, nursing and physical sciences.

E. Opportunities shall be provided for the application of the nursing process throughout the curriculum and in a variety of settings.

F. Course objectives and content shall reflect society's concern with the bioethical and legal parameters of health care and professional practice.

G.1. The nursing courses shall provide for classroom and clinical laboratory instruction that shall be under the supervision of a faculty member of the nursing program.

2. Provision shall be made for learning experiences with clients having nursing care needs in all age groups and stages of the health-illness continuum as appropriate to the role expectations of the graduate.

H. Provision shall be made for the development of other knowledge and skills as deemed necessary by the faculty and as appropriate to the role expectations of the graduate.

I. The curriculum shall be arranged to provide opportunities for upward career mobility for students who have completed other nursing programs and have met appropriate requirements for licensure.

1. Mechanisms for the recognition of prior learning and advanced placement in the curriculum shall be in place.

2. Any formalized agreements between nursing programs shall be identified and described.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1148 (September 1993), LR 24:1293 (July 1998), LR 26:2790 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:852 (June 2001).

### **§3523. Program Evaluation**

A. ...

1. mission/philosophy, outcomes of the curriculum;
2. - 4. ...
5. faculty evaluations of students;
6. ...
7. follow-up studies of the graduates;
8. employment functioning of the graduates; and
9. evaluation of faculty performance.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977) amended by the Department of Health and Hospitals, Board of Nursing, LR 15:1081 (December 1989), LR 19:1148 (September 1993), LR 24:1293 (July 1998), LR 26:2790 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:852 (June 2001).

### **§3529. Selection and Use of Clinical Facilities**

A. Hospitals used for clinical experiences shall be licensed by the state of Louisiana and certified by the Health Care Financing Administration (HCFA). In addition, hospitals should be accredited by the Joint Commission of Accredited Health Organizations (JCAHO). Other health care agencies shall be accredited or approved by a recognized accrediting or approving agency as appropriate.

B. - D. ...

E. The facility shall have:

1. a written mission/philosophy of patient/client care which gives direction to nursing care;
2. registered nurses to insure the safe care of patient and to serve as role models for students;
3. - 13. ...

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended by the Department of Health and Hospitals, LR 16:133 (February 1990), LR 19:1149 (September 1993), LR 26:2791 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:852 (June 2001).

**§3533. Procedure for Establishing a New Program**

A. - B.5. ...

a. mission/philosophy and goals;

B.5.c. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:190 (April 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:532 (August 1988), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:853 (June 2001).

**§3534. Procedure for Restructuring an Existing Program Into/Within Higher Education**

A. - C.5. ...

a. mission/philosophy and goals;

C.5.b. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:690 (August 1990), amended LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:853 (June 2001).

**§3536. Approval for Nursing Education Programs whose Administrative Control is Located in Another State Offering Programs, Courses, and/or Clinical Experience in Louisiana**

A. - B.1.d.i ...

ii. a copy of the mission/philosophy and goals;

B.1.d.iii. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), amended LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:853 (June 2001).

**§3537. Procedure for Proposed Major Change in Curriculum**

A. A nursing education program proposing a major curriculum change shall submit to the board, six months prior to date of implementation, the following:

1. - 2. ...

3. mission/philosophy, goals, course objectives and course outlines;

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and

Hospitals, Board of Nursing, LR 19:1150 (September 1993), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:853 (June 2001).

**§3539. Procedure for Submitting Required Forms and Reports**

A. - B.2.a. ...

b. A "community-based agency review form" shall be submitted by the nursing education program to the board describing facilities in which a student receives less than 10 percent of the total clinical experience in a given course. This form will be incorporated in the Annual Report.

3. Any program required to submit a National League for Nursing Accrediting Commission or a Council for Collegiate Nursing Education Interim Report shall submit a copy of the report to the board.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1150 (September 1993), LR 21:803 (August 1995), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:853 (June 2001).

**§3541. Preceptorship Learning Experiences**

A. - F. ...

G. The faculty member shall confer with each preceptor and student at least once during each daily learning experience.

H. - I. ...

J. There shall be one preceptor for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1207 (December 1991), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:853 (June 2001).

**§3542. Community-Based Learning Experiences**

A. - G.4. ...

5. The faculty member shall confer with each preceptor and student(s) at least weekly during said learning experience.

6. ...

7. There shall be no more than three students per preceptor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 21:803 (August 1995), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated by the Department of Health and Human Resources, Board of Nursing, LR 27:853 (June 2001).

Barbara L. Morvant  
Executive Director

0106#050

## RULE

### Department of Health and Hospitals Office for Citizens with Developmental Disabilities

#### Programmatic Standards (LAC 48:IX.107)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities has amended provisions of LAC 48:IX.107, Programmatic Standards. These revisions concern current licensing requirements of the U.S. Department of Labor's Wage and Hour Division for re-certification of special minimum wage contracts for contracted vocational and habilitative service settings. In addition, Chapter 1's existing provision regarding Louisiana Workers' Compensation regulations has been amended. These actions are under the authority of R.S. 28:380 et seq. and the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 48

#### PUBLIC HEALTHC GENERAL

#### Part IX. Mental Retardation/Developmental Disabilities Services

#### Chapter 1. Contracted Vocational and Habilitative Services

#### §107. Programmatic Standards

A. - D.3. ...

E. Work

1. - 3. ...

4. (MS) All agencies receiving funding under this contract will comply with United States Department of Labor's Fair Labor Standards Act, whether or not the work performed is covered by the Department of Labor regulations, and, where applicable, by the United State Department of Labor's Wage and Hour Regulations, Part 525, *Employment of Workers with Disabilities under Special Certificates*. By contracting to provide vocational and habilitative services all agencies receiving funding under this contract acknowledge familiarity with, and will abide by, all applicable state and federal regulations pertinent to employment of workers with disabilities under special certificates, including but not limited to U. S. Department of Labor, Part 525.

5. (MS) The agency prepares a handbook, which is reviewed annually, updated as needed and distributed to all consumers, stating:

- a. the conditions, benefits and responsibilities of the organization and the persons served;
- b. fringe benefits;
- c. wage payment practices;
- d. work rules;
- e. nondiscrimination provisions;
- f. grievance and appeal procedures for consumers;
- g. an explanation of the means used by the organization to preserve human rights and the mechanism by which the person has access to that system;
- h. the availability of community-based job training and placement services.

6. (MS) Wage payments are based on a system of individual performance rather than pooled and/or group wage payments.

7. (MS) Wage payments are monetary in nature, paid by check in the individual's name and not payments in-kind.

8. (MS) The pay period does not exceed 31 calendar days.

9. (MS) Each person receives a written statement for each pay period indicating gross pay, hours worked, deductions, and net pay.

10. (MS) Wages may not be withheld or delayed for disciplinary reasons or because they are contingent upon subsequent sales or payments to the organization.

11. (MS) Contractors providing employment shall comply with R.S. 23:1168, *Ways of Securing Compensation to Employees*. By contracting to provide vocational and habilitative services all agencies receiving funding under this contract acknowledge familiarity with, and will abide by, all applicable state and federal regulations pertinent to providing workers compensation or similar insurance to employees, including but not limited to R.S. 23:1168.

12. (QI) All consumers have equal opportunity to use equipment within the provisions of safety standards, production schedules and the physical abilities of the individual. (This applies to facility-based services only.)

13. (MS) Provisions for meeting safety standards apply uniformly to all persons employed by the agency.

14. (QI) As a part of reasonable accommodation, modified equipment, fixtures, and other techniques are used as necessary to increase the individual's productivity rate.

15. (MS) The agency accesses funding from Louisiana Rehabilitation Services for job development, placement, intensive training, and job modifications and adaptations at the job site.

16. (MS) The resources/supports available from parents, friends, co-workers, guardians, advocates, case managers, residential providers (i.e., supported living, SFC parents) and others, as determined by the consumer are considered in the coordination of supported employment services.

17. (MS) There are provisions for extended services which include:

a. a minimum of two visits per month at the job site to assess the individual's job performance both by direct observation and discussion with the consumer's co-workers and supervisors. In the case where the consumer and/or the job coach believes it is more appropriate to meet the consumer off the job site to assess the employment situation, the job coach must still contact the employment site to assess job performance;

b. periodic retraining;

c. job modifications needed to maintain employment, when not available through LRS; and

d. provision or identification of other supports needed to maintain employment.

18. (MS) When an Interdisciplinary Team determines that formal (agency-provided) extended services are not necessary for the continued maintenance of a consumer's employment, the agency shall:

a. initiate separation from OCDD services per the discharge policy;

b. provide a written description of the employer and/or generic supports that are available to the individual.

19. (MS) A separation report is completed when a person receiving agency provided extended services leaves any community job. The report documents:

- a. date of separation;
- b. reason(s) for separation; and
- c. recommendations for future employment or other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:380 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Mental Retardation/Developmental Disabilities, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:691 (July 1995), LR 27:854 (June 2001).

David W. Hood  
Secretary

0106#044

**RULE**

**Department of Health and Hospitals  
Office of Public Health**

Sanitary Code Commercial Seafood Inspection Program  
(Chapter IX)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, has amended Chapter IX, Section 9:052-1-C, 9:052-2-B, 9:052-2-C and 9:052-3-E of the Louisiana State Sanitary Code.

The revisions to Chapter IX are as follows.

**9:052-1 Refrigeration Requirements for Shell Stock  
Harvested for Raw Consumption During the  
Months of April through October**

C. Water Temperature: >84°F Shell-stock shall be placed under mechanical refrigeration at an air temperature not to exceed 45°F within 10 hours from the time harvesting begins.

Delete the following paragraph.

A Harvester-Dealer Time/Temperature Log Sheet shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the April through October time period. log sheets shall be maintained for a period of one year and made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. log sheets for the current and previous 15 days shall be kept aboard the harvest vessel for immediate examination.

**9:052-2 Refrigeration Requirements for Shell Stock  
Harvested for Shucking by a Certified Dealer  
During the Months of April through October**

B. Delete section in its entirety.

Re-number item C to B and retain the same language.

Amend 9:052-3-E, as follows.

E. A Harvester-Dealer Time/Temperature Log Sheet shall be completed by both the harvester and first certified dealer to document compliance with time to refrigeration requirements during the months January through December. Log sheets shall be maintained for a period of one year and

made readily available for inspection by agents of the Department of Health and Hospitals, Department of Wildlife and Fisheries and the U.S. Food and Drug Administration. Log sheets for the current and previous 15 days shall be kept aboard the harvest vessel for immediate examination.

The requirement for a Harvest-Dealer Time/Temperature Log Sheet will not apply to the West Cove Conditional Management Area or the Lower Calcasieu Lake Conditional Management Area which are located in Cameron Parish.

Alternate designs for the Harvester-Dealer Time/Temperature Log Sheet as depicted in Table I may be submitted for consideration and approval to the Office of Public Health.

David W. Hood  
Secretary

0106#042

**RULE**

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

Durable Medical Equipment Program Augmentative and  
Alternative Communication Devices

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the August 20, 2000 Rule to provide the following clarifications for recipient criteria and prior authorization of augmentative and alternative communication devices.

- I. ...
- II. Recipient Criteria

A.1. - 2. ...

B.1. An assessment, or evaluation, of the individual's functioning and communication limitations that preclude or interfere with meaningful participation in current and projected daily activities must be completed by a speech-language pathologist with input from other health professionals, (e.g., occupational therapists and rehabilitation engineers) based on the recommendation of the speech language pathologist and a physician's prescription, as appropriate.

Note: Medicaid provides reimbursement for AAC assessments/evaluations.

B.2. - D. :2 ...

D.3.a. whether there have been any significant changes in the sensory status (e.g., vision, hearing, tactile); postural, mobility or motor status; speech, language, and expressive communication status; or any other communication need or limitation of the recipient as described in B.3.b - g, and j; and

D.3.b. - E.1. ...

E.1.a. requests for modification or replacement of AAC devices and/or accessories may be considered for coverage after the expiration of three or more years from the date of purchase of the current device and accessories in use, except as stated in II.E.1.d and II.E.1.e.i.

E.1.b. - E.1.f. ...

- III. Prior Authorization

A. ...

B. Medicaid will not consider purchase of an AAC device when an alternative means of funding through another agency or other source (e.g., Louisiana Rehabilitation Services, school systems, private insurance, etc.) is available for the recipient. All requests should indicate the availability, or lack of availability, of purchase through other funding sources.

Note: AAC devices may be covered through the Durable Medical Equipment (DME) Program with prior authorization for Medicaid recipients residing in nursing homes (ICF I, II & SNF).

C. - C.b.ii. ...

David W. Hood  
Secretary

0106#047

### **RULE**

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

##### **Inpatient Hospital Services Extensions and Retrospective Reviews of Length of Stay**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 1994 Rule to clarify the time frame for requesting an extension of the length of stay. In addition, the bureau amends the rule to clarify the criteria and time frame requirements for requesting a retrospective review for admission certification and length of stay assignment. An extension must be requested no later than the expected day of discharge. If the expected day of discharge is on a weekend or holiday, the extension must be requested by the next business day. A hospital may request a retrospective review for Medicaid reimbursement of inpatient hospital services in only two situations:

- 1) retroactive eligibility of the recipient; and
- 2) a dually eligible recipient has exhausted his/her Medicare Part A benefits. In the case of a recipient's retroactive eligibility, providers have up to one year from the date that the recipient was added to the eligibility file to request a retrospective review. In the case where a recipient's Medicare Part A benefits have been exhausted, providers have up to 60 days from the date of the Medicare Explanation of Benefits (EOB) verifying that Medicare Part A benefits have been exhausted to request retrospective review. The two year timely filing requirement for filing claims is still applicable for retrospective reviews.

David W. Hood  
Secretary

0106#048

### **RULE**

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

##### **Mental Health Rehabilitation Program Staffing Definitions**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the February 20, 1998 Rule to revise the administrative requirements for clinical managers and the staffing requirements for licensed professional counselors, mental health specialists and mental health assistants.

I. - II. ...

III. Administrative Requirements

A. - B.2. ...

B.3. The clinical manager must ensure that the MHR agency staff makes at least two documented contacts with other community services providers or significant others each month regarding each recipient. Results of the staff contacts shall be addressed by the clinical manager in the quarterly progress notes.

B.4. - C.5.d.(2) ...

e. a licensed professional counselor is defined as an individual who is licensed as such under the provisions of R.S. 37:1101-1115 and has at least two years post-master's supervised experience delivering services in a mental health related field.

f.(1) - (2) ...

g. *Mental Health Specialist (MHS)*Ca Mental Health Specialist is defined as an individual who is supervised by a Licensed Mental Health Professional or Mental Health Professional and meets one or more of the following four criteria:

- (1) has a bachelor of arts degree in a mental health related field; or
- (2) has a bachelor of science degree in a mental health related field; or
- (3) has a bachelor's degree and is a college student pursuing a graduate degree in a mental health related field and has completed at least two courses in that identified field; or
- (4) has a high school diploma or a GED; and
  - (a) has four years experience providing direct services in a mental health, physical health, social services, education or correctional setting; or
  - (b) has two years experience as a mental health assistant in a mental health rehabilitation setting.

h. *Mental Health Assistant (MHA)*Ca Mental Health Assistant is defined as an individual who is closely supervised, monitored and trained by a Licensed Mental Health Professional or a Mental Health Professional and meets one or more of the following three criteria:

- (1) has a high school diploma or GED; or
- (2) has a one-year documented history of serious mental illness or an emotional/behavioral disorder as determined by the Office of Mental Health; or
- (3) has a two-year documented history as the parent of a child diagnosed with an emotional/behavioral disorder or serious mental illness.

III.C.i. - VIII. ...

David W. Hood  
Secretary

0106#049

**RULE**

**Department of Public Safety and Corrections  
Office of the Fire Marshal**

National Fire Protection Code 101 (LAC 55:V.103)

This Rule supplants the 1997 Edition of the National Fire Protection Association National Fire Protection Code 101 for Safety to Life from Fire in buildings and Structures (NFPA Life Safety Code) with the 2000 Edition of the NFPA Life Safety Code for all purposes.

**Title 55**

**PUBLIC SAFETY**

**Part V. Fire Protection**

**Chapter 1. Preliminary Provisions**

**§103. General Provisions**

A. ...

\* \* \*

NFPA 101	2000 Edition	Code for Safety to Life from Fire in Buildings and Structures
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\* \* \*

B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after 12:01 a.m. on July 1, 2001, shall be made using construction requirements set forth in the 2000 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 412C Special Provisions for High-Rise Buildings published in the 1994 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc. All references to performance based criteria in the 2000 Edition of the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1998, and prior to 12:01 a.m. on July 1, 2001, shall be made using construction requirements set forth in the 1997 Edition of the *Life Safety Code* of the National Fire Protection Association and Section 412C Special Provisions for High-Rise Buildings published in the 1994 Edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1578.6 and R.S. 40:1561(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection. LR 1:145 (February 1975),

LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal. LR 7:588 (November 1981), amended LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections. Office of the State Fire Marshal. LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:857 (June 2001).

Jerry W. Jones  
Undersecretary

0106#034

**RULE**

**Department of Public Safety  
Office of State Police**

Hazardous Material Information Development,  
Preparedness and Response Act  
(LAC 33:V.Chapter 101)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq. and R.S. 30:2361 et seq. hereby amends LAC 33:V.Chapter 101, the rules concerning Hazardous Material Information Development, Preparedness and Response Act.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Wastes and Hazardous Materials  
Subpart 2. Department of Public Safety and Corrections  
Hazardous Materials**

**Chapter 101. Hazardous Material Information  
Development, Preparedness, and  
Response Act**

**§10101. Declaration of Authority, Background, Policy  
and Purpose**

A. The following rules are hereby promulgated pursuant to the authority provided in R.S. 30:2361-2380 regarding the Hazardous Material Information Development, Preparedness, and Response Act.

B. This Act was originally passed as Act 435 of the 1985 Legislative Session to implement the state's first "Right-to-Know" law. In 1986 the United States Congress passed the Superfund Amendments and Reauthorization Act (SARA). Title III of SARA required, among other things, that the governor of each state appoint an Emergency Response Commission.

C. Compliance with Louisiana's Right-to-Know law will attain compliance with SARA, Title III.

D. It should be noted that the Louisiana Emergency Response Commission, operating within the Department of Public Safety and Corrections, is the primary entity to which SARA, Title III communications are made. Copies of annual inventory forms must also be submitted to the local emergency planning committee in the parish where a facility is located and to the local fire department having jurisdiction over the facility.

E. Since the chemical lists, release reportable quantities and threshold (inventory) quantities (TQ) in the federal regulation are subject to change, facility owners/operators should refer to the *Federal Register* and the *Code of Federal Regulations* in addition to the Louisiana regulations to determine current reporting requirements before submitting their annual inventory forms and emergency release notifications.

F. It is the purpose of these rules to implement the information system conceived of in the state's original Right-to-Know law by providing the citizens of this state, as well as emergency response personnel, with data on hazardous material storage necessary to make educated and responsible decisions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2361 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:758 (December 1987), LR 14:801 (November 1988), LR 16:974 (November 1990), LR 27:857 (June 2001).

#### **§10103. Scope**

A. These rules apply to the following:

1. any facility which manufactures, handles, uses, or stores any hazardous material(s) in excess of the threshold inventory quantity; and

2. any facility, transportation-related operation, or transport vehicle from which a reportable release occurs; and

3. all surface and subsurface related modes of hazardous materials transportation including but not limited to all water (vessels and barges), air, highway, rail and pipeline operations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2361 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:759 (December 1987), repromulgated LR 14:801 (November 1988), LR 27:858 (June 2001).

#### **§10105. Definitions**

A. The following terms as used in this Chapter shall have the following meanings.

**Commission**—the Louisiana Emergency Response Commission appointed by the governor to implement the mandates of the Superfund Amendments and Reauthorization Act passed by the U.S. Congress in 1986. This commission is created within the Department of Public Safety and Corrections, Public Safety Services.

**Department**—the Department of Public Safety and Corrections.

**Deputy Secretary**—the deputy secretary for the Office of Public Safety Services in the Department of Public Safety and Corrections.

**Environment**—includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

**Escape Beyond Facility**—for the purposes of release reporting a release is considered off-site when the hazardous material or hazardous substance is released into the air or into any water, drainage ditch or canal such that the released hazardous material or hazardous substance could reasonably be expected to escape the confinement of the facility or to an area which the general public has unrestricted access.

**Extremely Hazardous Substance (EHS)**—a hazardous substance listed by the United States Environmental Protection Agency (U.S.EPA) in 40 CFR, Part 355, Appendix A (the list of Extremely Hazardous Substances and their Threshold Planning Quantities) and subject to the emergency planning, release reporting and MSDS filing, and inventory filing requirements of SARA, Title III.

**Facility**—the physical premises used by the owner or operator in which the hazardous materials are manufactured,

used, or stored. A natural gas pipeline shall not be classified as a compressed natural gas facility.

**Hazardous Material**—any substance deemed a hazardous material or a hazardous substance, and included on a list adopted by rule by the deputy secretary to include those materials deemed hazardous under the Comprehensive Environmental Response Compensation Liability Act (CERCLA), the Superfund Amendments and Reauthorization Act (SARA, Title III, U.S.C.), and certain substances included in the most recent United States Department of Transportation regulations as found in 49CFR, Part 172.101. *Hazardous material* also means any substance designated by the deputy secretary in these rules which meets criteria established for adding other materials to the list. This term shall mean and include hazardous substances.

**Hospitalization**—the admission into a hospital as a patient.

**Immediately**—a reasonable period of time, after identifying the nature, quantity, and potential off-site impact of a release considering the exigency of the circumstances.

**Incident**—any release, fire, explosion or event which is other than any normal operational activity, and which results in an unusual or emergency condition. An actual release of any hazardous material is not required.

**Inventory Form**—the reporting form adopted by the department and completed by owners and operators which contains certain requested information on hazardous materials and which is used in developing the information system mandated by the law and these regulations. This shall also include electronic transmission of data within the State Police's Louisiana Chemical Network Tier Two "E-filing" process.

**Local Governing Authority**—the police jury, parish council, the mayor's office of the city of New Orleans or the city-parish of East Baton Rouge or other primary governmental body of a parish.

**Local Emergency Planning Committee**—the committee in each parish designated by the Emergency Response Commission to coordinate Right-to-Know activities.

**Local Repository**—the local entity designated pursuant to R.S. 30:2368 to house and record information on hazardous materials received from the department, regulated facilities, and other state agencies for public dissemination and inspection. For the purposes of Tier Two electronic reporting "e-filing," the local repository shall have the authority to designate the Department of Public Safety, Office of State Police, Right-to-Know Unit's electronic Tier Two system as its official repository of Tier Two records.

**Owner or Operator**—any person, partnership, or corporation in the state including, unless otherwise stated, the state and local government, or any of its agencies, authorities, departments, bureaus, or instrumentalities engaged in business or research operations which use, handle, manufacture, release or store a hazardous material at a facility.

**Release**—any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous

material or substance. However, the term release shall not include federal or state permitted releases.

**Reportable Release**Ca release of a regulated hazardous material or substance which causes any injury requiring hospitalization or any fatality, results in a fire or explosion which could reasonably be expected to affect the public safety beyond the boundaries of the facility, or exceeds the reportable quantity when that reportable quantity, as defined pursuant to rules promulgated by the deputy secretary, could be reasonably expected to escape beyond the site of the facility. A reportable release as defined herein shall be based upon the quantity of hazardous material or substance discharged continuously, intermittently, or as a one-time discharge, within any continuous twenty-four hour period.

**Retail Gas Station**Ca retail facility engaged in selling gasoline or diesel fuel primarily to the public, for use in land based motor vehicles.

**Small Business**Ca single business establishment employing not more than nine full time employees and having not more than two million dollars (\$2,000,000) in average annual gross receipts. Any business employing more than nine persons shall not be considered a small business regardless of the average annual gross receipts. Any business with average annual gross receipts of over two million dollars (\$2,000,000) shall not be considered a small business regardless of the number of employees.

**State Repository**Cthe Department of Public Safety, Office of State Police, Right-to-Know Unit designated by the local emergency planning committee, local repository or fire department as the provider of Tier Two inventory records electronically to all response agencies. The state repository shall have the responsibility to process public information requests for Tier Two and release reporting data.

**Trade Secret**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 that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

**Transportation Related Operation**Any operation conducted outside the boundaries of a facility and involving the transportation, or storage incident to transportation, of hazardous materials where the hazardous materials are moving under active shipping papers and have not reached the ultimate consignee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2361 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:759 (December 1987), LR 14:801 (November 1988), LR 16:974 (November 1990), LR 27:858 (June 2001).

### **§10107. Alternate Means of Compliance**CInventory Reporting

A. The following non-exclusive list of facilities qualifies for alternate means of compliance under state law due to the nature of their respective operations as well as the fact that emergency response personnel can predict that hazardous materials should be present at these facilities. These alternate means of compliance may not exist under federal law and facilities subject to the federal law must determine their respective applicability:

1. oil and gas exploration and production facilities;
2. pipelines carrying any of the materials regulated by these rules;
3. certain facilities reporting to other state agencies;
4. gasoline service stations;
5. electrical transmission and distribution facilities;
6. hydrocarbon storage facilities other than at petroleum refineries;
7. transportation-related facilities.

B. The rules that follow in Subsection C are applicable to the state law. The reporting procedures outlined are the result of detailed consultation with the various regulated entities. These alternate compliance procedures will satisfy the mandates of the state's Right-to-Know law, but if any federal regulations require a more stringent reporting procedure, the federal procedure should be followed.

#### C. Inventory Reporting Procedures (Alternate Means of Compliance)

1. Oil and Gas Production (Wells Already Drilled)
  - a. These sites must be reported by field name, indicating the total number of wells in each field. This will be done on a separate inventory form for each field. The location of each field must be as detailed as possible with at least the parish given for each field.
  - b. The inventory form can be filled out showing a generic list of materials commonly associated with an oil/gas production facility.
  - c. Well heads not located in a reported field (wildcats) are each to be listed on a separate inventory form.
  - d. All reportable releases must be reported immediately to the local emergency planning committee and the Emergency Response Commission.
2. Oil and Gas Exploration
  - a. If the exploration site is in a previously reported field, a list of materials used in exploration will be shown on the inventory form for that field. This could be in the form of a generic list.
  - b. Wildcat drilling operations (not in previously reported fields) anticipated to exceed 30 days will require written notification to the Emergency Response Commission via the Office of State Police, Transportation and Environmental Safety Section, as well as written notification to the local emergency planning committee in the respective parish, detailing the location and anticipated duration of the drilling operation. This notification will contain the names and telephone numbers of facility personnel to contact in case of an emergency. A generic list of materials associated with exploration will be furnished to the local emergency planning committee in the parish in which the drilling occurs.
  - c. All reportable releases must be reported immediately to the local emergency planning committee and the Emergency Response Commission.
3. Pipelines (not within the fence line of a facility)
  - a. One inventory form will be submitted for each parish. The form must list all pipelines operated by a facility in that parish, and must show the name of the material carried, the diameter, and the maximum operating pressure for each listed pipeline.
  - b. A map for each parish indicating the location of each pipeline and transmission and control station must be provided by each company to the Emergency Response



Commission and the local emergency planning committee. If the pipeline is shown on the most current Dewitt map, no map submission is required. Facilities are responsible for updating any changes in location of pipelines and/or product by submitting new map(s). If a facility has already submitted a map to the Emergency Response Commission and the local emergency planning committee, and there are no changes, the annual map submission is not necessary.

c. Natural gas distribution lines are exempt from this reporting. Distribution lines are those pipes that carry the gas to individual buildings, residences, etc.

d. Crude oil and natural gas gathering lines are exempt from inventory reporting under these rules. Gathering lines are those pipelines eight inches or less in nominal diameter that transport petroleum and natural gas from a production facility to the main pipeline.

e. All reportable releases, including those from natural gas distribution lines and crude oil and natural gas gathering lines, must be reported immediately to the local emergency planning committee and the Emergency Response Commission.

#### 4. Facilities Reporting to Other State Agencies.

a. Facilities licensed by the Liquefied Petroleum Gas Commission must complete an inventory form and comply with all other applicable parts of these rules with the exception that if liquefied petroleum gas is the only material being reported, no reporting fee is required.

b. Facilities licensed pursuant to and in full compliance with the Louisiana State Police Explosives Code are exempt from inventory reporting if no hazardous materials other than explosives are present on the facility. However, all incidents or releases involving explosives are subject to the reporting required herein.

#### 5. Electrical Transmission and Distribution Facilities

a. All oil-filled electrical equipment (transformers, capacitors, etc.) which has been identified as containing Polychlorinated Biphenyls (PCB's) in concentrations exceeding 500 parts per million (ppm) shall be reported on the inventory form, by the reporting deadline, as applicable in these rules if the weight of the solution containing the PCB's meets or exceeds 500 pounds.

b. Any release from, or accident involving, oil-filled electrical equipment which has been identified as containing PCB's in concentrations exceeding 500 ppm will be reported immediately as applicable in the release reporting procedures detailed in these rules.

c. All fixed-site facilities where transformers are stored, cleaned or processed, or where other materials regulated in the rules are used or stored, will be reported on individual inventory forms for each separate site.

d. Fixed-site oil-filled electrical equipment that is associated with a facility must meet all area marking requirements under EPA and OSHA regulations.

#### 6. Transportation-Related Industries

a. Regulated materials which are under active shipping papers (i.e., have not reached their final destination) are exempt from inventory reporting requirements contained in these rules.

b. Transportation related industries, including but not limited to trucking companies, railroads, maritime wharves and warehouses (including Foreign Trade Zones), that store, incidental to transportation and still under active

shipping papers, any of the materials regulated by these rules will, on an annual basis (by March 1 of each year), send to the Emergency Response Commission, the local emergency planning committee, and the local fire department in their respective areas, a letter detailing the emergency contact personnel and emergency telephone numbers. The letter will also indicate where shipping papers can be found by emergency response personnel.

c. Any hazardous materials regulated under these rules and stored on site but not under active shipping papers must be reported on an inventory form as applicable.

d. Shipping documents must be readily accessible to emergency response personnel and proximate to the regulated material.

e. All regulated materials must be properly marked and placarded according to applicable U.S. Department of Transportation regulations as listed in 49 CFR Part 172 Subparts B, C, D, E and F.

f. All reportable releases must be reported immediately to the local emergency planning committee and the Emergency Response Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:759 (December 1987), LR 14:802 (November 1988), LR 16:974 (November 1990), LR 27:859 (June 2001).

### §10109. Inventory Reporting

A. All substances listed on the list of "Extremely Hazardous Substances" as found in 40 CFR Part 355 Appendix A, now in effect or amended hereafter, must be reported for the prior calendar year beginning January 1 and ending December 31, on an inventory form by March 1, 1988, and annually thereafter, if the material is present on site on any single day in amounts of 500 pounds or more or the listed threshold quantity if lower than 500 pounds. The threshold (inventory) quantity (TQ) for each of these materials is indicated (in pounds) in the column to the right of the material marked "Threshold Inventory Quantity (TQ)." Where a material shows a threshold (inventory) quantity (TQ) listed as 10/500 or 100/500 etc., it is reportable as follows: The lower number is the reportable amount if the material is a solid existing in powdered form and has a particle size less than 100 microns; or is handled in solution or in molten form; or meets the criteria for a National Fire Protection Association (NFPA) rating of 2, 3, or 4 for reactivity. If the solid does not meet any of these criteria, it is subject to the higher inventory reporting threshold.

B. Any material for which a facility must prepare or maintain a Material Safety Data Sheet (MSDS) under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (as listed in 29 CFR 1910.1200 et seq.) must be reported, for the prior calendar year beginning January 1 and ending December 31, on an inventory form annually beginning March 1, 1988, if the material is present at a facility in threshold (inventory) quantities (TQ) of 500 pounds or more on any single day.

C. The materials regulated by Subsection B above of these rules are also regulated under the inventory reporting provision of Section 312 of Title III of the Superfund Amendments and Reauthorization Act. Incorporated in the

federal reporting provisions was an initial temporary threshold for reporting quantities of these materials such that for 1987, 1988 and 1989 inventory quantities which met or exceeded 10,000 pounds were reportable. In 1990, EPA published its final threshold regulations setting the final threshold (inventory) quantity for 1990 and beyond at 10,000 pounds. In this area, the Louisiana law and federal law differ. The state requires reporting of all regulated materials at the 500-pound level unless the threshold quantity for an extremely hazardous substance is lower.

D. Mixtures without their own Chemical Abstract Service (CAS) numbers will be reported as follows: The mixture trade name or common name shall be listed with the hazardous component(s) which require its reporting on the Tier Two inventory report. The component(s) Chemical Abstract Service (CAS) number, if available, will also be provided in association with the hazardous component. Any component information withheld in contradiction to the most current OSHA MSDS requirements or U.S. EPA's trade secret claim process shall be subject to enforcement and civil liability actions at the state and federal level. If a hazardous material is part of a mixture, you should report the entire mixture, its total weight, and the hazardous material(s) contained therein, with its percentage present in the mixture, (e.g., if a hazardous solution weighs 100 pounds and is composed of only 5 percent of a particular hazardous material, you should indicate 100 pounds of the mixture, identify the hazardous material and indicate that it is five percent of the mixture).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:760 (December 1987), LR 14:803 (November 1988), LR 16:974 (November 1990), LR 27:860 (June 2001).

**§10111. Release and Incident Reporting**

**A. Hazardous Materials Designation**

1. The lists and categories of materials identified in Paragraphs C.1, C.2, C.3, and C.4 below are deemed hazardous materials and are hereby adopted pursuant to the authority of the deputy secretary in accordance with RS 30:2361 et seq.

2. The above mentioned listings and categories apply to all inventory and release reporting and handling requirements mandated by RS 30:2361 et seq. and all regulations adopted pursuant thereto.

B. Reportable Releases and Incidents. Any release or incident involving a regulated hazardous material must be reported immediately by the owner or operator, or one of their designated representatives as soon as the owner or operator or designated representative has knowledge of such release or incident, if it meets one or more of the following criteria:

1. the release directly causes any injury requiring hospitalization or any fatality; or
2. the release results in a fire or explosion which could reasonably be expected to affect the public safety beyond the boundaries of the facility; or
3. the release (other than an application of a pesticide or fertilizer) exceeds the reportable quantity during any continuous 24 hour period when that reportable quantity

could be reasonably expected to escape beyond the site of the facility; or

4. the incident, accident or cleanup within a facility could reasonably be expected to affect the public safety beyond the boundaries of the facility ( for example: a facility evacuating its personnel); or

5. the owner or operator knows a protective action beyond the facility has been initiated.

C. Hazardous Materials are established as follows:

1. any material appearing on the most current list of Extremely Hazardous Substances as established by the Environmental Protection Agency (40 CFR Part 355, Appendix A);

2. any material appearing on the most current list of CERCLA Hazardous Substances as established by the Environmental Protection Agency (40 CFR Part 302, Table 302.4);

3. any material appearing on the most current list of Hazardous Substances as established by the Department of Transportation, Research and Special Programs Administration (49 CFR Part 172, Appendix to 172.101);

4. any material on which maintenance of an MSDS is required under the Occupational Safety and Health Administration's Hazard Communication Standard as found in 29 CFR 1910.1200 et seq.

D. Reportable Quantities (RQs) are established as follows:

1. any material and its RQ appearing on the most current list of Extremely Hazardous Substances as established by the Environmental Protection Agency (40 CFR Part 355, Appendix A);

2. any material and its RQ appearing on the most current list of CERCLA Hazardous Substances as established by the Environmental Protection Agency (40 CFR Part 302, Table 302.4);

3. any material and its RQ appearing on the most current list of Hazardous Substances and Reportable Quantities as established by the Department of Transportation, Research and Special Programs Administration (49 CFR Part 172, Appendix to 172.101);

4. any material on which maintenance of an MSDS is required under the Occupational Safety and Health Administration's Hazard Communication Standard as found in 29 CFR 1910.1200 et seq., and does not appear on any of the lists found in Paragraphs 1, 2, or 3 of paragraph D of this section, must be reported if the material released exceeds the RQ of 5,000 pounds hereby established by the Department. Except all compressed or refrigerated flammable gases and all flammable liquids (as defined in 49 CFR 173.120) which will have a 100 pound RQ and all other liquids requiring maintenance of an MSDS which will have a 1000 pound RQ.

<b>Reportable Quantity Table</b>	
<b>Hazardous Material Group</b>	<b>Reportable Quantity (RQ)</b>
EHS (40CFR Part 355, Appendix A)	As designated
CERCLA (40CFR Part 302, Table 302.4)	As designated
DOT (49CFR Part 172, Appendix 172.101)	As designated
Compressed or refrigerated flammable gases*	100 lbs.
Flammable liquids*	100 lbs.
All other liquids requiring an MSDS*	1000 lbs.
All other materials requiring an MSDS*	5000 lbs.

\* where there are no federal RQs established

E. Exceptions to Reportable Quantity Special Circumstances

1. The following special circumstances have been identified by the department and the following specific reportable quantities shall apply:

a. Natural gas from crude oil and natural gas production operations (including but not limited to flowlines and gathering lines) regardless of system pressure, and natural gas transmission operations in which the operational pressure exceeds 100 psi, shall have an RQ of 1000 pounds.

b. Petroleum refinery and chemical manufacturing facilities which operate flaring systems as part of their manufacturing process shall have the following reportable quantities:

i. stack emissions involving the release of sulfur dioxide at a discharge rate of less than 1000 pounds per hour shall have a 24 hour period to report the unpermitted release; and

ii. stack emissions involving the release of sulfur dioxide at a discharge rate of more than 1000 pounds per hour shall report the unpermitted release immediately.

c. A release to the environment through a cooling tower of a hydrocarbon gas which has previously leaked into the cooling water of the related heat exchanger is not reportable if the concentration of such gas, when released into the atmosphere, is below its lower flammable limit.

d. Compressed air, compressed nitrogen and water vapor are not reportable and have no RQs.

e. The controlled release of natural gas for maintenance or other purposes is considered a permitted release and is not reportable provided the release cannot be reasonably expected to affect the public safety beyond the boundaries of the facility.

2. For facilities meeting the criteria described below, compressed or refrigerated flammable gases will have a 1000 pound RQ. To qualify for this RQ, the owner or operator of the facility must provide certification to the department, in writing, that it meets the requirements of LAC 33:V.10111.E.2.; the revised RQ for compressed or refrigerated flammable gases for such facility will commence within thirty days after the department's receipt of such certification unless the department notifies the owner or operator otherwise, in writing, within such thirty day period. Facilities to which this RQ applies are those with:

a. more than nine full time employees; and  
b. a designated person responsible for and knowledgeable on all applicable state and federal release reporting regulations; and

c. twenty-four hour on site emergency response capability for responding promptly to fires and hazardous materials releases. This capability must be internal to the facility or provided by formal industrial mutual aid where a written agreement has been signed and made available to the department for review as certified to the department. (Dependence on local fire departments and public employee emergency responders shall not qualify.)

F. All reportable releases must be reported immediately. Each release or incident must be reported to:

1. local emergency planning committee with jurisdiction over a facility; and then to

2. Office of State Police, Transportation and Environmental Safety Section using the Hazardous Materials Hotline phone number 225/925-6595 or toll free 1-877-925-6595. Proper notification to the State Police's Hazardous Materials Hotline shall constitute a legal and proper notification to the Department of Environmental Quality, Louisiana Petroleum Gas Commission, and the Louisiana Oil Spill Coordinator.

Note: In the event proper notification to the local emergency planning committee cannot be made, then immediate notification to the State Police is required.

3. The owner or operator must ensure that timely notification is made to the department.

4. The Uniform Hazardous Materials Reporting Form as supplied by the department, which includes the information in paragraph G of this section, should be used by all those involved in incident or release initial notifications (verbal or electronic). The success of this uniform process is dependent on its application on a statewide basis at all levels of the initial notification process.

5. Update notifications must be made by each owner or operator if the circumstances of the release or incident substantially increase in severity, the incident classification changes, or if any of the information in paragraph G of this section which was initially reported changes significantly. For example:

a. if there is a change in the recommended offsite protective action to be taken;

b. if there are injuries requiring hospitalization or fatalities to personnel not known at the time of the initial report;

c. if the release includes a different reportable material than included in the initial report;

d. if there is a change in incident classification; or

e. if the initial release notification indicated no offsite protective action and an offsite protective action of road closure or offsite shelter-in-place is made, then an update notification is required.

G. If a facility has a reportable release (i.e., one that meets the requirements specified by either the state and/or federal Right-to-Know laws), the owner or operator must provide, at a minimum, the following information relating to the release:

1. the name and telephone number, and employer of the contact person;

2. the company or responsible party's name;

3. where the incident occurred (mailing address and physical location);

4. date and time the incident began and ended;

5. the identity of the hazardous material released or involved (this would include proper chemical name if available, an indication of whether it is an extremely hazardous substance and whether it is a solid, liquid or gas);

6. the actual amount or an estimate of the amount released; or in the absence of quantity data for the hazardous materials released, one of the following incident classifications may be used.

a. Unusual Event. This is an incident that is out of the ordinary but does not present a current threat to persons or property. It will not have any adverse affect on public safety. The incident may have the potential to escalate to a more serious emergency, but it is not expected to do so. In

this case, no protective action is necessary and none will be recommended.

b. **Site Emergency.** This is an incident or emergency which may affect the near-site population but it is generally located within the boundaries of the facility or transport vehicle. Normal operations of the facility or transport vehicle have been adversely impacted. The incident or emergency is either secured, in the recovery mode, or ongoing, but generally confined to the facility or transport vehicle. The on-site incident or emergency may have the potential to escalate to other areas of the facility or transport vehicle. This classification is used during emergencies in which a limited number of people have been affected but the potential exists to affect a much larger portion of the population. The facility or transporter may request the closure of adjacent roadways as precautionary action. A protective action of road closure, shelter-in-place, evacuation, or no protective action necessary must be provided.

c. **General Emergency.** This is an emergency which goes beyond the facility or transport vehicle. It has either affected or will affect the general population. The facility or transport vehicle experiences a large release which will impact beyond its boundaries. This occurs when there is an explosion or fire at the facility which may not be under control. The emergency situation is beyond the resources of the facility or transporter. The facility response personnel are unable to contain the event and it may escalate before coming under control. In order to protect the public safety, a protective action of road closure, shelter-in-place, or evacuation must be issued immediately.

7. whether the material released escaped or could reasonably be expected to escape beyond the site of the facility;

8. if available, the substance's hazard class and any other identifier (e.g., U.N. number, CHRIS code, etc.);

9. medium into which the hazardous materials was released (e.g. air, water, land );

10. whether the release resulted in a fire or explosion;

11. injury to personnel, or a fatality resulting from the release or incident;

12. details regarding wind direction, wind speed, temperature, and precipitation;

13. any need or a recommendation for an offsite protective action (road closure, shelter-in-place, evacuation, or none);

14. details of the release or incident; and

15. whether other responsible state and local agencies such as the local emergency planning committee has been notified.

H. Facilities must also make follow-up written reports for all reportable releases and incidents within five business days after the release or incident has occurred. This report must be made to the local emergency planning committee with jurisdiction over a facility and to the Department of Public Safety and Corrections, Office of State Police, TESS-Right-to-Know Unit , P.O. Box 66614, Baton Rouge, LA, 70896. The format for this report should be as outlined in Subsection G above. Any additional information not given in the initial telephone notification should also be included.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2361 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:761 (December 1987), LR 14:803 (November 1988), LR 16:975 (November 1990), LR 17:610 (June 1991), LR 27:861 (June 2001).

#### **§10112. Response, Command and Coordination**

A. As per the authority granted in R.S. 30:2376, the Office of State Police, Transportation and Environmental Safety Section will coordinate emergency response activities arising from any release, or threatened release or incident requiring reporting under these rules. Except as otherwise provided by law, as State On-Scene Coordinator (SOSC), the Louisiana State Police shall have the responsibility to ensure a safe and timely resolution to any hazardous materials release or incident. All responding industries, contractors, and agencies shall participate in the Incident Command process. Only those participants meeting the training requirements of EPA in 40 CFR 311 and OSHA's regulations in 29CFR1910.120 shall engage in active response or remedial activities within areas of hazardous materials contamination or threatened release.

B. All persons and facilities regulated by R.S. 30:2361 et seq. shall comply with all the requirements relative to the entry, inspection, investigation, response and emergency coordination efforts of the Office of State Police as authorized in R.S. 30:2361 et seq.

C. **Response Contractor Registration.** All hazardous materials and hazardous wastes emergency response and spill contractors will register with the Office of State Police, Right-to-Know Unit, within sixty days of the final promulgation of these rules. This registration will include the following information:

1. business name, physical and mailing address;

2. business and emergency (24 hour) telephone numbers;

3. Louisiana Contractor License information;

4. identification of response capabilities (oil, chemical, radiological, biological, etc.)

5. copy of emergency response procedures including regulatory responsibilities;

6. site safety protocols;

7. certification statement identifying compliance with all EPA, OSHA, and State regulations including training certification compliance;

8. response time estimates with identified geographic perimeters (Minimum: one, two, and four response times);

9. hazardous material response equipment capability (Minimum: Personal protective clothing, hazardous material monitoring, containment and chemical transfer and handling capability);

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2361 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:761 (December 1987), LR 14:803 (November 1988), LR 16:975 (November 1990), LR 17:610 (June 1991), LR 27:863 (June 2001).

#### **§10113. Exemptions**

A. Certain persons and substances have been exempted from the inventory reporting requirements contained in these rules. There are no exemptions granted for release reporting of regulated substances.

B. Persons exempted from reporting certain substances under state law as outlined in Subsection C below are cautioned to examine Title III of the Superfund Amendments and Reauthorization Act (SARA) because not all of these exemptions are applicable to federal law. If a substance is not exempt under federal law, in most cases it is reportable to the Emergency Response Commission (via Department of Public Safety and Corrections), the local emergency planning committee (one in each parish), and the local fire department having jurisdiction over a facility.

C. The following persons are exempt from the inventory reporting requirements of these rules:

1. residential users;
2. owners or operators of hotels, motels, restaurants, apartment buildings or office buildings which use only small quantities of air conditioning and cleaning supplies;
3. owners or operators of retail sales establishments which sell consumer products or food stuffs packaged for distribution to, and intended for use by, the general public and who have storage areas or storerooms in such establishments which are separated from shelf or display areas, but maintained within the physical confines of such retail establishments;
4. owners or operators of cosmetology salons, and barber salons; and
5. owners or operators of retail gasoline service stations having only gasoline and/or diesel in underground storage tanks and in full compliance with the Louisiana Department of Environmental Quality Underground Storage Tank Program.

D. The following materials are exempt from the inventory reporting requirements of these rules:

1. any hazardous waste as such term is defined by the Solid Waste Disposal Act as amended (42 U.S.C. 6901 et seq.) when subject to regulations issued under that Act;
2. tobacco or tobacco products;
3. wood or wood products;
4. "articles"
  - a. which are formed to a specific shape or design during manufacture;
  - b. which have end use function(s) dependent in whole or in part upon the shape or design during end use; and
  - c. which do not release or otherwise result in exposure to a hazardous chemical under normal conditions of use;
5. food, drugs, cosmetics or alcoholic beverages in a retail establishment which are packaged for sale to consumers;
6. foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace;
7. any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 1251 et seq.) respectively, where the employer can demonstrate it is used in the workplace in the same manner as normal consumer use, and which use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers;
8. any drug, as that term is defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) when it is in solid, final form for direct administration to the patient (i.e., tablets or pills);

9. any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration;

10. any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use;

11. any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

12. any substance to the extent it is used in a medical research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual;

13. any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), LR 14:804 (November 1988), LR 27:863 (June 2001).

#### **§10115. Hazard Communication**

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), LR 14:804 (November 1988), LR 27:864 (June 2001).

#### **§10117. Failure to Report: Penalties**

A. Failure to report any regulated material on a Tier Two Inventory form, as provided in these rules and under the authority of R.S. 30:2361-2380, may result in the levying of civil penalties up to \$25,000 for each regulated hazardous material not reported and/or for each non-reported release or incident involving a regulated hazardous material.

B. The burden of proof shall be on the owner or operator of a facility to show that the failure to report a hazardous material or release was inadvertent.

C. Small businesses, as defined by these rules, which have any omission from the inventory reporting forms will receive, on first offense, a warning rather than a civil penalty.

D. Careless Handling of a Hazardous Material

1. R.S. 30:2373(D)(1) provides that any person who handles, stores, or otherwise maintains a hazardous material regulated by R.S. 30:2361-2380, the Right-to-Know Law in a wanton and reckless manner without regard for the hazards of the material or of the circumstances of such use, storage, or handling shall be guilty of careless handling.

2. R.S. 30:2373(D)(2) provides that for any owner, operator, or facility that violates R.S.30:2373(D) the department may levy a civil penalty not to exceed twenty-five thousand dollars per violation.

E. Reckless Handling of a Hazardous Material

1. R.S. 30:2373(E)(1) provides that no person shall intentionally handle, store, or otherwise maintain any hazardous material regulated by the Right-to-Know Law in a manner which endangers human life.

2. R.S. 30:2373(E)(2) provides that any person, owner, operator, or facility that willfully violates R.S. 30:2373(E) may be assessed a civil penalty by the department not to exceed twenty-five thousand dollars per violation per day or upon first conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Upon second or subsequent conviction of a violation of R.S. 30:2373(E)(1), said person, owner, operator, or facility shall be fined not less than five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than six months nor more than ten years.

F. Intentional Failure to Report a Hazardous Material Release or Incident

1. R.S. 30:2373(C)(3) provides that for owners and operators who knowingly fail to report a reportable release of a hazardous material regulated by the Right-to-Know Law the department may assess a civil penalty not to exceed twenty-five thousand dollars per violation per day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), repromulgated LR 14:804 (November 1988), amended LR 16:975 (November 1990), LR 27:864 (June 2001).

**§10119. Inventory Form**

A. Tier Two "E-filing" is the preferred method of reporting the chemical inventory required in these rules. All industries and businesses will be required to utilize this electronic means of inventory reporting by March 1, 2002. The use of this "E-filing" process allows for the immediate access of facility and chemical information by all local emergency planning committees and fire departments having Internet capability. Paper filing of "Tier Two Emergency and Hazardous Chemical Inventory" shall be an acceptable alternative to the E-filing of such inventory for March 1, 2001 only.

B. The " Louisiana Tier Two Emergency and Hazardous Chemical Inventory" form is the official inventory form for compliance with R.S. 30:2361-2380 Louisiana's Right-to-Know law, and is the form selected by the Louisiana Emergency Response Commission for inventory reporting as required under Section 312 of SARA. The inventory form can be obtained via the Right-to-Know website at [www.dps.state.la.us/rtkcover.html](http://www.dps.state.la.us/rtkcover.html) or upon request to the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section-Mail Slip 21, Box 66614, Baton Rouge, LA 70896.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762

(December 1987), LR 14:804 (November 1988), LR 16:975 (November 1990), LR 27:865 (June 2001).

**§10121. Fees**

A. An annual fee shall be submitted with the inventory form by each owner or operator required to report under the Right-to-Know Law. The fee shall be assessed in proportion to the number of hazardous materials manufactured, used, or stored on site.

B.1. Until June 30, 2001, the fees for facilities not meeting the definition of "small business" in R.S. 30:2363 shall be assessed as follows:

Number of Hazardous Materials Present at Facility	Amount of Fees Charges
01 to 25	\$ 75.00
26 to 75	\$100.00
76 to 100	\$200.00
Over 100	\$300.00

2. Any facility required to pay a fee pursuant to R.S. 30:2374 and any retail gas station exempt from reporting pursuant to R.S. 30:2370 shall not be required to pay an additional fee to the local emergency planning committee other than the fees already imposed by the local emergency planning committee for the collection of information required by the Right-to-Know Law prior to the 1997 Regular Legislative Session.

3. In the case of owners or operators reporting facilities with numbers of hazardous materials referenced above at multiple locations throughout the state, no owner or operator shall be assessed total fees in excess of two thousand dollars.

4. The fee per facility for small businesses as defined in the Right-to-Know Law shall not exceed twenty-five dollars.

C. Small businesses, as defined in these rules, would submit a reduced fee of \$25 for each facility. The same ceilings on fees as detailed above would apply.

D. State, parish, and municipal governmental entities who must report under these rules are exempt from paying any fee.

E. All checks must be made payable to the Right-to-Know Unit and submitted as applicable with the printed copy of the Tier II invoice (which is generated automatically by the program upon electronic submission of the completed Tier Two form). If an inventory form is received without proper payment it cannot be processed, and compliance with the law is not attained.

F. The following facilities are exempt from filing fees but must submit Tier Two Inventory forms:

1. liquified petroleum gas facilities having only liquified petroleum gas which are in full compliance with Liquified Petroleum Gas Commission regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:762 (December 1987), LR 14:804 (November 1988), LR 27:865 (June 2001).

**§10123. Trade Secret Claims; Procedures; Resolution**

A. The Department of Public Safety and Corrections adopts as its own the Trade Secrets provisions as found in Title III, Section 322 of the "Superfund Amendments and

Reauthorization Act of 1986" (42 U.S.C.A. Section 11042) as passed by the United States Congress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:763 (December 1987), LR 14:805 (November 1988), LR 27:865 (June 2001).

Jerry W. Jones  
Undersecretary

0106#013

## RULE

### Department of Revenue Office of the Secretary

#### Penalty Waiver (LAC 61:III.2101)

Under the authority of R.S. 47:1603 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary, adopts LAC 61:III.2101 pertaining to a penalty waiver for delinquent filing or delinquent payment.

The purpose of this rule is to inform the public of the documentation required when submitting requests for waiver of delinquent filing or late payment penalty and of factors that will be considered by the Department of Revenue in evaluating waiver requests. Title 47 Section 1603 provides that if the failure to file on time or the failure to timely remit the full amount due is not due to the negligence of the taxpayer, but is due to other causes set forth in written form and considered reasonable, the secretary may waive the penalty in whole or in part. When the penalty exceeds \$5,000, the waiver must be approved by the Board of Tax Appeals.

#### Title 61

#### REVENUE AND TAXATION

#### Part III. Department of Revenue; Administrative Provisions and Miscellaneous

#### Chapter 21. Interest and Penalties

#### §2101. Penalty Waiver

A. The secretary may waive a penalty in whole or in part for the failure to file a return on time or the failure to timely remit the full amount due when the failure is not due to the taxpayer's negligence and is considered reasonable. All penalty waiver requests must be in writing and be accompanied by supporting documentation. If the combined penalties for a tax period exceed one hundred dollars, all of the facts alleged as a basis for reasonable cause must be fully disclosed in an affidavit sworn before a notary public in the presence of two witnesses and accompanied by any supporting documentation. The affidavit must be signed by the taxpayer, or in the case of a corporation, by an officer of the corporation. Where the taxpayer or officer does not have personal knowledge of such facts, the sworn affidavit may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts.

B. Before a taxpayer's request for penalty waiver will be considered, the taxpayer must be current in filing all tax returns and all tax, penalties not being considered for waiver, fees and interest due for any taxes/fees administered by the Department of Revenue must be paid.

C. In determining whether or not to waive the penalty in whole or in part, the department will take in account both the facts submitted by the taxpayer and the taxpayer's previous compliance record with respect to all of the taxes/fees administered by the Department of Revenue. Prior penalty waivers will be a significant factor in assessing the taxpayer's compliance record. Each waiver request submitted by the taxpayer will be considered on an individual basis. Each tax period or audit liability will be considered separately in determining whether the penalty amount mandates approval of the waiver by the Board of Tax Appeals. The delinquent filing and delinquent payment penalties will also be considered separately in making this determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1603 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 27:866 (June 2001).

Cynthia Bridges  
Secretary

0106#014

## RULE

### Department of Social Services Office of Family Support

#### FITAPC Vehicle Exclusion (LAC 67.III.1235)

The Department of Social Services, Office of Family Support, amends the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Public Law 106-387, the Agriculture Appropriations Act, signed into law on October 28, 2000, gave states a new option to improve their treatment of vehicles when determining whether a household is eligible for food stamps. Both FITAP and Food Stamp Program regulations were changed pursuant to this Public Law and to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant: the value of vehicles (other than recreational vehicles) will not be considered as a resource.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 2. Family Independence Temporary Assistance Program (FITAP)

#### Chapter 12. Application, Eligibility, and Furnishing Assistance

#### Subchapter B. Conditions of Eligibility

#### §1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. - 19. ...

20. vehicles other than recreational vehicles. A recreational vehicle is a vehicle designed for recreational use and not used as ordinary means of transportation;

21. ...

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:866 (June 2001).

J. Renea Austin-Duffin  
Secretary

0106#064

## RULE

### Department of Social Services Office of Family Support

Food Stamp ProgramC Semi-Annual  
Reporting and Other Eligibility Factors  
(LAC 67:III.1947, 1949, 1983, 1987, 2013, and 2015)

The Department of Social Services, Office of Family Support, amends the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 3. Food Stamps

#### Chapter 19. Certification of Eligible Households

#### Subchapter H. Resource Eligibility Standards

#### §1947. Resources

A. An IRA, or individual retirement account, less the amount that would be lost as penalty for early withdrawal of the entire account, is included in a household's resources.

AUTHORITY NOTE: Promulgated in accordance with F.R. 7:55463 et seq. and 47:55903 et seq., 7 CFR 273.8, P.L. 103-66, P.L. 104-193, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001).

#### §1949. Exclusions from Resources

A. The following are excluded as a countable resource:

1. - 3. ...

4. the value of a vehicle other than a recreational vehicle. A recreational vehicle is a vehicle that is designed for recreational use and not used as ordinary means of transportation.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:656 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:186 (February 1995), LR 27:867 (June 2001).

#### Subchapter I. Income and Deductions

#### §1983. Income Deductions and Resource Limits

A. In determining eligibility and benefit levels, the household is allowed deductions for certain costs.

1. ...

2. The maximum shelter deduction is \$300 for households which do not include a member who is elderly or disabled. Effective March 1, 2001, a maximum shelter deduction of \$340 shall be allowed at certification, recertification, or at the time of other case action. For fiscal year 2002 and each subsequent fiscal year, the maximum shelter deduction will be computed based on the amount for the preceding fiscal year, adjusted to reflect changes in the Consumer Price Index for All Urban Consumers for the 12-month period ending the preceding November 30.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:423 (July 1986), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of Family Security, LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:905 (July 1993), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001).

#### Subchapter J. Determining Household Eligibility and Benefit Levels

#### §1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

1. - 9. ...

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One and two person households will receive a minimum benefit of \$10. Households of three or more shall be denied if net income exceeds the level at which benefits are issued.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001).

#### Subchapter S. Semi-Annual Reporting

#### §2013. Semi-Annual Reporting

A. All households with earned income shall submit a reporting form to the agency on a semi-annual basis with the following exceptions:

1. migrant or seasonal farm worker households;
2. households in which all members are homeless.



B. Households subject to semi-annual reporting will be required to report only changes in gross monthly income which exceed 130 percent of the monthly poverty income guideline for the household size.

C. Households required to semi-annually report will be assigned a certification period of 12 months.

D. All households in semi-annual reporting are required to:

1. timely provide a completed semi-annual report form and all necessary verification; and

2. report current household circumstances and changes which the household knows will occur.

E. Failure to provide a complete semi-annual report form and verification will result in case closure.

F. Benefits will be determined prospectively based on verified circumstances.

G. Any change in benefits as a result of semi-annual reporting will be effective the month following the month in which the semi-annual report was required.

H. Other changes that will result in a decrease in benefits will not be acted upon unless:

1. the household has voluntarily requested that its case be closed in accordance with Sec. 273.13(b)(12);

2. the state agency has information about the household's circumstances considered verified upon receipt; or

3. there has been a change in the household's PA grant.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1633 (August 2000), amended LR 27:867 (June 2001).

#### **§2015. Quarterly Reporting**

A. Until such time as the household has been assigned to semi-annual reporting, all NPA households with earned income will submit a reporting form to the agency on a quarterly basis with the following exceptions:

A.1. - H. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a) and 272.3(c)(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1633 (August 2000), amended LR 27:868 (June 2001).

J. Renea Austin-Duffin  
Secretary

0106#037

## **RULE**

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

St. Martin-Lafayette Fish and Game Preserve  
(LAC 76:III.333)

The Wildlife and Fisheries Commission and Department of Wildlife and Fisheries have adopted a rule for Lake Martin, St. Martin Parish.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part III. State Game and Fish Preserves and Sanctuaries**

#### **Chapter 3. Particular Game and Fish Preserves and Commissions**

#### **§333. St. Martin-Lafayette Fish and Game Preserve**

A. That portion of the St. Martin-Lafayette Fish and Game Preserve, particularly the following described portion of Lake Martin, St. Martin Parish is hereby closed to all boating traffic, both motorized and non-motorized, said closure to remain in effect each year from February 15 through July 31 inclusive. The closed zone is described as follows:

1. All that certain property containing 131.94 acres more or less located in Section 31, Township 9 South, Range 6 East and Section 6, Township 10 South, Range 6 East, St. Martin Parish, Louisiana described as follows: Beginning at a point on the lake's edge located N 1 degree 59 minutes E a distance of 330 ft from a 4" x 4" concrete post, the post having State Plane Coordinates Louisiana South of X=1819303.09 ft, Y=561651.02 ft; thence N 1 degree 59 minutes E a distance of 1100 ft; thence S 88 degrees 1 minute E a distance of 2320 ft; thence S 36 degrees 54 minutes 58 seconds E a distance of 500 ft; thence S 1 degree 59 minutes W a distance of 2350 ft; thence N 88 degrees 1 minute W a distance of 660 ft; thence S 1 degree 59 minutes W a distance of 1320 ft; thence N 88 degrees 1 minute W a distance of 660 ft; thence N 1 degree 59 minutes E a distance of 2970 ft; thence N 88 degrees 1 minute W a distance of 1320 ft to the point of beginning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610C and R.S. 56:1861 et seq.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:868 (June 2001).

Dr. H. Jerry Stone  
Chairman

James H. Jenkins, Jr.  
Secretary

0106#024

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

#### Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding the restrictions on applications of certain pesticides and their exemption to waiver of restrictions.

The commercial applications of certain herbicides, in certain parishes, in accordance with the current regulations and labels has not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops, particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of central Louisiana and to Louisiana agricultural producers.

This Rule complies with and are enabled by R.S. 3:3203 and R.S. 3:3223.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXIII. Advisory Commission on Pesticides

#### Chapter 1. Advisory Commission on Pesticides

#### Subchapter I. Regulations Governing Applications of Pesticides.

#### §143. Restrictions on Application of Certain Pesticides

A. - B.17. ...

C. The pesticides listed in 143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes or wards:

- |                                  |   |
|----------------------------------|---|
| 1. Avoyelles                     | 16. Morehouse                           |
| 2. Bossier                       | 17. Natchitoches                        |
| 3. Caddo                         | 18. Ouachita                            |
| 4. Caldwell                      | 19. Pointe Coupee                       |
| 5. Catahoula                     | 20. Rapides                             |
| 6. Claiborne, Ward 4             | 21. Red River                           |
| 7. Concordia                     | 22. Richland                            |
| 8. DeSoto, Ward 7                | 23. St. Landry                          |
| 9. East Carroll                  | 24. St. Martin, Ward 5                  |
| 10. Evangeline, Wards 1, 3 and 5 | 25. Tensas                              |
| 11. Franklin                     | 26. Union                               |
| 12. Grant                        | 27. West Carroll                        |
| 13. Iberville Ward 9             | 28. West Baton Rouge, Wards 5, 6, and 7 |
| 14. LaSalle                      | 29. Winn, Ward 7                        |
| 15. Madison                      |   |

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of

Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 27:

#### Family Impact Statement

The proposed amendments to Rules 7:XXIII.Chapter 1 regarding the restrictions on applications of certain pesticides and their exemption to waiver of restrictions should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Bobby Simoneaux through the close of business on June 28, 2001, at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding this Rule is necessary.

Bob Odom

Commissioner

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Pesticide Restrictions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation cost or savings to the state or local governmental units. The Department of Agriculture and Forestry, Advisory Commission is amending these Rules and regulations for the purpose of adding Wards in Pointe Coupee, St. Landry, St. Martin, Iberville, and West Baton Rouge parishes through the emergency process due to the planting of cotton in these wards.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of the state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to effected persons or non-governmental groups.

Cotton farmers could realize economic benefits because certain pesticides will be prohibited from application without a waiver in certain parishes.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition or employment.

Skip Rhorer  
Assistant Commissioner  
0106#030

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of the Commissioner

Meat Labeling  
(LAC 7:XXXV.135)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Weights and Measures Commission, hereby proposes to amend regulations regarding meat labeling requirements set out in R.S. 51:614.

The Department of Agriculture and Forestry, Weights and Measures Commission is amending regulations in order to implement the meat labeling law set forth in R.S. 51:614. This Rule requires all meat to be labeled "American," "imported," and "blend of imported and American meats" on the wrapping or on a card for display.

This Rule complies with and is enabled by R.S. 3:4608, 3:4607, and R.S. 51:614.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons should submit written comments on the proposed Rules to Ronnie Harrell through July 25, 2001, at 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested parties may submit data, views or arguments in writing by 4:30 p.m. on July 25, 2001. No preamble regarding this Rule is available.

Bob Odom  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Meat Labeling

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no estimated implementation cost to state or local governmental units. These regulations implement the meat labeling Rules and regulations set out in R.S. 51:614. This law requires all meat to be labeled "American," "imported," or "blend of imported and American meats" on the meat, the wrapping, or a card with the display. The department is currently utilizing current employees to implement these Rules and regulations.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is estimated to be no effect on revenue collections for state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated cost to retailers for the labeling of their meat will be very minimal. In order to comply with R.S. 51:614 all the distributors and retailers need do is place a placard above any meat that doesn't state its origin on the label. The placard for display should be labeled "American," "imported," or "blend of imported and American meats."

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Skip Rhorer  
Assistant Commissioner  
0106#029

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Civil Service Civil Service Commission

#### Changes to Layoff and Layoff-Related Rules

The State Civil Service Commission will hold a public hearing on Wednesday, July 11, 2001 to consider the following layoff and layoff-related Rule changes. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana. Chapter 17, which covers layoff avoidance measures and layoffs, is proposed to be repealed in its entirety. A new Chapter 17 is proposed. It is organized into three sections: 1. layoff avoidance measures, 2. layoffs and 3. post layoff. Both major and minor changes have been made throughout the chapter. Related Rule changes are also proposed. Explanations for the major changes in Chapter 17 follow the proposed Rule amendments.

The following will be considered at the meeting:

#### Amend Rule 1.13

##### 1.13

Department Preferred Reemployment List means a list of permanent employees who have been laid off or demoted in lieu of layoff. Employees on such a list are given preferential hiring rights in the department or agency affected by a layoff.

#### Explanation

This amendment clarifies that only permanent status employees go on this list. This proposed amendment removes from eligibility employees who displace laterally in lieu of layoff.

#### Amend Rule 1.19.1

##### 1.19.1

Layoff Avoidance Measures mean actions taken by an appointing authority and approved by the Director and/or the Commission to help prevent a layoff. These include: withholding of merit increases, reductions in work hours and furloughs. Another measure, one not needing Civil Service approval, is the required use of leave during agency closures as stated in Rule 17.1(b).

#### Explanation

This amendment removes reductions in pay as an avoidance measure, and adds the measure of required leave during closures.

#### Amend Rule 1.21.1

##### 1.21.1

Organizational Unit for the purposes of layoff and layoff avoidance measures means the area subject to a layoff or layoff avoidance measure, as approved by the Director. It shall normally be one of the following:

(a) - (d) ...

**Explanation**

This amendment adds the words "and layoff avoidance measures" to make it clear that this definition applies to layoff avoidance measures as well as layoffs.

**Amend Rule 1.33.02**  
**1.33.02**

Reduction in Pay means an action taken for disciplinary reasons whereby an employee's individual pay rate is reduced but the employee remains in the same job.

**Explanation**

This amendment removes any reference to reduction in pay as a layoff avoidance measure as this measure is proposed to be repealed.

**Amend Rule 1.39.2(b)**  
**1.39.2**

State Service for the purposes of layoff and layoff avoidance measures, means the total length of Classified State Service in the equivalent full-time years, months and days as an employee of a state agency or agencies subject to the following:

- (a) ...
- (b) ...
- 1. - 3. ...

4. Any military service that interrupts Classified employment, including military service consisting of active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service, subject to the provisions of Rule 17.17.

- 5. ...
- 6. ...

7. Periods of time that the layoff avoidance measures stated in Rule 17.1(a) are in effect for full-time employees shall count as full-time employment.

- 8 - 9 ...
- (c) ...

**Explanation**

This amendment reflects the new Chapter 17 Rule numbers which apply here.

**Amend Rule 5.6(c)**  
**5.6 Status of Incumbent When Position is Reallocated**

- (a) - (b) ...

(c) If the duties which caused the reallocation are returned or removed, the incumbent shall be entitled to remain in the position. Subject to the provisions of Rule 17.9(c), if the position is declared a new position, the former shall be deemed abolished and the incumbent shall be removed therefrom by layoff.

**Explanation**

This amendment reflects the new Chapter 17 Rule number which applies here.

**Amend Rule 6.4(b)**  
**6.4 Rates of Pay in the Pay Plan Plus Base Supplement**

- (a) ...

Subject to the provisions of Rules 6.11, 6.15, 6.16 and 17.11(a) and (b)2, each employee shall be paid at a rate within the range for the grade to which his position is allocated, or at a rate within the base supplement approved for his position in accordance with the provisions of Rule 6.16(f).

**Explanation**

This amendment reflects the new Chapter 17 Rule number which applies here.

**Amend Rule 6.10**  
**6.10 Rate of Pay Upon Demotion.**

Subject to the provisions of Civil Service Rules 6.15 and 17.11(a) and (b)2, when an employee is demoted for any reason under any circumstances, his pay shall be reduced as follows:

- (a) - (d) ...

**Explanation**

This amendment reflects the new Chapter 17 Rule number which applies here.

**Amend Rule 6.15(f)**  
**6.15 Red Circle Rates**

- ...
- (a) - (e) ...
- (f) When an employee is subject to a demotion in a layoff, including a layoff as provided for in Rule 17.9(c), . . .
  - 1. ...
  - 2. ...
- (g) - (h) ...

**Explanation**

This amendment reflects the new Chapter 17 Rule number which applies here.

**Amend Rule 8.10(a)**  
**8.10 Restricted Appointment.**

- (a) ...
  - 1. It is used only for the following reasons: a) for work of a temporary nature; b) to substitute for another employee; c) pending filling the position in a regular manner, or, d) to address an emergency or work overload situation. An agency shall maintain written justification stating the reason for the temporary appointment. This Rule is subject to Rules 17.16(b)4 and 17.26 concerning layoff-related restricted appointments.
  - 2. - 7. ...
- (b) - (e) ...

**Explanation**

This amendment reflects the new Chapter 17 Rule numbers which apply here.

**Amend Rule 8.14(a)**  
**8.14 Job Appointment**

- (a) ... This Rule is subject to Rules 17.16(b)4 and 17.26 concerning layoff-related job appointments.
- (b)-(g) ...

**Explanation**

This amendment reflects the new Chapter 17 Rule numbers which apply here.

**Amend Rule 8.16(d)**  
**8.16**

- (a) - (c) ...
- (d) Detail to Special Duty.
  - ... This Rule is subject to Rules 17.16(b)4 and 17.26 concerning layoff-related details.
  - 3 - 5 ...

### Explanation

This amendment reflects the new Chapter 17 Rule numbers which apply here.

#### Amend Rule 8.27(a)6

#### 8.27 Status of Nonclassified Employees Whose Positions are Declared to be in the State Classified Service or are Acquired by a State Agency

(a) ...

1. ...
2. ...
3. ...
4. ...
5. ...

6. Subject to Rule 17.14, when an agency acquires employees under Rule 8.27 and a layoff results, it shall neither exempt the acquired employees from a layoff, nor shall the acquisition of these employees prevent the appointment of classified employees from a Department Preferred Reemployment List.

(b) - (k) ...

### Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

#### Amend Rule 9.1(a)3

#### 9.1 Probationary Period

(a)...

1. - 2. ...

3. Non-competitive re-employments based on prior service, except as provided in Rules 17.25(a) and 9.3.

...

(b) - (g) ...

### Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

#### Amend Rule 11.9(b)

#### 11.9 Enforced Annual Leave

(a)...

(b) No employee shall be required to reduce his accrued annual leave to less than 240 hours except:

1. ...
2. ...

3. if the leave is required during closures in accordance with Rule 17.1(b) as a layoff avoidance measure.

### Explanation

This amendment makes clear that annual leave can be enforced for layoff avoidance purposes as stated in Rule 17.1(b), even if it reduces an employee's accrued annual leave below 240 hours.

#### Amend Rule 12.6(c)

#### 12.6 Non-Disciplinary Removals

(a) ...

(b) ...

(c) When an employee is removed under this Rule, the adverse consequences of Rules 6.5(c); 7.5(a)7; 8.9(c); 8.13(a)7; 8.15(d); 8.18(d); and (e); 11.18(b) and 17.25(e)4 shall not apply.

### Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

## Chapter 17. Layoff Avoidance Measures, Layoffs, and Post Layoff

### Section 1 – Layoff Avoidance Measures

#### 17.1 Types of Layoff Avoidance Measures

(a) Layoff Avoidance Measures Needing Civil Service Approval. These measures consist of the following:

- (1) withholding of merit increases;
- (2) reduction in work hours; and
- (3) furloughs without pay.

(b) Layoff Avoidance Measure Not Needing Civil Service Approval - Required Annual Leave During Closures. A department or agency, when the efficiency of operations dictates a temporary closure, may require employees to use up to a maximum of 10 days of annual leave per calendar year. Employees who have less than 30 days of annual leave may be required to take annual leave under this provision. Employees who have exhausted annual leave shall be placed on leave without pay, but not for more than 10 days per calendar year.

#### 17.2 Approval of Layoff Avoidance Measures

(a) A written plan for layoff avoidance measures listed in Rule 17.1(a) shall be submitted to the Director prior to the effective date of the measures. The Director may:

1. approve the plan;
2. disapprove the plan;
3. refer the plan directly to the Commission for consideration at its next regularly scheduled meeting.

(b) Exceptions, if any, to layoff avoidance Rules must be requested in the written plan, with justification. For exceptions, the Director may:

1. grant interim approval subject to ratification by the Commission at its next regularly scheduled meeting;
2. refer the exceptions directly to the Commission for consideration at its next regularly scheduled meeting.

#### 17.3 Uniform Measures

These measures shall apply uniformly to all employees in the affected organizational unit, as defined by Rule 1.21.1. This includes employees on leave, on temporary appointments and those who are hired while the measures are in effect. Exceptions or deviations from uniform measures must be requested according to the provisions of Rule 17.5 and require the Director's approval.

#### 17.4 Notification to Employees

(a) The appointing authority shall, as soon as it is reasonably determined that a layoff avoidance measure is necessary, make a reasonable attempt to notify all employees who could be affected.

(b) Once a layoff avoidance plan is approved by the Director or Commission, it shall be made generally available to the employees who would be affected.

#### §17.5 Exceptions to Regular Measures

For rational business reasons, the appointing authority may request exceptions to these Rules. Exceptions that may be requested with justification include the following:

(a) exclusion of employees who possess particular qualifications needed to complete an essential program or to maintain essential services necessary to preserve the life, health or welfare of the public;

(b) other exceptions that are based on rational business reasons.

## **17.6 Withholding of Merit Increases**

When an appointing authority determines that it is necessary to withhold merit increases of employees in order to avoid or reduce layoffs, his request is subject to the following.

(a) He shall certify that his department does not have sufficient funds to give such increases to all employees. The request shall include the reasons for this action, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the proposed effective dates and periods of time involved, the organizational unit and geographic area(s) affected.

(b) Such withholding of merit increases shall not exceed one period of 12 consecutive months.

(c) Employees whose merit increases are withheld shall retain their eligibility for such increases for a three-year period.

## **17.7 Reduction in Work Hours**

When an appointing authority determines it is necessary to reduce the work hours of employees in order to avoid or reduce layoffs, his request is subject to the following.

(a) He shall include the reasons for the reduction, the names and jobs of any employees to be excluded and reasons for their exclusion, the number of work hours reduced for each employee, the proposed effective dates and periods of time involved, the organizational unit and geographic area(s) affected.

(b) Such reductions shall not exceed one period of 12 consecutive months.

(c) The number of work hours reduced for an employee shall not exceed 16 hours per biweekly payroll period.

(d) An affected employee shall be subject to the same leave and overtime rule provisions as apply to employees on regular, part-time status. Any hours worked over the employee's reduced workweek shall be compensated with compensatory leave earned at the hour for hour rate. Hours which exceed a 40-hour workweek shall be compensated at the time and one-half rate if required by the Fair Labor Standards Act.

## **17.8 Furlough without Pay**

When an appointing authority determines that it is necessary to furlough employees without pay to avoid or reduce layoffs, his request is subject to the following.

(a) He shall include reasons for the furlough, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the total work hours or days for each employee, the dates and period of time involved, the organizational unit and the geographic area(s) affected. He shall also specify if employees will be recalled from furlough at the same time. If employees will be recalled at different times, the recall schedule must be specified and justified.

(b) An employee shall not be furloughed for more than a total of 240 work hours in any 12 consecutive-month period without approval of the Commission.

(c) With approval of the Commission, an employee may be furloughed up to a total of 450 work hours in a 12 consecutive-month period.

## **Section 2 – Layoffs**

### **17.9 Types of Layoffs; Notice to Director and Approval Required for Each**

(a) Layoffs involving permanent employees.

1. A written plan shall be submitted to the Director at least two calendar weeks prior to the effective date of the layoff. The Director may:

- a. approve the plan;
- b. disapprove the plan;

c. refer the plan directly to the Commission for consideration at its next regularly scheduled meeting.

2. Exceptions, if any, to layoff rules shall be requested in the written plan, with justification. For exceptions, the Director may:

a. grant interim approval subject to ratification by the Commission at its next regularly scheduled meeting;

b. refer the exceptions directly to the Commission for consideration at its next regularly scheduled meeting.

(b) Layoffs Involving Probational Employees Only. In layoffs involving probational employees only, the appointing authority shall provide written notice to the Director of such layoffs prior to the effective date.

(c) Layoffs Caused by Establishment of a New, Lower Position for an Encumbered Position. Layoffs that result when a new, lower position is established for an encumbered position, resulting in the abolishment of the old encumbered position, require prior approval of the Director. A written explanation of the circumstances of this action shall be submitted to the Director. At the Director's discretion, the agency may be required to conduct a regular layoff or the Director may permit the affected employee to be demoted in lieu of layoff to the new position.

### **17.10 Required Notices to Employees in the Different Types of Layoffs**

(a) For layoffs involving permanent employees, the following notices are required.

1. The appointing authority shall, as soon as it is reasonably determined that a layoff will be necessary, make a reasonable attempt to notify all employees who could be affected.

2. Once a layoff plan is approved by the Director, it shall be made generally available to the employees who could be affected.

3. Employees in positions proposed for abolishment shall be so notified at least five calendar days prior to approval of the plan by the Director.

4. Employees shall be notified of displacement offers, or layoff notification if there is no offer to make. There shall be at least five calendar days between the last such notice and the effective date of layoff.

(b) For layoffs of probational employees only, the affected employees shall be given notice of their layoff prior to the effective date of layoff.

(c) When it is determined that a new lower position exists and the old encumbered position must be abolished, the appointing authority shall notify the affected employee in a manner consistent with the Director's approval of his layoff. Notification for a regular layoff shall be in compliance with subsection (a) of this Rule, or, if the employee is demoted in lieu of layoff to the new position, he shall be notified of his eligibility for the department preferred reemployment list.

### **17.11 Pay Upon Demotion (Downward Displacement) for Different Types of Layoffs**

(a) Non-Budgetary Layoffs. For primarily non-budgetary layoffs, no pay reductions shall occur when employees are

displaced to lower jobs. This is subject to those situations involving base supplement addressed in Rule 6.15(f).

(b) **Budgetary Layoffs.** For layoffs caused primarily by budgetary reasons, the appointing authority may choose one option as follows.

1. He may reduce pay upon displacement to lower jobs. Pay reductions shall be uniform in their percentage for all affected employees. Such pay cuts shall not result in an employee's being paid above the range maximum or base supplement maximum of the lower job or below the range minimum; or

2. if the pay is not reduced, the provisions of subsection (a) of this Rule shall apply.

(c) **Layoff Resulting When a New, Lower Position for an Encumbered Position Is Established.** When a new lower position for an encumbered position is established in accordance with Rule 17.9(c), the employee's pay shall not be reduced in the resulting demotion in lieu of layoff, subject to those situations involving base supplement addressed in Rule 6.15(f).

#### **17.12 Changes in Allocations and Effect This Has on Layoff**

So that displacement offers will not have to be redone, a layoff shall not be affected by any changes in allocations for affected positions after the layoff plan is received at Civil Service, regardless of the effective date of the allocation.

#### **17.13 Responsibilities of Employees Affected in a Layoff**

The following shall be responsibilities of any employee affected in a layoff. This includes employees who are on leave, on detail to special duty, and on temporary interdepartmental assignment.

(a) He shall read or otherwise make himself aware of agency-distributed information concerning the layoff.

(b) He shall supply all information required by the agency to determine adjusted state service date in the format and by the deadline set by the agency.

(c) If he is absent from work, he shall leave with the personnel specified in his agency, correct and current information as required by the agency on how he may be reached at all times when his agency will be making job offers during the layoff.

(d) He shall comply with the deadline for responding to a job offer in a manner determined by the agency. Failure to do so in the proper manner and by the deadline shall be considered a declination of the job offer.

(e) If meeting the job qualifications of the offered job requires a grade from Civil Service, he must have had the grade effective no later than the date the layoff plan is submitted to Civil Service to be eligible for that position. The grade need not be active; it may be expired. However, it must have the same series number as the test currently in use and must be verifiable, either in the automated applicant record at Civil Service or by the employee producing the original grade notice.

(f) Once he gives his acceptance or declination of a job offer, his decision is final and the agency is not required to re-work any job offers already made.

#### **17.14 Exemptions and Exceptions to Layoff Rules**

(a) In a layoff, the agency may exempt from displacement a number of employees, the total of which does not exceed 20 percent of the number of positions

selected for abolishment. These exemptions must be made for rational business reasons which may include employees who have exceptional performance and/or who possess particular qualifications needed to complete an essential program or to maintain essential services necessary to preserve the life, health or welfare of the public. Exemptions and their reasons must be stated in the layoff plan.

(b) For rational business reasons, the appointing authority may request exceptions to these Rules.

(c) The Director may, on his own initiative, expand career fields.

#### **17.15 Written Layoff Plan for a Layoff Involving Permanent Employees**

The layoff plan shall include, but not necessarily be limited to, the following:

1. the affected organizational unit. (Refer to Rule 1.21.1);

2. reasons why the layoff is being proposed;

3. any budgetary measures which may have been taken to help avoid the layoff;

4. proposed effective date of the layoff;

5. the definition of commuting area used for this layoff. (Refer to Rule 1.9.01);

6. the displacement method to be used for this layoff. (Refer to Rule 17.22);

7. percentage of pay reductions, if any, that will be applied in a budgetary layoff;

8. the parishes where the abolished positions are domiciled;

9. List the following for the abolished positions:

a) Job titles and number of positions for each; and

b) their career fields;

10. if any employees are in Career Field 9999, propose an appropriate expansion of their career field, with justification. If no expansion is proposed, explain why;

11. exemptions made, if any, under Rule 17.14(a) and reasons for these;

12. exceptions requested, if any, under Rule 17.14 (b), and reasons for these;

13. names and pay of employees with unclassified authority under Rule 4.1(d)1 or 4.1(d)2;

14. contracts either currently in effect or anticipated that may be causative or related to the layoff.

#### **17.16 Freeze on Appointments to Layoff-Affected Jobs;**

(a) **Period of Freeze; Positions Affected.** Beginning the date the Director approves the layoff plan, no appointments shall be made in the affected department to job titles abolished in the layoff or to equivalent or lower jobs in those career fields and commuting areas, except that job offers made prior to this approval date may be honored. This freeze on appointments shall end upon the establishment of the Department Preferred Reemployment List.

(b) **Exceptions to the Freeze Not Requiring Director's Approval.** Exceptions to the appointment freeze not needing Director's approval include the following:

1. reinstatement of an employee as the result of an appeal decision;

2. internal demotion;

3. restoration of a former employee returning from military duty in accordance with Rule 8.19;

4. restricted appointments, job appointments, details to special duty, and use of temporary staffing service employees, none of which shall extend beyond three months after the effective date of layoff.

#### **17.17 Special Provisions for Veterans in Layoffs**

(a) A veteran who has been restored to duty under the provisions of Rule 8.19 and who thereafter competes in a layoff shall be granted prior service credit for the period of time served as a member of the armed forces of the United States on which the restoration was based.

(b) An employee being restored to duty under the provisions of Rule 8.19 shall not be required to compete with other employees in a layoff conducted to permit his restoration.

#### **17.18 Domicile for Displacement Purposes**

(a) The domicile for an employee shall be the parish in which he reports to work.

(b) Employees whose official domicile is "Statewide" shall, for the purpose of displacement offers, be considered domiciled in the parish in which they officially reside.

(c) Employees who live and work outside of Louisiana shall, for the purpose of displacement offers, be considered domiciled in the parish in which they have an official residence. If they have none, their domicile shall be at their department's central headquarters.

(d) Agencies may request a different domicile assignment in situations not addressed in this Rule through the exception procedure in Rule 17.14(b).

#### **17.19 Displacement Rights**

(a) Employees with No Displacement Rights. The following employees have no displacement rights, and may be displaced in any order (neither group has any preference over the other);

1. non-permanent employees;
2. permanent employees whose two most recent official performance evaluation ratings were "Needs Improvement" and/or "Poor" (a re-rating counts as one of the two most recent ratings). If displaced or laid off, these employees shall retain their review and appeal rights stated in Rules 10.13 and 10.14. If the review or appeal results in a rating change to "Meets Requirements" or higher after displacement offers have begun, the agency shall give the employee the offer, if any, he would have been given.

(b) Employees Who Have Displacement Rights. Displacement rights shall be granted to permanent employees whose two most recent official performance evaluation ratings include at least one rating of "Meets Requirements" or higher. A re-rating is counted as one of the two most recent ratings.

1. For purposes of this Rule, a permanent employee with a rating of "Un-rated" shall be considered as having a rating of "Meets Requirements" for that rating period.

2. For purposes of this Rule, an employee serving a probational period under the circumstances defined in Rule 8.10.1 shall be considered as having permanent status for layoff purposes [Rule 8.10.1(b)1], and shall have the displacement rights granted to permanent employees in this Rule.

(c) Limitations on Displacement Rights. An employee shall not have the right to displace:

1. into a job with a higher pay range;

2. into a job for which he does not meet the Civil Service minimum qualification requirements;

3. outside of his organizational unit (defined in Rule 1.21.1);

4. outside of his career field, (defined in Rule 1.5.2), unless the appointing authority has chosen the option of offering vacancies and/or non-permanently filled positions outside the career field;

5. outside of his commuting area (defined in Rule 1.9.01);

6. under circumstances described in Rule 17.22(c)3, if the agency has chosen to use performance ratings in displacement offers.

(d) Effect of Displacement on Employee Status. Employees who displace into another position shall retain permanent status, even if they displace a non-permanent employee who occupies an ongoing position such as one allocated in the department's Table of Organization. Exceptions to this are as follows.

1. If an employee with permanent status displaces into a position subject to Rule 8.10.1, he shall revert to probational status.

2. If an employee displaces out of a position subject to Rule 8.10.1, he shall revert to permanent status in the new position.

3. If an employee displaces laterally or downwardly into a position subject to Rule 8.10.1 from another such position, he shall be eligible for permanent status in the new position between the sixth and twenty-fourth month of the probational period which began prior to the change in position.

#### **17.20 Factors Affecting Displacement Offers**

(a) Vacancies are not required to be offered. Vacancies either in the employee's career field or outside the career field may be offered in lieu of filled positions as long as they are not lower than the highest offer to a filled position in the career field.

(b) Positions filled by non-permanent appointments outside the affected career field(s) are not required to be offered. Such positions may be offered in lieu of filled positions as long as they are not lower than the highest offer in the employee's career field.

(c) If a training series position is offered, it shall be offered at the highest level for which the employee meets the Civil Service minimum qualification requirements, as long as it is not higher than his current job.

(d) All offers shall be made with a minimum reduction in pay range.

(e) A part-time position shall be offered only if there is not a full-time position to offer. The appointing authority may request an exception to this provision.

(f) If the employee declines the offer or if there are no offers to make to him, he is subject to layoff.

#### **17.21 Accommodation for Permanent Employees When No Displacement Offer Exists**

When there is no ongoing position, such as one within the department's Table of Organization which can be offered, the agency may end job and/or restricted appointments of employees who occupy temporary positions which are not ongoing, and may use the position(s) to re-hire, without a break in service, a permanent employee who was laid off. The rehired employee may be rehired in job or restricted



appointment status. If used, this accommodation must be granted first to the most senior employee who is being laid off within the affected job.

### **17.22 Displacement Offers**

(a) Employees whose performance ratings make them eligible for displacement offers shall be given offers according to length of service, with employees having the most state service being given first preference, regardless of the method chosen for displacement.

(b) An employee shall be given a job offer, if one is available, in accordance with subsection (c) of this Rule. Within this offer, an employee(s) who has no displacement rights shall be displaced before a permanent employee with the least state service.

(c) The appointing authority shall choose from the following options for displacement. Any agency may use option 1 or 2 below. Only those agencies having 10% or less incidence of "Un-rated" ratings for the previous year ending June 30 may use option 3.

1. Offers When Layoff is Limited to Career Field. Subject to Rules 17.19 and 17.20, affected eligible employees shall be given the first available job offer of an ongoing position, such as one in the agency's Table of Organization, as listed below:

- a. a position with the same job title;
- b. an equivalent position in the career field;
- c. the next lower position available in the career field;

2. Offers When Layoff is NOT Limited to Career Field. If the appointing authority has chosen to offer vacancies and/or positions occupied by non-permanent employees outside the career field, then the employee shall have the choice of:

1. the first available offer in the career field as defined in subsection (c)1 of this Rule; or
2. the highest available non-career field offer, as long as this offer is higher than the first available career-field offer.

3. Offers Incorporating Performance Ratings. When using this method of making displacement offers, the appointing authority shall use the method stated in either subsection (c)1 or (c)2 of this Rule, subject to the following.

a. Employees with a current rating of "Meets Requirements" shall not be eligible to displace employees with a current rating of "Outstanding" or "Exceeds Requirements," regardless of length of state service.

b. Employees whose most recent rating is "Poor" or "Needs Improvement," and whose previous rating was "Meets Requirements" or better, shall displace only those employees who have no displacement rights as stated in Rule 17.19(a).

### **17.23 Methods of Breaking Ties**

In case of ties in displacement ranking, the following shall apply:

(a) Permanent employees who have veterans' preference as referred to in Rule 7.11 and whose length of state service and performance ratings are at least equal to those of other competing employees shall be retained in preference to all other competing employees.

(b) If subsection (a) of this Rule does not apply, the remaining methods of breaking ties shall be:

- 1) based on the most recent performance ratings;

2) by length of service in the position; or

3) by length of service in the department. If none of these breaks the tie, the appointing authority may use any non-discriminatory method he chooses.

### **Section 3 - Post Layoff**

#### **17.24 Reporting Requirement after Layoff**

The appointing authority shall report to the Director in writing within 15 calendar days from the effective date of the layoff, all personnel actions taken relative to the layoff. This report shall indicate employees who were non-permanent status at the time of layoff as well as those whose two most recent official performance ratings (includes a re-rating) were "Needs Improvement" and/or "Poor." The report shall include information for each affected employee as required in the State Personnel Manual.

#### **17.25 Department Preferred Reemployment List**

(a) The Department Preferred Reemployment List is a list of names of permanent employees who have been laid off or demoted in lieu of layoff. Employees on such a list shall be given preferential hiring rights for their department or agency subject only to the exceptions stated in Rule 17.26. Such employees shall be appointed with permanent status, except for reemployment into a position which must be filled with a probational appointment under Rule 8.10.1. Upon appointment from this list, the employee's pay shall be set in accordance with Rule 6.5.1.

(b) Only employees who have displacement rights (and those in probational status as a result of Rule 8.10.1) who have been laid off or demoted in lieu of layoff shall be eligible for this list. Eligibility shall be limited to:

1. the agency or department where the layoff action occurred;
2. the employee's parish of domicile at the time of layoff and any other parishes he may list for availability;
3. the same job title the employee held at the time of the layoff action and equivalent or lower level jobs for which the employee qualifies in his career field. However, an employee who demoted in lieu of layoff shall be eligible only for jobs down to but not including those in the pay range to which he demoted.

(c) Employees not eligible for this list include the following:

1. those who displaced to a lateral position;
2. those whose two most recent official performance ratings at the time of layoff were "Needs Improvement" and/or "Poor" (includes a re-rating);
3. non-permanent employees. This does not include those employees in probational status as the result of Rule 8.10.1;
4. those who have retired from state service.

(d) Employees shall be ranked in the order of length of state service they had at the time of the layoff. The employee with the most state service for a given job and parish shall be given the first offer. Those tied shall be considered as having the same ranking.

(e) An employee's name will be removed from the applicable list(s) when:

1. he is offered reemployment to a permanent position from this list. His name shall then be removed for that job as well as for all others to equivalent or lower jobs, but shall remain on the list for higher jobs;

2. he declines or fails to respond to an offer. He shall then be removed for that job, equivalent jobs, and all lower jobs;

3. he attains permanent classified status in any position in any department. His name shall then be removed from all such lists for equivalent and lower jobs.

4. those who were dismissed or resigned to avoid dismissal (except those who are reinstated) after the layoff action;

5. it is removed by the Director when he determines that a person is not qualified, is not available, or, upon investigation, is not found suitable for appointment to the position;

6. his name has been on the list for two years from the effective date of the layoff.

(f) If the employee's job has undergone a change in the minimum qualification requirements or title or pay range (including one that has changed upward) since the layoff, at the request of the employee, he may have his name placed on the list for the newly revised job title and equivalent and lower level jobs in his career field. He shall not be required to meet the new qualifications if sufficient evidence is presented to the Director to show, as determined by the Director, that he is returning to a job having essentially the same duties he was performing when affected by the layoff. The exception to this is if the lacking qualification is one required by law or under a recognized accreditation program.

#### **17.26 Exceptions to Hiring from the List**

If there is a department preferred reemployment list, the employee who is first on the list shall be hired first, except when a position is filled by:

- 1) reinstatement;
- 2) internal demotion;
- 3) restoration of an employee returning from military service under Rule 8.19; or
- 4) restricted or job appointment, use of a temporary staffing services employee, and details to special duty, none of which shall exceed three months beyond the effective date of layoff.

#### **17.27 Employees Offered Temporary Appointments from List Remain on List**

Restricted or job appointments which exceed three months past the effective date of layoff shall first be offered to the first person on the list. If the person accepts or declines such a temporary appointment, his name shall remain on the list for permanent appointments.

#### **17.28 Layoff Referral List of Those Actually Laid Off**

The Department of Civil Service shall establish a Layoff Referral List of permanent employees actually laid off, i.e., separated from state service. Agencies shall not be required to hire from this list, but may use the list as an aid for recruiting. Employees shall be placed on this list only for those job titles for which they are also on the Department Preferred Reemployment List and shall remain on this list for one year past the effective date of their layoff. Placement on this list gives laid off employees no special rights or eligibilities beyond the regular noncompetitive reemployment eligibility stated in Rule 8.18. The Department of Civil Service shall establish procedures to administer this list.

#### **17.29 Movement of Employees after Layoff**

For rational business reasons, after a layoff an appointing authority may move an employee from one position to another position for which he qualifies in the same pay grade, as long as such movement does not circumvent the Department Preferred Reemployment List.

#### **Explanations For Rule Changes**

##### **Section 1 - Layoff Avoidance Measures:**

1. Prior approval for layoff avoidance measures in Rule 17.1(a) will be needed. There is no minimum notice required, but the agency must notify the Director prior to the effective date the measure begins.

2. The avoidance measure of reduction in pay without a reduction in work hours (current Rule 17.11) has been omitted as a layoff avoidance measure because it was never used and was the least desirable measure.

3. Employees whose merit increases are withheld as a layoff avoidance measure will retain eligibility for the increases for three years.

4. These proposals remove the requirement that agencies separate temporary employees prior to implementation of a layoff avoidance measure. Temporary employees are frequently cost-effective and help reduce the need for layoffs.

5. The provision allowing an agency to request volunteers for layoff avoidance measures has been omitted. This was not used frequently and was not effective in saving money.

6. The prohibition against optional pay increases while an avoidance measure was in effect has been omitted, as it was confusing and unnecessary.

##### **Section 2 - Layoffs**

1. For layoffs of probational employees only, the agency must submit prior written notice to the Director.

2. For permanent employees, there will be a 5-day period, rather than a 10-day period, between the last displacement offer or notice of layoff if there is no offer to make, and the effective date of layoff.

3. It would no longer be required that pay reductions be effected for demotions in budgetary layoffs. This decision would be at the option of the appointing authority.

4. Current Rules allow an agency to exempt from displacement a number of employees, the total of which does not exceed 15% of the number of positions selected for abolishment. This percentage has been changed to 20%.

5. The layoff plan will require additional information, since an agency will now have some options and will need to state which options it will be using.

6. Current Rules require a freeze on appointments beginning the date the Director approves the layoff plan. This will change to the extent that the agency may now honor any job offers which were made prior to the date the Director approved the layoff, even if the employment start date is after the approval date.

7. Proposed changes to displacement Rules include the following.

a. Agencies will be able to choose from among three displacement methods:

1. length of service limited to career field;
2. length of service not limited to career field (can displace into vacancies and positions filled by non-permanent employees outside the career field); and

3. the incorporation of PPR ratings, which can only be used by those agencies whose incidence of "Unrated" ratings is 10% or less (see "f" below).

b. Displacement of non-permanent employees outside the career field is now optional at the discretion of the appointing authority.

c. The commuting area may be only the parish of the abolished position, or one or more adjoining parishes, as determined by the agency.

d. Multiple displacement offers are eliminated, unless the agency chooses to offer vacancies and/or positions filled by non-permanent employees outside the career field.

e. Permanent employees whose two most recent official ratings (including re-ratings) are "Needs Improvement" and/or "Poor" will have no displacement rights. Under the current Rules, such employees have limited preference over employees who are probational and who have no displacement rights. Under the new Rules, these employees will be considered the same as probational employees, that is, they will have no displacement rights.

f. If the agency chooses to use the displacement method which incorporates PPR ratings, then an employee whose current rating is "Meets Requirements" shall not be eligible to displace employees with ratings of "Exceeds Requirements" or "Outstanding", regardless of length of service. Employees with the two higher ratings are not similarly limited, in that they may displace an employee with less service in an equivalent or lower level job in an affected job, regardless of the person's rating.

g. What job offer must be offered in displacement has been simplified.

h. An employee serving a probational period due to having been promoted into a position which requires a probational appointment (Rule 8.10.1) shall be considered as having permanent status for layoff purposes. Employees who displace into such a position shall become probational, but an agency may request an exception to this. An employee who displaces out of one of these positions into a position not required to be filled by probation, shall immediately be granted permanent status.

i. If a training series position is offered, it will be offered at the highest level for which the employee qualifies, as long as it is not higher than the employee's current job.

j. Part-time employees may displace full-time employees (but must be willing to accept the full-time work). A part-time position shall be offered only if there is no full-time job to offer.

8. There is a new optional accommodation for permanent employees for whom no displacement offers exist to ongoing positions. The agency may re-hire the employees, based on seniority, without a break in service, into positions occupied by job or restricted (temporary) appointments. These will continue to be temporary appointments, and the employees will remain on the department preferred list.

9. The list of employee responsibilities in a layoff has been rewritten and includes the fact that an employee may need a Civil Service test grade to displace into certain jobs.

### **Section 3 – Post Layoff**

1. The hiring freeze for jobs affected by the layoff will now end upon establishment of the department preferred reemployment list, rather than end either 30 days after the layoff or establishment of such list, whichever came first.

2. New data will be required on the post-layoff report to Civil Service to expedite the establishment of the department preferred reemployment list.

3. Changes to eligibility for the department preferred reemployment list include:

a. An employee is not eligible to be on the list if his two most recent ratings were "Poor" and/or "Needs Improvement." This includes a re-rating.

b. Employees who displace laterally will not be eligible for the list. The list will be limited only to those laid off or demoted.

4. The Open Preferred Reemployment List will no longer exist. Instead, a Layoff Referral List would be established and would include names of laid off employees to help agencies recruit, but hiring from this list would not be mandatory.

5. After the layoff, prior Director's approval would no longer be needed to move an employee within the same pay grade, as long as the position move does not circumvent the department preferred reemployment list.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of Civil Service at Post Office Box 94111, Baton Rouge, Louisiana 70804-9111. If any accommodations are needed, please notify us prior to the meeting.

Allen H. Reynolds  
Director

0106#011

## **NOTICE OF INTENT**

### **Department of Economic Development Board of Architectural Examiners**

#### **Registration Information (LAC 46:I.901)**

Under the authority of R.S. 37:144, and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment of IAC 46:I.901, 46:I.903 and 46:I.1101 pertaining to fees charged to both in-state and out-of-state architects for initial licensure and registration, license renewal, and delinquent license renewal. Conditioned upon the legislature amending R.S. 37:149 and 150 in the current legislative session in a bill presently being considered, the board proposes to increase fees for the initial licensure and registration, license renewal fees, and delinquent license renewal fees for both in-state and out-of-state architects.

### **Title 46**

## **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

### **Part I. Architects**

#### **Chapter 9. Registration Procedure**

##### **§901. Registration Information**

A. To obtain information regarding registration to practice architecture in Louisiana an individual, a corporation which satisfies the requirements of the Professional Architectural Corporations Law, an architectural-engineering corporation which satisfies the requirements of the Architectural-Engineering Corporation Law, and a limited liability company which satisfies the

requirements of the Limited Liability Company Law shall write the board indicating whether the applicant seeks to be registered as an architect, a professional architectural corporation, an architectural-engineering corporation, or a limited liability company. The applicant will then receive instructions on the procedure to follow. Upon passing all divisions of the examination, an in-state candidate shall be charged a fee of \$75 for the issuance of his or her initial license.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:144.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:738 (October 1994), and amended by Department of Economic Development, Board of Architectural Examiners, LR 15:6 (January 1989), LR 20:995 (September 1994), and LR 27:

### **§903. Individuals Registered in Other States**

A. The exclusive means for an individual registered in another state(s) seeking to be registered in Louisiana is the submission to the board of an NCARB (Blue Cover) certificate.

B. Upon finding the NCARB (Blue Cover) certificate in order and upon payment of the registration fee of \$300, the board will register said individual and issue a license to said individual to practice architecture in this state.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:148-149.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:738 (October 1984), and amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:6 (January 1989) and LR 27:

## **Chapter 11. Administration**

### **§1101. Renewal Procedure**

A. A license for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations, architectural-engineering corporations, and limited liability companies shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company to obtain, complete, and timely return a renewal form and fee to the board office, which forms are available upon request from said office.

C. Prior to December 1 of each year the board shall mail to all individual architects currently licensed a renewal form. An individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$75, the license renewal fee for an individual domiciled

outside Louisiana shall be \$150. Upon payment of the renewal fee the executive director shall issue a renewal license or registration.

D. Prior to June 1 of each year the board shall mail to all professional architectural corporations, architectural-engineering corporations, and limited liability companies currently licensed a renewal form. A professional architectural corporation, an architectural-engineering corporation, and a limited liability company which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The fee shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$75. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$150. The delinquent fee shall be in addition to the renewal fee set forth in the 1101.C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation, an architectural-engineering corporation, or a limited liability company of the right to renew thereafter. A professional architectural corporation, an architectural-engineering corporation, or a limited liability company who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in 1101.D.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:144.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:739 (October 1984), amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:732 (September 1989), LR 20:995 (September 1994), repromulgated LR 20:1259 (November 1994), amended LR 23:402 (April 1997), amended LR 27

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Registration Information**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs (savings) to state or local governmental units associated with these proposed Rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rules will increase the revenue collections of the Louisiana State Board of Architectural Examiners by approximately \$65,300 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rules will increase fees for the initial licensure and registration, license renewal, and delinquent license renewal for both in-state and out-of-state architects. Specifically, the fee for initial licensure and registration for an in-state candidate will increase by \$25.00, and the fee for initial licensure and registration for an out-of-state architect will increase by \$50.00. The renewal fees and delinquent license renewal fees for both in-state and out-of-state architects will increase by \$25.00.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with these proposed Rules.

Mary "Teeny" Simmons  
Executive Director  
0106#012

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741C Louisiana Handbook for School Administrators  
Policy for Louisiana's Public Education  
Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The proposed change more clearly explains and refines existing policy as follows: 1) clarification of the transfer/school choice policy.

**Title 28  
EDUCATION**

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

**§ 901. School Approval Standards and Regulations**

A. Bulletin 741

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April, 2000); LR 26:1260 (June, 2000), LR 26:1260-1261 (June, 2000), LR 27:

**The Louisiana School and District  
Accountability SystemC Transfer Policy**

Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Corrective Actions Level II or any other school begins Corrective Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools or any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

An LEA must develop a policy for student transfers (School Choice Policy) for Academically Unacceptable schools in Corrective Actions II and III. An LEA shall state its capacity for offering student transfers. SBESE shall approve or disapprove an LEA's School Choice Policy.

An LEA shall declare *Lack of Capacity* when all of the attendance zones under its jurisdiction are unable to provide school choice to eligible students (i.e., desegregation order).

An LEA shall declare *Limited Capacity* when some students in some or all of the attendance zones under its jurisdiction may be provided school choice in an attendance zone (i.e., limited seating capacity in receiving schools).

An LEA declaring *Lack or Limited Capacity* shall request a waiver from SBESE and shall submit the following with its waiver request:

- a description of the general transfer policy or desegregation order (See State's *Guidance on LEAs' Development of School Choice Policies for Public Schools in Louisiana*. Transfer policies must include:
  - 1) a method for determining transfer capacity or evidence of lack of capacity to transfer;
  - 2) transfer options for as many eligible students as possible in the Academically Unacceptable schools in Corrective Actions II or III to other Academically Acceptable schools;
  - 3) equal educational opportunities for all students eligible to transfer, including students with disabilities and Limited English Proficiency (LEP) and in compliance with all civil rights laws pertaining to eligible students;
  - 4) a method for selecting transfer students from the entire eligible student population in cases of *Limited Capacity* (i.e., lottery);
  - 5) a method for communicating to parents the option and withdrawal of School Choice;
  - 6) a method for maintaining a file for all communication involving all interested parties in School Choice;
  - 7) A method for providing transportation for transfer students; and
  - 8) A method for transferring student records, including assessment results and their interpretations.

If SBESE determines that an LEA has demonstrated sufficient evidence of lack of or limited capacity to transfer, then the requesting LEA must submit the following information for SBESE approval:

- a description of the School/District Plan for those schools having to offer School Choice that addresses the following:
  - 1) Educator Quality
    - Principal Certification/Qualifications
    - Principal Leadership and Effectiveness
    - Teacher Qualifications/Certification
  - 2) Professional Development
    - To address teacher professional learning based on student data
    - To address uncertified/inexperienced teacher professional learning if certified/experienced teachers are unavailable for placement in the school
  - 3) Alignment of Curriculum, Instruction and Assessment with State Content Standards;
  - 4) Teacher/Pupil Ratio;
  - 5) Early Intervention/Remediation Programs;
  - 6) Time on Task/Extended Learning Opportunities;
  - 7) Parental Involvement; and
  - 8) Discipline/Safety/Health Issues;
  - 9) Renovation/Capital Improvement.

If SBESE fails to approve an LEA's School Choice Plan, the implicated schools will lose their School Approval status.

Interested persons may submit written comments until 4:30 p.m., August 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 9064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 741C Louisiana Handbook for  
School Administrators Policy for Louisiana's Public  
Education Accountability System**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs to state governmental units. The proposed change more clearly explains and refines the existing policy as it pertains to clarification of the transfer/school choice policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections by state/local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0106#009

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School Personnel Alternative Certification Program (LAC 28:28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The new Louisiana Alternative Certification Program includes three paths to teacher certification for individuals with non-education degrees: (1) The Practitioner Teacher Program, (2) the

Masters Degree Program, and (3) the Non-Masters/Certification-Only Program. These three programs will more effectively standardize the semester hours required for alternate certification throughout the state, regardless of university or private provider.

The Practitioner Teacher Program is a streamlined approach to certification that combines coursework and full-time teaching with demonstrated content knowledge, instructional expertise, and classroom management skills. As a hands-on approach delivered in a fast-track format, the Practitioner Teacher Program is unlike any previously offered alternative route to certification in Louisiana. Coursework will be at minimum 18 hours and at maximum 30 hours.

The other two paths to alternate certification allow candidates to schedule and take coursework on a part-time, rather than a full-time, basis. One path offers a masters degree, whereas the other does not.

**Title 28  
EDUCATION**

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

**§903. Teacher Certification Standards and Regulations  
Bulletin 746**

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000), LR 26:635-638 (April 2000), LR 26:638-639 (April 2000), LR 27:

**Bulletin 746, Louisiana Standards for State  
Certification of School PersonnelC Louisiana  
Alternative Certification Program**

Providing Alternative Paths to Teacher Certification

The Louisiana Alternative Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Individuals seeking teacher certification under the alternative certification program will follow one of three alternative certification paths: the *Practitioner Teacher Program*, the *Masters Degree Program*, or the *Non-Masters/Certification-Only Program*.

Candidates for admission to any one of the programs must possess a baccalaureate degree from a regionally accredited university and must pass the Pre-Professional Skills Test on the PRAXIS and the content specific examinations for the PRAXIS. More detailed explanations relative to program admission requirements are explained within the description of each alternate certification path.

Individuals seeking certification under the *Practitioner Teacher Program* must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program or to a state-approved private practitioner program provider. Individuals seeking certification under the *Masters Degree Program* or the *Non-Masters/Certification-Only Program* must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. [A list of Louisiana colleges and universities offering the *Practitioner*

*Teacher Program*, the *Masters Degree Program*, and/ or the *Non-Masters/Certification-Only Program* is available from the Louisiana Department of Education, Division of Teacher Standards, Assessment, and Certification and on the Louisiana Department of Education's web site, [www.doe.state.la.us](http://www.doe.state.la.us). A list of private program providers offering the *Practitioner Teacher Program* is also available from these same sources.]

Universities offering alternative certification are required to begin implementation of the newly adopted paths on or before July 2002.

No students should be accepted into the "old" post-baccalaureate alternate certification program after January 2002. Candidates already in the "old" alternative certification program would be given until January 2005 to complete their programs.

*Practitioner Teacher Program  
Alternative Path to Certification*

State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a Practitioner Teacher Program. Practitioner Teacher Programs may offer certification in Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education). The Practitioner Teacher Program is a streamlined certification path that combines intensive coursework and full-time teaching.

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.
2. Have a 2.5 GPA on undergraduate work. Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider. However, in no case may the GPA be less than 2.0. (Note: State law requires that upon completion of the program the teacher candidate has a 2.5 GPA for certification.)
3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.
4. Pass the content specific examinations for the PRAXIS
  - a. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;
  - b. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;
  - c. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.
5. Meet other non-course requirements established by the college or university.

Program Requirements

1. Teaching Preparation (Summer) 9 credit hours (or equivalent 135 contact hours)
- Grades 1-6, 4-8 and 7-12 practitioner teachers will complete courses (or equivalent contact hours) pertaining to

child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching positions.

Mild/moderate special education teachers will take courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.

2. Teaching Internship & First Year Teaching 9 credit hours (or equivalent 135 contact hours)

Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.

3. Teaching Performance Review (end of first year)

Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment portion of the Louisiana Teacher and Assessment Program during the next fall.

If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from 1 to 12 credit hours (or 15 -180 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine if the practitioner teachers should participate in the new teacher assessment during the fall or if the practitioner teachers should receive additional mentor support and be assessed after the fall.

4. Prescriptive Plan Implementation 1-12 credit hours (15-180 contact hours)

Practitioner teachers who demonstrate areas of need will complete prescriptive plans.

5. Louisiana Assessment Program

Practitioner teachers will be assessed during the fall or spring of the second year of teaching depending upon their teaching proficiencies.

6. PRAXIS Review

Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.

#### Certification Requirements

Private Providers and colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Practitioner Teacher Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS. (Note: This test was required for admission.)

2. Completed the program with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

a. Grades 1-6: Elementary Education: Content Knowledge specialty examination (Note: This test was required for admission.)

b. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

c. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)

d. Mild/Moderate Special Education 1-12: *Special Education*

4. Passed the Principles of Learning and Teaching examination (PRAXIS)

a. Grades 1-6: Principles of Learning and Teaching

b. Grades 4-8: Principles of Learning and Teaching

c. Grades 7-12: Principles of Learning and Teaching

#### *Masters Degree Program*

##### Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program. The college or university may choose to offer the masters degree program as either a Master of Education or a Master of Arts in Teaching. Masters Degree Programs may offer certification in Grades PK-3, Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education).

##### Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.

2. Have a 2.5 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.

4. Pass the content specific examinations for the PRAXIS

a. Candidates for PK-3 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty exam;

b. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;

c. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;

d. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.

5. Meet other non-course requirements established by the college or university.



### Program Requirements

1. Knowledge of Learner and the Learning Environment 15 credit hours

*Grades PK-3, 1-6, 4-8, and 7-12:* Child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies

*Mild/Moderate Special Education 1-12:* Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

2. Methodology and Teaching 12-15 credit hours  
Methods courses and field experiences

3. Student Teaching or Internship 6-9 credit hours  
Total: 33-39 credit hours

### Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Masters Degree Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS.  
(*Note: This test was required for admission.*)

2. Completed all coursework (undergraduate and masters program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

- a. Grades PK-3: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

- b. Grades 1-6: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

- c. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

- d. Grades 7-12: Specialty content test in area to be certified (Note this test was required for admission.)

- e. Mild/Moderate Special Education 1-12: *Special Education*

4. Passed the Principles of Learning and Teaching examination (PRAXIS)

- a. Grades PK-3: Principles of Learning and Teaching K-6

- b. Grades 1-6: Principles of Learning and Teaching K-6

- c. Grades 4-8: Principles of Learning and Teaching 5-9

- d. Grades 7-12: Principles of Learning and Teaching 7-12

### *Non-Masters/Certification-Only Program*

#### Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer a post-baccalaureate alternative certification program that does not lead to a degree. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program. Non-Masters/Certification-Only Programs may offer certification in Grades PK-3, Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education).

### Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.

2. Have a 2.5 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.

4. Pass the content specific examinations for the PRAXIS

- a. Candidates for PK-3 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty exam;

- b. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;

- c. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;

- d. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.

### Program Requirements

1. Knowledge of Learner and the Learning Environment 9 credit hours

*Grades PK-3, 1-6, 4-8, and 7-12:* Child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies

*Mild/Moderate Special Education 1-12:* Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

Methodology and Teaching 6 credit hours

Methods courses and field experience

3. Student Teaching or Internship 6-12 credit hours

Total: 21-27 credit hours

### Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Non-Degree/Certification-Only Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS.  
(*Note: This test was required for admission.*)

2. Completed all coursework (undergraduate and certification program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

- a. Grades PK-3: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

- b. Grades 1-6: Elementary Education: Content Knowledge specialty examination (Note: This test was required for admission.)

- c. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

- d. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746C Louisiana Standards for State Certification of School Personnel  
Denial of Certification for Criminal Offenses (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed policy includes language relative to specific criminal offenses, which is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for issuance of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education**  
**Chapter 9. Bulletins, Regulations, and State Plans**  
**Subchapter A. Bulletins and Regulations**  
**§903. Teacher Certification Standards and Regulations**  
Bulletin 746

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 26:459 (March 2000), LR 26:635-638 (April 2000), LR 26:638-639 (April 2000), LR 27:

**Bulletin 746, Louisiana Standards for State Certification of School Personnel**  
**Denial of Certificates for Criminal Offenses**

One of the three new alternate certification routes in Louisiana, the Practitioner Teacher Program was approved by the State Board of Elementary and Secondary Education for implementation by selected providers as early as summer 2001.

I. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term offense or crime shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term teaching certificate or certificate shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term individual shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term convicted or conviction shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

- Mild/Moderate Special Education 1-12: *Special Education*
- 4. Passed the *Principles of Learning and Teaching* examination (PRAXIS)
  - a. Grades PK-3: Principles of Learning and Teaching K-6
  - b. Grades 1-6: Principles of Learning and Teaching K-6
  - c. Grades 4-8: Principles of Learning and Teaching 5-9
  - d. Grades 7-12: Principles of Learning and Teaching 7-12

Universities offering alternative certification options are required to begin implementation of the newly adopted paths on or before July 2002.

No students should be accepted into the "old" post-baccalaureate alternate certification program after January 2002. Candidates already in the "old" alternative certification program would be given until January 2005 to complete their programs.

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Interested persons may submit comments until 4:30 p.m., August 9, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School Personnel Alternative Certification Program**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Persons who seek entrance into an alternate post-baccalaureate certification program will be directly affected by the proposed action. The new programs will be shorter in duration for most candidates than the old alternate certification programs. This will mean fewer dollars spent on tuition/supplies and fewer years spent seeking certification.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0106#058

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

The term department refers to the Louisiana Department of Education.

The term board refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purpose of denial.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude the denial of a teaching certificate.

IV. When the department is notified that any teacher has been convicted of a specific crime:

A. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied and that a hearing will be conducted by a board committee to consider issuance of Louisiana certification.

B. If the teacher cannot be reached and/or if his/her employment status cannot be determined, denial of the certificate shall proceed, as will all other steps in the process outlined in this policy.

C. A teacher may contact the office of the board and request a hearing prior to the date set for the denial consideration by the board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the board, any teacher whose certificate has been denied shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for issuance of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been denied is reversed, vacated, or set aside such action may be communicated to the board through documentation from the court in which the conviction occurred.

VII. A teacher whose certification has been denied under the provisions of this part may apply for issuance only after the time restriction has been completed.

VIII. Time Restrictions on Applications for Reinstatement

A. Certificate issuance will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Issuance of certificates shall not be considered for any final felony conviction until at least 3 years have elapsed from the date of the final conviction.

IX. Procedures for Issuance

A. An individual may apply to the Board for issuance of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no other arrests or convictions (the applicant must provide a current background check that is clean and clear).

2. There has been successful completion of all conditions and/or requirements of parole and/or probation

(the applicant must provide copies of court records, sentencing recommendations, probation release forms, etc., and written verification that all requirements have been completed and/or met).

3. There is documented evidence of rehabilitation (the applicant is responsible for providing copies of every requested document).

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above (IX.A.1, and 2) and below (IX.C.1, 2, and 3 *required*, IX.C.4, 5, and 6 *recommended*);

3. request a hearing for issuance of certificate.

C. Evidence of rehabilitation is not limited to, but shall include 1, 2, and 3 (below) and should include 4, 5, and 6 (below):

1. letter of support from a local district attorney;

2. letter of support from a local judge;

3. letter of support from the applicant's parole/probation officer, local police chief, or local sheriff;

4. letter of support from a local school superintendent;

5. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

6. other letters of support or written reports that verify the applicant's rehabilitation.

D. The Board is not required to conduct an issuance hearing and may summarily deny a request for issuance.

E. If the Board or its designees decide to conduct an issuance hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

F. The committee of the Board shall make a recommendation to the full Board regarding whether the teaching certificate should be granted, or denied. Board staff shall notify the applicant of the Board's action.

X. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or

convictions for attempt or conspiracy to commit any of those offenses; those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.)

Specifically:

- \* R.S. 14:30 First degree murder
- \* R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- \* R.S. 14:41 Rape
- \* R.S. 14:42 Aggravated rape
- \* R.S. 14:42.1 Forcible rape
- \* R.S. 14:43 Simple rape
- \* R.S. 14:43.1 Sexual battery
- \* R.S. 14:43.2 Aggravated sexual battery
- \* R.S. 14:43.3 Oral sexual battery
- \* R.S. 14:43.4 Aggravated oral sexual battery
- \* R.S. 14:43.5 Intentional exposure to the AIDS virus
- \* R.S. 14:44 Aggravated kidnapping
- \* R.S. 14:44.1 Second degree kidnapping
- \* R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- \* R.S. 14:78 Incest
- \* R.S. 14:79.1 Criminal abandonment
- \* R.S. 14:80 Carnal knowledge of a juvenile
- \* R.S. 14:81 Indecent behavior with a juvenile
- \* R.S. 14:81.1 Pornography involving juveniles
- \* R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- \* R.S. 14:82.1 Prostitution; persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution  
Attachment 1 continued
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibited
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- \* R.S. 14:86 Enticing persons into prostitution
- \* R.S. 14:89 Crime against nature
- \* R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- \* R.S. 14:93 Cruelty to juveniles
- \* R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- \* R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; distribution
- R.S. 40:968(A) Prohibited acts--Schedule III; penalties; Manufacture; distribution
- R.S. 40:969(A) Prohibited acts--Schedule IV; penalties; Manufacture; distribution

R.S. 40:970(A) Prohibited acts--Schedule V; penalties; Manufacture; distribution  
\* Reinstatement will never be considered for crimes marked with an asterisk.  
\* \* \*

Interested persons may submit comments until 4:30 p.m., August 9, 2001 to: Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 746C Louisiana Standards for  
State Certification of School PersonnelC Denial of  
Certification for Criminal Offenses Legislative Fiscal Office**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the Louisiana Register is approximately \$160. Funds are available.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This policy requires that any person who applies for a Louisiana certificate and has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever would be required to follow the prescribed procedures for consideration of issuance of a certificate.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This policy will have no effect on competition and employment.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0106#057

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1566C Guidelines for Pupil  
Progression (LAC 28:I.907.A)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:I.907.A. The Rule change extends the waiver for students with disabilities as identified under IDEA for one additional year (2001-2002 school year). This waiver allows students with disabilities to be promoted to grades 5 or 9 without passing the required components of LEAP 21. Revisions to Bulletin 741, *The Louisiana Handbook for School Administrators*, relative to

the course sequence for high school students who have not passed certain components of LEAP 21 result in a change to Bulletin 1566 and the High Stakes Testing Policy. The new policy requires that students promoted to 9<sup>th</sup> or 10<sup>th</sup> grade who scored at the Unsatisfactory achievement level on the 8<sup>th</sup> grade LEAP 21, be required to enroll in and pass a high school remedial course before enrolling in a high school level course required for graduation.

#### **Title 28**

#### **EDUCATION**

#### **Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression**

#### **Chapter 5. Placement Policies; State Requirements**

#### **§503. Regular Placement<sup>1</sup>**

A.1. - (iii). ...

(iv). Waiver for students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA). For the 2001-2002 school year only if a student with disabilities (excluding students with only a Speech or Language Impairment) participates in on-level testing, the SBLC may consider a waiver only if the student has participated in the summer remediation program and retest offered by the LEAs. If a student with disabilities (excluding students with only a Speech or Language Impairment) participates in out-of-level testing, promotion decisions shall be determined by the SBLC. If a student with disabilities participates in an alternative assessment, promotion decisions shall be determined by the SBLC for the 2001 school year and beyond. Students with disabilities will be promoted in grades four (4) and eight (8) in accordance with SBESE adopted policies.

(v). - iii. . .

iv. Summer remediation programs and end-of-summer retests must be offered by school systems at no costs to students who did not take the Spring LEAP 21 tests or who score at the Unsatisfactory level on LEAP 21.

a. All students with disabilities who participate in on-level testing should receive services along with regular education students in summer programs, with special supports provided as needed.

b. Students with disabilities who participate in out-of-level testing or alternate assessment are not eligible to attend LEAP 21 summer remediation programs.

(a). Option 1 Students. Students in Option 1 will repeat grade 8. Students in Option 1 will retake all four components of the LEAP 21. For promotional purposes, a student must score at or above the *Approaching Basic* achievement level on the English arts and mathematics components of the LEAP 21 only one time. In accordance with the local Pupil Progression Plan, Option 1 students who scored at the Unsatisfactory achievement level on English Language Arts and/or Mathematics component(s) of the Grade 8 LEAP 21:

(i). may earn Carnegie units in accordance with *Bulletin 741: Louisiana Handbook for School Administrators policy*, regarding high school credit for elementary students;

(ii). may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. LEAP

21 shall be in lieu of a required credit examination. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

(iii). must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics.

(b). Option 2 Students. Students in Option 2 will participate in a transitional program on the high school campus. Students in Option 2 will retake the 8th grade components of the LEAP 21 previously failed (English and/or Mathematics) and all parts of the Iowa Tests at the 9th grade level. All Option 2 Students who scored at the Unsatisfactory achievement level on English Language Arts or Mathematics component of the Grade 8 LEAP 21:

(i). shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an *Unsatisfactory* achievement level was attained;

(ii). may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

(iii). must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or mathematics;

(iv). may earn Carnegie credit in other content areas;

vi. Exceptional students participating in LEAP 21 must be provided with significant accommodations as noted in the student's IEP.

vii. The aforementioned policies will be in effect from spring 2000 through spring 2003. Beginning in spring 2004, the policies will also apply to students scoring at the *Approaching Basic* level.

A.1.b.viii - D.1. . . .

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:

#### **§505. ProgressionC Students Participating in Alternate Assessment**

A. Students with disabilities who participate in the alternate assessment shall have promotion decisions determined by the local Pupil Progression Plan.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

#### **§507. Alternatives to Regular Placement**

Repealed

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), repealed LR 27:

**§509. Alternative Schools/Programs/Settings**

A. The local school board may establish alternative schools/programs/settings which shall respond to particular educational need(s) of its students.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

**§513. Policies on Records and Reports**

A. - B.7. ...

8. a statement regarding written notification to parent concerning retention and due process procedures.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

**§515. Policies on Due Process**

A. Due process procedures for teachers, students, and parents shall be specified in each local Pupil Progression Plan as related to student placement. The local school system must assure that these procedures do not contradict the due process rights of students with disabilities as defined in the IDEA -Part B.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 27:

**Chapter 13. Appendix B**

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

A. Grade 4 - 3.b. ...

c. Students with disabilities who participate in out-of-level testing or alternate assessment are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs are encouraged to offer remediation services to students who score at the *Approaching Basic* level.

4. - 6.a. ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. For the 2001-2002 school year only, the SBLC shall be granted the authority to waive the state's grade promotion policy for students with disabilities (excluding students with only a speech or language impairment).

B. Grade 8 - 4. ...

5. In accordance with the local Pupil Progression Plan, Option I students who scored at the Unsatisfactory achievement level on English Language Arts and/or Mathematics component(s) of the Grade 8 LEAP 21:

a. may earn Carnegie units in accordance with the policy regarding high school credit for elementary students as found in *Bulletin 741: Louisiana*;

b. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. The LEAP 21 shall be in lieu of a required credit examination. For these specially designed remediation courses, the LEA

shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

c. must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics.

6. All Option 2 students who scored at the Unsatisfactory achievement level on English Language Arts or Mathematics component of the Grade 8 LEAP 21:

a. shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an *Unsatisfactory* achievement level was attained;

b. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

c. must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics;

d. may earn Carnegie credit in other content areas.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171, amended IR 27:

Interested persons may submit comments until 4:30 p.m., August 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1566C Guidelines for Pupil Progression**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no increase in cost to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collection of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change extends the waiver for students with disabilities. The extension of the waiver for students with disabilities will allow these students to be promoted to grades 5 and 9 without meeting the mandates of the High Stakes Testing Policy as adopted by the Board of Elementary and Secondary Education.

Also, the Rules change relative to course sequencing requires that students promoted to 9<sup>th</sup> or 10<sup>th</sup> grade who scored at the Unsatisfactory achievement level on the 8<sup>th</sup> grade LEAP 21, be required to enroll in and pass a high school remedial

course before enrolling in a high school level course required for graduation.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There should be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0106#063

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1929C Louisiana Accounting  
and Uniform Governmental Handbook  
(LAC 28:XLI.503, 903, and 1105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement amendments to Bulletin 1929, *Louisiana Accounting and Uniform Governmental Handbook*, promulgated by the Board of Elementary and Secondary Education in LR 20:1097 (October 1994). The changes incorporate new accounting codes and also revise criteria for distinguishing between a supply item and an equipment item.

**Title 28  
EDUCATION**

**Part XLI. Bulletin 1929, Louisiana Accounting and  
Uniform Governmental Handbook**

**Chapter 5. Fund Classifications**

**§503. Governmental Funds**

A. - A.2. ...

a. Federal Revenue

i. IASA FundsCAll revenue related to the Improving America's School Act (IASA) including all Parts.

ii. Special Education FundsCAll revenue relating to the Individuals with Disabilities Education Act (IDEA) and all related Parts.

iii. Other Federal RevenueCUsed to account for all other federal revenue including, for example, Adult Education, Vocational Education, and Headstart.

b. Other Revenue

i. School Food Service FundsCAll Revenue, federal, state, or local related to the Child Nutrition Programs including School Lunch, School Breakfast, After School Snacks, Catering, and Nutrition Education.

ii. Other Special RevenueCAll state and/or local revenue specifically dedicated for a purpose.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 27:

**Chapter 9. Classification of Expenditures and Other  
Uses of Funds**

**§903. Function Codes**

A. - D.1. ...

a. 3110 Food Service District OfficeCActivities associated with the overall general administration of the Child Nutrition Programs. (School Breakfast, School Lunch, After School Snacks, Catering, and Nutrition Education)

b. 3111 Office of the District SupervisorCActivities concerned with the directing and managing of the food service operations of all schools in the district. These activities include all personnel and materials in the district office.

c. 3112 Office of the Assistant SupervisorCActivities performed to assist the district supervisor in managing all food service activities of the LEA.

d. 3120 Food Service SitesCActivities concerned with food service operations for a school.

e. 3121 Office of the Site ManagerCActivities concerned with directing and managing the food service operations of a particular school.

f. 3122 Office of the Assistant Site ManagerCActivities performed by the assistant site manager concerned with directing and managing the food service operations of a particular school.

D.2. - F.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:474 (March 2000), amended LR 27:

**§1105. Fund Equity Codes**

A. - B.2. ...

a. It can be expected to serve its principal purpose for at least one year.

B.2.b. - B.2.c. ...

d. It is equal to or greater than \$1,000 per unit cost in value. Note: The unit cost of \$1,000 does not apply to any program funded with 8g monies.

3. Note: food and computer software must always be considered supplies.

4. School districts maintain rigorous accountability for their property whether it is capitalized or not. For accountability and internal control purposes, many items of property that do not meet the districts' capitalization threshold must be inventoried. Thus, the Department of Education recommends maintaining inventory and tracking items that do not meet the equipment criteria if needed for insurance purposes and/or the item has "street value." For instance, districts might inventory VCRs and computers for internal control purposes but not capitalize them due to their low cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:483 (March 2000), amended LR 27:

Interested persons may submit written comments until 4:30 p.m. August 9, 2001, to Ms. Nina Ford, Board Recorder, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1929C Louisiana Accounting  
and Uniform Governmental Handbook**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated cost for the printing of this policy change in the *Louisiana Register* and the changes to the Louisiana Accounting and Uniform Governmental Handbook is approximately \$1,253. This cost will be absorbed by the Board of Elementary and Secondary Education's budget. There will be no costs for the implementation of the policy change to wither the local school districts or the Department of Education.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no net effect on revenue collections of any state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There will be no costs and/or economic benefits to directly affect persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There will be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0106#059

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 1934C Starting Points Preschool  
Regulations (LAC 28:I.906.B)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement a revision to Bulletin 1934, *Starting Points Preschool Regulations*. Changes in the Rule include the deletion of the eligibility requirements of screening and parental participation; the addition of a minimal co-pay by parents; clarification that wages earned by parents must be at the federal minimum wage; the deletion of the requirement that the school site be located in low income areas as determined by the allocation process utilized by Title I Programs; clarification documentation needed to verify attendance in a job training/educational program; and revision of the monitoring schedules of teachers rated above average from every other year to every three years.

**Title 28**

**EDUCATION**

**Part XXI. Bulletin 1934C Starting Points**

**Preschool Regulations**

**Chapter 3. Eligibility**

**§301. Eligibility Criteria**

A. - A.1. . . .

2. residing in a family whose mean income is no more than 85 percent of the state median income for a family of the same size and complies with a co-pay based upon a sliding scale if applicable;

3. from families with both parents (or guardian) involved in one of the following:

a. attending a job training or education program full-time;

b. working full-time earning federal minimum wage; or

c. in job training part-time and working part-time.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:7.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

**§303. Definitions**

**Attending** (a job training or educational program) Cto be present for training or educational programs as scheduled except when absent for such reasons as illness or family emergency.

**Family** Ca basic family unit consisting of one or more adults and children, whether or not related by blood or law, and residing in or being part of the same household. Children living under the care of individuals not legally responsible for their care are to be considered part of the family.

**Income** Cbasic income eligibility would be based on 85 percent of the state median income adjusted for family size. Earned income is used in determining eligibility.

**Job Training or Educational Program** Ca program of training to prepare a parent/guardian for gainful employment. At the completion of the training period, or reasonably thereafter, the participant could reasonably be expected to fully or substantially support the family. The training or educational program can be in any public or private licensed, accredited, or recognized educational program which normally requires enrollment or leads to receipt of a high school diploma or equivalency certificate, provided that the institution is legally authorized or recognized by the state. The parent/guardian must attend the training or educational program for at least 20 hours per week.

**Part-Time** (job training or educational program) Cpart-time status as determined by the institution.

**Working** Ca person who is employed at least 20 hours per week and earning federal minimum wage is considered as meeting the requirement to be classified as a working parent/guardian. In the event a parent/guardian becomes unemployed, a brief period (up to 30 days) may be used to accomplish a job search to obtain employment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:7.



HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

**§305. Screening**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), repealed LR 27:

**§311. Job Training/ Educational Program Verification**

A. If a parent or guardian is enrolled in a job training or educational program, *one* of the following forms of verification must be presented:

1. registration receipts and a copy of class schedule;
2. letter from institution indicating enrollment and the number of hours per week that are spent in the educational program.

B. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary, LR 25:254 (February 1999).

**§503. Teacher Qualifications**

A. Each classroom teacher must be certified in *one* of the following areas:

1. early childhood education;
2. nursery school education; or
3. kindergarten.
4. early intervention

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

**§507. Program Location**

A. Programs will be placed in every school system based upon the submission of a proposal and final approval by the Board of Elementary and Secondary Education (BESE). Programs will be placed in both public and approved nonpublic schools which comply with Brumfield-Dodd.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

**§515. Monitoring**

A. Program Coordinators from the Elementary Standards Section will evaluate each program annually to ensure that program regulations are being met.

B. The *Early Childhood Environment Rating Scale-Revised (ECERS-R)* will also be used to measure the effectiveness of the program. Each new teacher and those scoring below 5.0 on the ECERS-R will be monitored on a yearly basis until an average score of 5.0 is attained on the scale. All continuing sites serving ten or more Starting Points children that score above 5.0 on the ECERS-R, will be evaluated on a three year cycle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

Interested persons may submit written comments until 4:30 p.m., August 9, 2001, to Nina A. Ford, Board of

Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1934C Starting Points  
Preschool Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There should be no increase in cost to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

School systems will collect a co-pay ranging from \$5 to \$20 per year from eligible parents where applicable. The total amount of revenue collected by the school systems is not able to be determined at this time.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed Rule change will require parents to pay a minimal co-pay for student participation in the program. The co-pay will range from \$5 to \$20 per year based upon a sliding scale. The proposed Rule change may also change the number of students who are eligible to participate in this program due to the parent having to meet the federal minimum wage requirement. Prior to this Rule change, parents were required to work a minimum of 20 hours per week but the pay did not have to be at the federal minimum wage Level (\$5.15 per hour).

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There should be no effect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0106#062

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

**NRC Radiography Requirements and Minor Corrections  
(LAC 33:XV.Chapters 1, 3, 4, 5, 6, 7, 13, and 15)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.Chapters 1, 3, 4, 5, 6, 7, 13, and 15 (Log # RP027\*).

This proposed Rule is identical to federal regulations found in 62 FR 28948, 5/28/97; 63 FR 37059, 7/9/98; 10 CFR 30.71.Schedule A and B, 34.3, 34.21, 34.23(b), 34.35(a), 34.31(a) and (b)(1), 34.41, 34.47(a)(3), 34.71, and 71.5(b), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic

impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule package consists of amendments affecting licenses for industrial radiography and radiation safety requirements for industrial radiographic operations. Added language includes procedures for exposure devices containing depleted uranium (DU) shielding, personnel monitoring control language to include electronic personal dosimeters, and new definitions to comply with current federal language. Amendments to various recordkeeping policies include the addition of records at temporary job sites and applicable field stations, the addition of records pertaining to the safety and training of radiographers and radiographer trainees, and changing some recordkeeping requirements from two years to three years. Also included in multiple chapters are additions of safety provisions and minor corrections to citations. To comply with current federal regulations the Appendices in Chapter 3 have been renamed as follows: Appendices A and B will be renamed Schedules A and B, respectively; Appendices C, D, and E will be renamed Appendices A, B, and C, respectively. The overall impact of this Rule will be a streamlining of industrial radiographic operations through the addition and modification of various safety and recordkeeping requirements. As a Nuclear Regulatory Commission Agreement State, in accordance with the NRC Agreement signed on May 1, 1967, Louisiana has accepted the responsibility for promulgating regulations that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended. In certain areas defined by the NRC, state regulations must be the same as NRC regulations. The extent to which the regulation must be identical, whether in content or in effect, is determined by the NRC. All amendments in this package are consequently mandated by the NRC, to comply with recent NRC regulation changes. The basis and rationale for these amendments are to achieve compatibility with the regulations of the Nuclear Regulatory Commission in accordance with Section 274 of the Atomic Energy Act of 1954, as amended.

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

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part XV. Radiation Protection**

**Chapter 1. General Provisions**

**§101. Scope**

\* \* \*

[See Prior Text in A]

B. Attention is directed to the fact that state regulation of source material, by-product material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission and to parts 40 and 150 of the U.S. Nuclear Regulatory Commission's regulations (10 CFR parts 40 and 150).

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**§116. Public Participation in Licensing Actions**

\* \* \*

[See Prior Text in A-A.2]

3. Determination of Fact-Finding Hearing Necessity. Comments from the public and involved local, parish, and state agencies will be reviewed. Any person, within 20 days of date of publication of the legal notice specified in Subsection A.2 of this Section, may request the administrative authority to call for a fact-finding hearing. The administrative authority will determine the necessity for a fact-finding hearing based on comments received and other available information. The request for the hearing must be in writing and shall contain the following information:

\* \* \*

[See Prior Text in A.3.a-4.c]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000), LR 27:

**Chapter 3. Licensing of Radioactive Material**  
**Subchapter A. Exemptions**

**§303. Source Material**

A. Any person is exempt from these regulations to the extent that such person receives, possesses, uses, owns, or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is, by weight, less than 0.05 percent of the mixture, compound, solution, or alloy.

\* \* \*

[See Prior Text in B-D]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**§304. Radioactive Material Other Than Source Material**

A. Exempt Concentrations

1. Except as provided in Subsection A.2 of this Section, any person is exempt from this Chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in Schedule A of this Chapter.

\* \* \*

[See Prior Text in A.2]

B. Exempt Quantities

1. Except as provided in Subsection B.3 and 4 of this Section, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities, none of which exceeds the applicable quantity set forth in Schedule B of this Chapter.

\*\*\*

[See Prior Text in B.2-3]

4. No person may, for purposes of commercial distribution, transfer radioactive material in excess of the individual quantities set forth in Schedule B of this Chapter knowing, or having reason to believe, that such quantities of radioactive material will be transferred to persons exempt under Subsection B of this Section or equivalent regulations of the U.S. Nuclear Regulatory Commission or any other agreement state, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 32.18 or by the administrative authority in accordance with LAC 33:XV.328.B, which license states that the radioactive material may be transferred by the licensee to persons exempt under Subsection B of this Section or the equivalent regulations of the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing by-product material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

\*\*\*

[See Prior Text in C-C.1.h]

- i. each source contains no more than one exempt quantity set forth in Schedule B of this Chapter;
- ii. each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides, and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Schedule B of this Chapter, provided that the sum of such fractions shall not exceed unity; and
- iii. for purposes of this Section, 0.05 microcurie of americium-241 is considered an exempt quantity under Schedule B of this Chapter.

\*\*\*

[See Prior Text in C.2-5.d]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2091 (November 1998); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

### **§322. General Licenses: Radioactive Material Other Than Source Material**

\*\*\*

[See Prior Text in A-D.3.h.ii]

- i. comply with the provisions of LAC 33:XV.485 and 486 for reporting radiation incidents, theft, or loss of licensed material. Such person shall be exempt from the other requirements of Chapters 4 and 10 of these regulations.

\*\*\*

[See Prior Text in D.4-E.1.b]

2. Persons who own, receive, acquire, possess, or use luminous safety devices in accordance with the general license in LAC 33:XV.322.E.1 are exempt from the requirements of Chapters 4 and 10 of these regulations, except that they shall comply with the provisions of LAC 33:XV.485 and 486.

\*\*\*

[See Prior Text in E.3-I.4]

5. Any person using radioactive material in accordance with the general license of Subsection I.1 of this Section is exempt from the requirements of Chapters 4 and 10 of these regulations with respect to radioactive material covered by that general license, except that such persons using the mock iodine-125 described in Subsection I.1 of this Section shall comply with the provisions of LAC 33:XV.431, 485, and 486.

\*\*\*

[See Prior Text in J-J.2.b]

c. are exempt from the requirements of LAC 33:XV.Chapters 4 and 10, except that such persons shall comply with the provisions of LAC 33:XV.431, 485, and 486.

\*\*\*

[See Prior Text in J.3-4]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:

### **Subchapter D. Specific Licenses**

#### **§324. Filing Application for Specific Licenses**

\*\*\*

[See Prior Text in A - G]

H. Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Appendix C (Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) must contain either:

\*\*\*

[See Prior Text in H.1 - I.2]

3. the release fraction in the respirable size range would be lower than the release fraction shown in Appendix C due to the chemical or physical form of the material;

\*\*\*

[See Prior Text in I.4]

5. facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Appendix C;

6. operating restrictions or procedures would prevent a release fraction as large as that shown in Appendix C; or

\*\*\*

[See Prior Text in I.7 - K.Note<sup>1</sup>]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:

**§325. General Requirements for the Issuance of Specific Licenses**

\* \* \*

[See Prior Text in A-C.5.a]

b. persons authorized to possess no more than 1,000 times the quantity specified in Schedule B of this Chapter or combination of radioactive material listed therein as given in Schedule B, Note 1, of this Chapter;

\* \* \*

[See Prior Text in C.5.c-D]

1. Each applicant for a specific license authorizing the possession and use of unsealed by-product material of half-life greater than 120 days and in quantities exceeding  $10^5$  times the applicable quantities set forth in Schedule B of this Chapter shall submit a decommissioning funding plan as described in Subsection D.5 of this Section. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by  $10^5$  is greater than one (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in Appendix A of this Chapter.

\* \* \*

[See Prior Text in D.2.3.b]

c. Each holder of a specific license issued before the effective date of these regulations and of a type described in Subsection D.2 of this Section shall submit, on or before July 20, 1992, a certification of financial assurance for decommissioning, or a decommissioning funding plan, as described in Subsection D.5 of this Section, in accordance with the criteria set forth in this Section.

\* \* \*

[See Prior Text in D.3.d]

4. The following table lists required amounts of financial assurance for decommissioning by quantity of material.

<p>a. Greater than <math>10^4</math> but less than or equal to <math>10^5</math> times the applicable quantities of Schedule B of this Chapter in unsealed form. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by <math>10^4</math> is greater than 1 but R divided by <math>10^5</math> is less than or equal to 1.)</p>	\$750,000
---	-----------

<p>b. Greater than <math>10^3</math> but less than or equal to <math>10^4</math> times the applicable quantities of Schedule B of this Chapter in unsealed form. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by <math>10^3</math> is greater than 1 but R divided by <math>10^4</math> is less than or equal to 1.)</p>	\$150,000
---	-----------

<p>c. Greater than <math>10^{10}</math> times the applicable quantities of Schedule B of this Chapter in sealed Sources or plated foils. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by <math>10^{10}</math> is greater than 1.)</p>	\$75,000
--	----------

\* \* \*

[See Prior Text in D.5 – D.6.a]

b. Financial Assurance Method, Insurance, or Other Guarantee Method. These methods guarantee that decommissioning costs will be paid should the licensee default. A financial assurance method may be in the form of a financial assurance bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix B of this Chapter. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this Section. Any financial assurance method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

\* \* \*

[See Prior Text in D.6.b.i–7.d.iv]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:1140 (September 1997), amended LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000), LR 26:2568 (November 2000), LR 27:

**§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material**

\* \* \*

[See Prior Text in A-E.1.b]

c. The applicant will have an adequate internal inspection system, or other management control, to ensure that license provisions, regulations, and the applicant's operating and emergency procedures are followed by radiographers and radiographers' assistants; the inspection system shall include the performance of internal inspections not to exceed three months and the retention of records of such inspections for three consecutive years.

\* \* \*

[See Prior Text in E.1.d]

e. The applicant who desires to conduct his or her own leak tests of sealed sources or exposure devices containing depleted uranium (DU) shielding has established adequate procedures to be followed in testing for possible leakage and contamination and submits to the Office of Environmental Services, Permits Division a description of such procedures including:

\* \* \*

[See Prior Text in E.1.e.i-f]

g. The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals as radiographers remains valid.

h. The applicant submits the qualifications of the individual(s) designated as the radiation safety officer (RSO) as described in LAC 33:XV.575.E.

i. The applicant who intends to perform calibrations of survey instruments and/or alarming ratemeters must describe methods to be used and the experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in LAC 33:XV.543 and 577.

j. The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations.

k. The applicant identifies the locations where all records required by these regulations will be maintained.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 27:

**§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material**

\*\*\*

[See Prior Text in A.1.a]

b. the applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in Schedule A of this Chapter, that reconcentration of the radioactive material in concentrations exceeding those in Schedule A is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

\*\*\*

[See Prior Text in A.2-M.4.g]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:

**§351. Financial Assurance Arrangements**

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[See Prior Text in A – D.2]

3. all others except licensees exempt in accordance with LAC 33:XV.Chapter 3, Appendix A; and

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[See Prior Text in D.4 – E]

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

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Schedule A Exempt Concentrations (See notes at end of Schedule A)			
Element (atomic number)	Isotope	Column I Gas Concentrations (mCi/ml) <sup>1</sup>	Column II Liquid and Solid Concentration (mCi/ml) <sup>2</sup>
***			
[See Prior Text in Current Appendix A, Antimony (51) – Erbium (68).Er-171]			
Europium (63)	Eu-152 (T/2=9.2 hrs)		6 x 10 <sup>-4</sup>
	Eu-155		2 x 10 <sup>-3</sup>
***			
[See Prior Text in Current Appendix A, Fluorine (9)- Beta- and/or gamma-emitting radioactive material not listed above with half-life less than 3 years.]			

Footnotes to Schedule A

<sup>1</sup> Values are given only for those materials normally used as gases.

<sup>2</sup> μCi/gm for solids.

Note 1. Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A, the activity stated is that of the parent isotope and takes into account the daughters.

Note 2. For purposes of LAC 33:XV.304, where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the radioactivity concentration present in the product and the exempt radioactivity concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} = 1$$

Example:

\*\*\*

[See Prior Text in Current Appendix A, Notes 3-4]

Schedule B	
By-Product Material	Microcuries
Antimony 122 (Sb 122)	100
Antimony 124 (Sb 124)	10
Antimony 125 (Sb 125)	10
Arsenic 73 (As 73)	100
Arsenic 74 (As 74)	10
Arsenic 76 (As 76)	10
Arsenic 77 (As 77)	100
Barium 131 (Ba 131)	10
Barium 133 (Ba 133)	10
Barium 140 (Ba 140)	10
Bismuth 210 (Bi 210)	1
Bromine 82 (Br 82)	10

Cadmium 109 (Cd 109)	10
Cadmium 115m (Cd 115m)	10
Cadmium 115 (Cd 115)	100
Calcium 45 (Ca 45)	10
Calcium 47 (Ca 47)	10
Carbon 14 (C 14)	100
Cerium 141 (Ce 141)	100
Cerium 143 (Ce 143)	100
Cerium 144 (Ce 144)	1
Cesium 131 (Cs 131)	1,000
Cesium 134m (Cs 134m)	100
Cesium 134 (Cs 134)	1
Cesium 135 (Cs 135)	10
Cesium 136 (Cs 136)	10
Cesium 137 (Cs 137)	10
Chlorine 36 (Cl 36)	10
Chlorine 38 (Cl 38)	10
Chromium 51 (Cr 51)	1,000
Cobalt 58m (Co 58m)	10
Cobalt 58 (Co 58)	10
Cobalt 60 (Co 60)	1
Copper 64 (Cu 64)	100
Dysprosium 165 (Dy 165)	10
Dysprosium 166 (Dy 166)	100
Erbium 169 (Er 169)	100
Erbium 171 (Er 171)	100
Europium 152 9.2 h (Eu 152 9.2 h)	100
Europium 152 13 yr (Eu 152 13 yr)	1
Europium 154 (Eu 154)	1
Europium 155 (Eu 155)	10
Fluorine 18 (F 18)	1,000
Gadolinium 153 (Gd 153)	10
Gadolinium 159 (Gd 159)	100
Gallium 72 (Ga 72)	10
Germanium 71 (Ga 71)	100
Gold 198 (Au 198)	100
Gold 199 (Au 199)	100
Hafnium 181 (Hf 181)	10
Holmium 166 (Ho 166)	100
Hydrogen 3 (H3)	1,000
Indium 113m (In 113m)	100
Indium 114m (In 114m)	10
Indium 115m (In 115m)	100
Indium 115 (In 115)	10
Iodine 125 (I 125)	1
Iodine 126 (I 126)	1
Iodine 129 (I 129)	0,1
Iodine 131 (I 131)	1
Iodine 132 (I 132)	10
Iodine 133 (I 133)	1
Iodine 134 (I 134)	10
Iodine 135 (I 135)	10
Iridium 192 (Ir 192)	10
Iridium 194 (Ir 194)	100
Iron 55 (Fe 55)	100
Iron 59 (Fe 59)	10
Krypton 85 (Kr 85)	100
Krypton 87 (Kr 87)	10
Lanthanum 140 (La 140)	10
Lutetium 177 (Lu 177)	100
Manganese 52 (Mn 52)	10
Manganese 54 (Mn 54)	10

Manganese 56 (Mn 56)	10
Mercury 197m (Hg 197m)	100
Mercury 197 (Hg 197)	100
Mercury 203 (Hg 203)	10
Molybdenum 99 (Mo 99)	100
Neodymium 147 (Nd 147)	100
Neodymium 149 (Nd 149)	100
Nickel 59 (Ni 59)	100
Nickel 63 (Ni 63)	10
Nickel 65 (Ni 65)	100
Niobium 93m (Nb 93m)	10
Niobium 95 (Nb 95)	10
Niobium 97 (Nb 97)	10
Osmium 185 (Os 185)	10
Osmium 191m (Os 191)	100
Osmium 191 (Os 191)	100
Osmium 193 (Os 193)	100
Palladium 103 (Pd 103)	100
Palladium 109 (Pd 109)	100
Phosphorus 32 (P 32)	10
Platinum 191 (Pt 191)	100
Platinum 193m (Pt 193m)	100
Platinum 193 (Pt 193)	100
Platinum 197m (Pt 197m)	100
Platinum 197 (Pt 197)	100
Polonium 210 (Po 210)	0.1
Potassium 42 (K 42)	10
Praseodymium 142 (Pr 142)	100
Praseodymium 143 (Pr 143)	100
Promethium 147 (Pm 147)	10
Promethium 149 (Pm 149)	10
Rhenium 186 (Re 186)	100
Rhenium 188 (Re 188)	100
Rhodium 103m (Rh 103m)	100
Rhodium 105 (Rh 105)	100
Rubidium 86 (R86)	10
Rubidium 87 (Rb87)	10
Ruthenium 97 (Ru 97)	100
Ruthenium 103 (Ru 103)	10
Ruthenium 105 (Ru 105)	10
Ruthenium 106 (Ru 106)	1
Samarium 151 (Sm 151)	10
Samarium 153 (Sm 153)	100
Scandium 46 (Sc 46)	10
Scandium 47 (Sc 47)	100
Scandium 48 (Sc 48)	10
Selenium 75 (Se 75)	10
Silicon 31 (Si 31)	100
Silver 105 (Ag 105)	10
Silver 110m (Ag 110m)	1
Silver 111 (Ag 111)	100
Sodium 24 (Na 24)	10
Strontium 85 (Sr 85)	10
Strontium 89 (Sr 89)	1
Strontium 90 (Sr 90)	0.1
Strontium 91 (Sr 91)	10
Strontium 92 (Sr 92)	10
Sulphur 35 (S 35)	100
Tantalum 182 (Ta 182)	10
Technetium 96 (Tc 96)	10
Technetium 97m (Tc 97m)	100
Technetium 97 (Tc 97)	100

Technetium 99m (Tc 99m)	100
Technetium 99 (Tc 99)	10
Tellurium 125 m (Te 125 m)	10
Tellurium 127m (Te 127m)	10
Tellurium 127 (Te 127)	100
Tellurium 129m (Te 129m)	10
Tellurium 129 (Te 129)	100
Tellurium 131m (Te 131m)	10
Tellurium 132 (Te 132)	10
Terbium 160 (Tb 160)	10
Thallium 200 (Tl 200)	100
Thallium 201 (Tl 201)	100
Thallium 202 (Tl 202)	100
Thallium 204 (Tl 204)	10
Thulium 170 (Tm 170)	10
Thulium 171 (Tm 171)	10
Tin 113 (Sn 113)	10
Tin 125 (Sn 125)	10
Tungsten 181 (W 181)	10

Tungsten 185 (W 185)	10
Tungsten 187 (W 187)	100
Vanadium 48 (V 48)	10
Xenon 131m (Xe 131m)	1,000
Xenon 133 (Xe 133)	100
Xenon 135 (Xe 135)	100
Ytterbium 175 (Yb 175)	100
Yttrium 90 (Y 90)	10
Yttrium 91 (Y91)	10
Yttrium 92 (Y92)	100
Yttrium 93 (Y93)	100
Zinc 65 (Zn 65)	10
Zinc 69m (Zn 69m)	100
Zinc 69 (Zn 69)	1,000
Zirconium 93 (Zr 93)	10
Zirconium 95 (Zr 95)	10
Zirconium 97 (Zr 97)	10
Any by-product material not listed above other than alpha-emitting by-product materials	0.1

<b>Appendix A</b>			
<b>Financial Assurance Arrangements</b>			
<b>Recommended Amounts for Mitigation, Liability, and Decommissioning</b>			
<b>By Title</b>	<b>Clean up</b>	<b>Third Party and/or Off-Site Damages</b>	<b>Decommissioning</b>
A. Licensees	As determined by the chosen method	As determined by the chosen method	For Category A as a whole by quantity of material (Q):  1. $Q > 10^{10}$ x Schedule B, Chapter 3, as sealed sources = \$75,000.  2. $(10^4 \times \text{Schedule B, Chapter 3, unsealed sources}) = Q > (10^3 \times \text{Schedule B, Chapter 3, unsealed sources})$ , or 10-100 mCi source materials, dispersible form = \$150,000.  3. $(10^5 \times \text{Schedule B, Chapter 3, unsealed sources}) = Q > (10^4 \times \text{Schedule B, Chapter 3, unsealed sources}) = \$750,000$ .
1. Manufacturing & Distribution			
2. Radiography			
3. Gauges			
4. Well Logging			
5. Nuclear Medicine			
6. Rad. Therp.			
7. Acad.			
8. R & D			
9. Instru. Calib.			
10. Irradiators			
11. Ind. other than gauges			
12. Consultants			
13. General Lic.			
14. Others not listed in category A			

<p>B. Low Quantity</p> <ol style="list-style-type: none"> <li>1. In Vitro</li> <li>2. Gas Chromatograph</li> <li>3. Greater than or Equal to 100 x to 1000 x Exempt Quantity</li> <li>4. Unsealed, discrete alpha emitters, 10µCi total</li> <li>5. Check sources of sufficient quantity to require leak testing</li> </ol>	<p>As determined by the chosen method</p>	<p>As determined by the chosen method</p>	<p>NA for this category.</p>
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**Chapter 4. Standards for Protection Against Radiation**

**Subchapter G. Precautionary Procedures**

**§453. Labeling Containers and Radiation Machines**

A. The licensee or registrant shall ensure that each container of licensed or registered source of radiation bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES [OR 'NAME OF COMPANY']" OR "DANGER, RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES [OR 'NAME OF COMPANY']". The label shall also provide information such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment, to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

\* \* \*

[See Prior Text in B-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**Subchapter J. Reports**

**§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Constraints or Limits**

\* \* \*

[See Prior Text in A-B.1.b]

c. the cause of the elevated exposures, dose rates, or concentrations;

d. corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints, generally applicable environmental standards, and associated license or registration conditions; and

e. information required by LAC 33:XV.547.E if the overexposure involves failure of safety components of radiography equipment.

\* \* \*

[See Prior Text in B.2-C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), LR 26:2771 (December 2000), LR 27:

**Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations**

**§503. Definitions**

As used in this Chapter, the following definitions apply:

**Annual Refresher Safety Training** Ca review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, new or revised regulations, and accidents or errors that have been observed, and should also provide opportunities for employees to ask safety questions.

**Associated Equipment** Equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures, that drives, guides, or comes in contact with the source (e.g., guide tube, control tube, control (drive) cable, removable source stop, "J" tube, and collimator when it is used as an exposure head).

\* \* \*

[See Prior Text]

**Certifying Entity** Can independent certifying organization meeting the requirements in 10 CFR 34 appendix A, or an agreement state meeting the requirements in 10 CFR 34 appendix A, parts II and III.

\* \* \*

[See Prior Text]

**Control (Drive) Cable** Cthe cable that is connected to the source assembly and used to drive the source to and from the exposure location.

**Control Drive Mechanism** Ca device that enables the source assembly to be moved to and from the exposure device.

**Control Tube** Ca protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

\* \* \*

[See Prior Text]

**Exposure Head** Ca device that locates the gamma radiography sealed source in the selected working position. (An exposure head is also known as a source stop.)



*Field Station*Ca facility where licensed material may be stored or used and from which equipment is dispatched.

*Guide Tube (Projection Sheath)*Ca flexible or rigid tube (i.e., "J" tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

*Hands-On Experience*Cexperience in all of those areas considered to be directly involved in the radiography process.

*Independent Certifying Organization*Can independent organization that meets all of the criteria of Appendix A of this Chapter.

\* \* \*

[See Prior Text]

*Lay-Barge Radiography*Cindustrial radiography performed on any water vessel used for laying pipe.

\* \* \*

[See Prior Text]

*Offshore Platform Radiography*Cindustrial radiography conducted from a platform over a body of water.

\* \* \*

[See Prior Text]

*Practical Examination*Ca demonstration through practical application of the safety rules and principles in industrial radiography, including use of all appropriate equipment and procedures.

*Radiation Safety Officer for Industrial Radiography*Can individual with the responsibility for the overall radiation safety program on behalf of the licensee and who meets the requirements of LAC 33:XV.573.E.

\* \* \*

[See Prior Text]

*Radiographic Exposure Device*Can x-ray tube or any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed, from a shielded to unshielded position for purposes of making a radiographic exposure.

*Radiographic Operations*Call activities associated with the presence of radioactive sources in a radiographic exposure device during use of the device or transport (except when being transported by a common or contract transport), to include surveys to confirm the adequacy of boundaries, setting up equipment, and any activity inside restricted area boundaries.

\* \* \*

[See Prior Text]

*S-Tube*Ca tube through which the radioactive source travels when inside a radiographic exposure device.

\* \* \*

[See Prior Text]

*Source Assembly*Can assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

\* \* \*

[See Prior Text]

*Underwater Radiography*Cindustrial radiography performed when the radiographic exposure device and/or related equipment are beneath the surface of the water.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 26:2772 (December 2000), LR 27:

#### **§505. Form of Records**

A. Each record required by this Chapter must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:

#### **§506-539. Reserved**

#### **§540. Limits on Levels of Radiation for Radiographic Source Changers and Storage Containers**

A. The maximum exposure rate limits for storage containers and source changers are 2 millisieverts (200 millirem) per hour at any exterior surface and 0.1 millisieverts (10 millirem) per hour at 1 meter from any exterior surface with the sealed source in the shielded position.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

#### **§541. Locking of Sources of Radiation**

A. The maximum exposure rate limits for storage containers and source changers are 2 millisieverts (200 millirem) per hour at any exterior surface and 0.1 millisieverts (10 millirem) per hour at 1 meter from any exterior surface with the sealed source in the shielded position.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

#### **§542. Storage and Transportation Precautions**

A. Locked radiographic exposure devices, source changers, storage containers, and radiation machines shall be physically secured to prevent tampering or removal by

unauthorized personnel. The licensee shall store radioactive material in a manner that will minimize danger from explosion or fire.

B. The licensee may not use a source changer or a container to store radioactive material unless the source changer or container has securely attached to it a durable, legible, and clearly visible label as specified in LAC 33:XV.453. Radiographic exposure devices, source changers, or transport containers that contain radioactive material shall not be stored in residential locations. This requirement does not apply to storage of radioactive material in a vehicle in transit for use at temporary job sites, if the licensee complies with Subsection C of this Section, and if the vehicle does not constitute a permanent storage location as described in Subsection D of this Section.

C. If a vehicle is to be used for storage of radioactive material, a vehicle survey shall be performed after securing radioactive material in the vehicle and before transport to ensure that radiation levels do not exceed the limits specified in LAC 33:XV.421.A at the exterior surface of the vehicle.

1. The licensee shall lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

2. The licensee may not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied by appropriate shipping papers in accordance with LAC 33:XV.Chapter 15.

\* \* \*

[See Prior Text in D-D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

#### **§543. Radiation Survey Instruments**

A. The licensee or registrant shall maintain sufficient calibrated and operable radiation survey instruments at each location where radioactive material is present to make physical radiation surveys as required by this Chapter and LAC 33:XV.430. Instrumentation required by this Section shall have a range such that 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour can be measured.

\* \* \*

[See Prior Text in B-B.2]

3. at two points located approximately **a** and **b** of full-scale on each scale for linear scale instruments; at midrange of each decade, and at two points of at least one decade for logarithmic scale instruments; and at three points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour for digital instruments.

C. Records of these calibrations shall be maintained for three years after the calibration date for inspection by the department.

D. Each radiation survey instrument shall be checked with a radiation source at the beginning of each day of use and at the beginning of each work shift to ensure it is operating properly. Records of the checks shall be

maintained for three years. If equipment problems are found, the equipment must be removed from service until repaired.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 27:

#### **§544. Leak Testing, Repair, Tagging, Opening, Modification, Replacement, and Records of Receipt and Transfer of Sealed Sources**

\* \* \*

[See Prior Text in A-B]

C. The leak test shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of removable contamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed source storage position, or other appropriate measuring point, by a procedure which has been approved in accordance with LAC 33:XV.326.E.1.e. Records of leak test results shall be kept in units of microcuries (becquerels) and maintained for inspection by the department for three years.

\* \* \*

[See Prior Text in D-E]

F. Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 0.005 microcuries (185 Bq) of radioactive material on the test sample and must be performed by a person specifically authorized by the administrative authority, U.S. Nuclear Regulatory Commission, or any other agreement state to perform the analysis. Should such testing reveal the presence of 0.005 microcuries (185 Bq) or more of removable DU contamination, the exposure device must be removed from use until an evaluation of the wear on the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while in storage and not in use. Before using or transferring such a device, however, the device must be tested for DU contamination if the interval of storage exceeded 12 months. A record of the DU leak test must be made in accordance with Subsection C of this Section.

G. Each licensee or registrant shall maintain records showing the receipts and transfers of sealed sources and devices using DU for shielding and retain each record for inspection by the department for three years. These records must include the date, the name of the individual making the record, radionuclide, number of becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

**§545. Quarterly Inventory**

A. Each licensee shall conduct a quarterly physical inventory to account for all sealed sources and licensed devices received or possessed under his or her license, including devices containing depleted uranium. The records of the inventories shall be maintained for inspection by the department for at least three consecutive years from the date of the inventory and shall include the quantities and kinds of radioactive material, the location of sealed sources and/or devices, the date of the inventory, the name of individual(s) performing the inventory, the manufacturer, the model number, and the serial number.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

**§546. Utilization Logs**

A. Each licensee or registrant shall maintain current logs, which shall be kept available for inspection by the department for three consecutive years from the date of the recorded event, showing for each source of radiation the following information:

1. a unique identification describing the make, model, and serial number of each radiation machine, each radiographic exposure device, each transport or storage container in which the sealed source is located, and each sealed source;

2. the identity and signature of the radiographer to whom the source is assigned;

\* \* \*

[See Prior Text in A.3-4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

**§547. Inspection and Maintenance of Radiographic Exposure Devices and Storage Containers**

A. The licensee or registrant shall perform visual and operability checks on radiation machines, radiographic exposure devices, transport and storage containers, source changers, and associated equipment prior to each day's use, or work shift, to ensure that:

- 1. the equipment is in good condition;
- 2. the sources are adequately shielded; and
- 3. required labeling is present.

B. Each licensee or registrant shall have written procedures for and perform inspections at intervals not to exceed three months, or before first use thereafter, and routine maintenance of radiation machines, radiographic exposure devices, source changers, storage containers, and associated equipment to ensure proper functioning of components important to safety. All appropriate parts shall

be maintained in accordance with manufacturer's specifications. The licensee's inspection and maintenance program must include procedures to ensure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

C. Records of inspection and maintenance conducted in accordance with Subsections A and B of this Section shall be maintained for inspection by the department for three consecutive years from the date of the recorded event. The record of inspection must include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was done. If any inspection conducted in accordance with Subsections A and B of this Section reveals damage to components critical to radiation safety, the device shall be removed from service and labeled as defective until repairs have been made.

\* \* \*

[See Prior Text in D-D.3]

E. The licensee or registrant shall include the following information in each report required by Subsection D of this Section and in each report of overexposure submitted under LAC 33:XV.487 that involves failure of safety components of radiography equipment:

\* \* \*

[See Prior Text in E.1-7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

**§548. Permanent Radiographic Installations**

\* \* \*

[See Prior Text in A-A.1]

2. the control device or alarm system as described in LAC 33:XV.436.A and B shall be tested for proper operation at the beginning of each day of equipment use. If a control device or alarm system is operating improperly, it shall be immediately labeled as defective and repaired before industrial radiographic operations are resumed. Records of these tests shall be maintained for inspection by the department for three consecutive years from the date of the event or until disposition is authorized.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

**Subchapter B. Personal Radiation Safety Requirements for Radiographers**

**§573. Conducting Industrial Radiographic Operations**

A. Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has, at a minimum, met the requirements of Subsection E of this

Section. The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

B. All radiographic operations conducted at locations of use authorized on the license must be conducted in a permanent radiographic installation, unless specifically authorized by the department.

C. A licensee may conduct lay-barge, offshore platform, or underwater radiography only if procedures have been approved by the department, the Nuclear Regulatory Commission, or another agreement state.

D. At temporary job sites each licensee or registrant shall provide, as a minimum, two-person crews. Such crews shall consist of at least two qualified radiographers, an approved instructor directly supervising a qualified radiographer trainee, or an approved instructor supervising a radiographer assistant.

E. A radiation safety officer (RSO) shall be designated for every industrial radiography license and certificate of registration, or license condition specifying such, issued by the department. The RSO's qualifications shall include:

1. possession of a high school diploma or certificate of high school equivalency based on the GED test;
2. completion of the training and testing requirements of LAC 33:XV.575; and
3. two years of documented radiation protection experience, including knowledge of industrial radiographic operations, with at least 40 hours of active participation in industrial radiographic operations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:

### §575. Training and Testing

\* \* \*

[See Prior Text in A-A.6]

B. Each licensee or registrant shall maintain, for inspection by the department, until disposition is authorized by the department, the following records for each radiographer and radiographer trainee:

1. records of training and certification. The records must include radiographer certification documents and verification of certification status, copies of written tests, dates and results of oral tests and field examinations, and the names of individuals conducting and receiving the oral and field examinations; and
2. records of annual refresher safety training and semiannual inspections of job performance. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any noncompliance observed by the radiation safety officer or designee.

\* \* \*

[See Prior Text in C]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:

### §576. Operating and Emergency Procedures

A. The licensee's or registrant's operating and emergency procedures shall include instructions in at least the following:

\* \* \*

[See Prior Text in A.1-4]

5. personnel monitoring and the use of personnel monitoring equipment, including steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off scale or an alarm ratemeter sounds unexpectedly;

\* \* \*

[See Prior Text in A.6-8]

9. maintenance of records;

10. the daily inspection, maintenance, and operability checks of radiographic exposure devices, radiation machines, associated equipment, survey meters, and personnel monitoring devices; and

11. source recovery procedure if licensee will perform source recoveries.

B. Each licensee shall maintain a copy of current operating and emergency procedures until the department terminates the license. Superseded material must be retained for three years after the change is made.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:\*\*

### §577. Personnel Monitoring Control

A. No licensee or registrant shall permit an individual to act as a radiographer, instructor, or radiographer trainee unless, at all times during radiographic operations, each such individual wears a direct-reading pocket dosimeter, an alarm ratemeter, and either a film badge, an optically-stimulated luminescence dosimeter (OSL), or a thermoluminescent dosimeter (TLD), except that for permanent radiography facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarming ratemeter is not required.

B. Pocket dosimeters shall have a range of zero to at least 2 millisieverts (200 millirems) and shall be recharged at least daily or at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters. Pocket dosimeters, or electronic personal dosimeters, shall be checked for correct response to radiation at periods not to exceed one year. Acceptable dosimeters shall read within  $\pm 20$  percent of the true radiation exposure. Records of positive dosimeter response shall be maintained for three years by the licensee or registrant for department inspection.

C. Each film badge, TLD, or OSL shall be assigned to and worn by only one individual. Film badges must be replaced at periods not to exceed one month. After

replacement, each film badge, OSL, or TLD must be processed as soon as possible.

D. Direct reading dosimeters, such as electronic personal dosimeters or pocket dosimeters, shall be read and exposures recorded at least daily with use.

E. If an individual's pocket dosimeter is discharged beyond its range (i.e., goes "off-scale"), or an individual's electronic pocket dosimeter reads greater than 2 millisieverts (200 millirems) and the possibility of radiation exposure cannot be ruled out as the cause, industrial radiographic operations by that individual shall cease and the individual's film badge, OSL, or TLD shall be processed immediately. The individual shall not return to work with sources of radiation until a determination of the radiation exposure has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination must be recorded and maintained indefinitely or until the department authorizes their disposition.

F. Records of the pocket dosimeter readings shall be maintained for inspection by the department for three consecutive years. If the dosimeter readings were used to determine external radiation dose, the records shall be maintained indefinitely or until the department authorizes their disposition.

G. If a film badge, OSL, or TLD is lost or damaged, the worker shall cease work immediately until a replacement film badge, OSL, or TLD is provided and the exposure is calculated for the time period from issuance to loss or damage of the film badge, OSL, or TLD. The results of the calculated exposure and the time period for which the film badge, OSL, or TLD was lost or damaged must be recorded and maintained indefinitely or until the department authorizes their disposition.

\* \* \*

[See Prior Text in H-H.1]

2. be set to give an alarm signal at the preset dose rate of 5 mSv/hr (500 millirems/hour);

3. require special means to change the preset alarm function; and

4. be calibrated at periods not to exceed one year for correct response to radiation: acceptable ratemeters must alarm within  $\pm 20$  percent of the true radiation dose rate. Records of calibrations will be maintained for three years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:

### **Subchapter C. Precautionary Procedures in Radiographic Operations**

#### **§585. Security**

A. During each radiographic operation, a radiographer or instructor shall maintain continuous direct, visual surveillance of the operation to protect against unauthorized entry into a radiation area or high radiation area, as defined in LAC 33:XV.Chapter 1, except:

1. where the high radiation area is equipped with a control device or alarm system as described in LAC 33:XV.436.A; or

2. where the high radiation area is locked to protect against unauthorized or accidental entry.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

#### **§587. Radiation Surveys and Survey Records**

\* \* \*

[See Prior Text in A]

B. A physical radiation survey shall be made after each radiographic exposure utilizing radiation machines or sealed sources to determine that the machine is "off" or that the sealed source has been returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment. The entire circumference or perimeter of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall also include the entire length of the guide tube.

C. A physical radiation survey shall be made to determine that each sealed source is in its shielded position any time the source is exchanged and prior to securing the radiographic exposure device or storage container as specified in LAC 33:XV.541.

\* \* \*

[See Prior Text in D]

E. Records shall be kept of the surveys required by Subsections C and D of this Section. Such records shall be maintained for inspection by the department for three consecutive years after completion of the survey. If the survey has been used to determine an individual's exposure, the records of the survey shall be maintained until the department authorizes their disposition.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:

#### **§588. Documents and Records Required at Temporary Job Sites and Applicable Field Stations**

A. Each licensee or registrant conducting industrial radiography at a temporary job site or applicable field station shall have the following documents and records available at that job site or field station for inspection by the department:

\* \* \*

[See Prior Text in A.1-4]

5. dosimeter records, from daily pocket dosimeters and/or electronic personal dosimeters, for the period of operation at the site as required by LAC 33:XV.577;

6. the latest instrument calibration and leak test records for specific devices and sealed sources in use at the site as required by LAC 33:XV.543 and 544. Acceptable records include tags or labels that are affixed to the device or survey meter;

7. a copy of the written confirmation letter issued by the department granting radiographer trainee status to any

radiographer trainee performing industrial radiography at the temporary job site;

8. records of equipment problems identified in daily checks of equipment as required in LAC 33:XV.547;

9. evidence of the latest calibration of alarming ratemeters and operability checks of dosimeters as required by LAC 33:XV.577;

10. the shipping papers for the transportation of radioactive materials as required by LAC 33:XV.1502; and

11. when operating under reciprocity in accordance with LAC 33:XV.390, a copy of the applicable state license or registration or Nuclear Regulatory Commission license authorizing the use of sources of radiation.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2772 (December 2000), LR 27:

### **§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography**

\* \* \*

[See Prior Text in A-C]

D. No individual other than a radiographer, a radiographer assistant, or a radiographer trainee who is under the personal supervision of a radiographer instructor shall manipulate controls or operate equipment used in industrial radiographic operations. The radiographer's assistant or radiographer trainee shall also be under the personal supervision of a radiographer when using radiographic exposure devices, associated equipment, or a sealed source or while conducting radiation surveys required by LAC 33:XV.587 to determine that the sealed source has returned to its shielded position or the radiation machine is off after an exposure. The personal supervision must include:

1. the radiographer's physical presence at the site where the sources of radiation are being used;

2. the availability of the radiographer to give immediate assistance if required; and

3. the radiographer's direct observation of the assistant's performance of the operations referred to in this Section.

\* \* \*

[See Prior Text in E-F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:

### **Appendix B C Radiographer Certification**

A. Requirements For Certification Programs. All certification programs must:

1. require applicants for certification to:

a. receive training in the topics set forth in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission regulations; and

b. satisfactorily complete a written examination covering these topics;

2. require applicants for certification to provide documentation that demonstrates that the applicant has:

a. received training in the topics set forth in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission regulations;

b. satisfactorily completed a minimum period of on-the-job training as specified in LAC 33:XV.575; and

c. received verification by a state licensee or registrant or a Nuclear Regulatory Commission licensee that the applicant has demonstrated the capability of independently working as a radiographer;

3. include procedures to ensure that all examination questions are protected from disclosure;

4. include procedures for denying an application and revoking, suspending, and reinstating a certification;

5. provide a certification period of not less than three years nor more than five years;

6. include procedures for renewing certifications and, if the procedures allow renewal without examination, require evidence of full-time employment and annual refresher training; and

7. provide a timely response to inquiries, by telephone or letter, from members of the public about an individual's certification status.

B. Requirements For Written Examinations. All examinations must:

1. be designed to test an individual's knowledge and understanding of the topics listed in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission requirements;

2. be written in a multiple-choice format; and

3. have test items drawn from a question bank containing psychometrically valid questions based on the material in Appendix A of this Chapter.

### **Chapter 6. X-rays in the Healing Arts**

#### **§606. Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, or Computed Tomography X-Ray Systems**

\* \* \*

[See Prior Text in A-B.6.b]

i. used continuously for more than one week in the same location, e.g., a room or suite, shall meet the requirements of Subsection B.6.a of this Section; and

\* \* \*

[See Prior Text in B.6.b.ii]

7. Operator Protection for Veterinary Systems and Panoramic Dental Systems. All stationary, mobile, or portable X-ray systems used for veterinary work or panoramic dental systems shall be provided with either a 6.5 foot (2 meters) high protective barrier for operator protection during exposures, or shall be provided with means to allow the operator to be at least 12 feet (3.7 meters) from the tube housing assembly during exposures.

\* \* \*

[See Prior Text in C-I]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November

1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), LR 27:

### **Chapter 7. Use of Radionuclides in the Healing Arts**

#### **§728. Decay-in-Storage**

A. A licensee shall hold radioactive material for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of LAC 33:XV.460 of these regulations if the licensee:

\* \* \*

[See Prior Text in A.1-B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

#### **§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits For Imaging and Localization Studies**

\* \* \*

[See Prior Text in A-F2]

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:

### **Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste**

#### **Subchapter E. Records, Reports, Tests, and Inspections**

##### **§1333. Maintenance of Records, Reports, and Transfers**

\* \* \*

[See Prior Text in A-C]

D. Notwithstanding Subsections A-C of this Section, copies of records of the location and the quantity of radioactive wastes contained in the disposal site shall be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the parish in which the facility is located, the parish zoning board or land development and planning agency, the state governor, and other state, local, and federal governmental agencies as designated by the department at the time of license termination.

\* \* \*

[See Prior Text in E-J.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2598 (November 2000), LR 27:

### **Chapter 15. Transportation of Radioactive Material** **§1502. Scope**

\* \* \*

[See Prior Text in A-C.4]

D. If U.S. DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. DOT specified in Subsection A of this Section to the same extent as if the shipment or transportation were subject to U.S. DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the U.S. DOT.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000), LR 26:2771 (December 2000), LR 27:

A public hearing will be held on July 26, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by RP027\*. Such comments must be received no later than July 26, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of RP027\*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

0106#053

## NOTICE OF INTENT

### Office of the Governor Office of Elderly Affairs

GOEA Policy Manual Revision C Family  
Caregiver Support Program (LAC 4:VII.1245)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective September 20, 2001. This Rule provides guidance to the aging network for use in implementing the provisions of the newly authorized National Family Caregiver Support Program under Title III, Part E of the Older Americans Act, as amended in 2000 (P.L. 106C501). The legislative authority and provisions of the National Family Caregiver Support Program became effective upon the signing of the Older Americans Act Amendments of 2000 by President Clinton on November 13, 2000. This new program provides an opportunity for the aging network to develop a service delivery system to respond to the needs of our nation's caregivers. The effect of the proposed Rule upon impact on family formation, stability, and autonomy as set forth in R.S. 39:321 is not known at this time. This Rule complies with R.S. 46:932, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as Amended (P. L. 106C501); and 42 U.S.C. 6001.

#### Title 4

#### ADMINISTRATION

#### Part VII. Governor's Office

#### Chapter 11. Elderly Affairs

#### Subchapter E. Uniform Service Requirements

#### §1245. Family Caregiver Support Program

A. Purpose. The purpose of the Family Caregiver Support Program (hereafter referred to as "this program") is to provide multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

#### B. Definitions

*Activities of Daily Living* C includes eating, dressing, bathing, toileting, transferring in and out of bed/chair and walking

*Child* C an individual who is not more than 18 years of age.

*Family Caregiver* C an adult family member, or another individual, who provides uncompensated in-home and community care to an older individual who needs supportive services.

*Grandparent or Older Individual Who Is a Relative Caregiver* C a grandparent or step-grandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and

- a. lives with the child;
- b. is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and
- c. has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

*Individual Counseling* C services of a state licensed professional designed to increase the caregiver's capability to care for an individual. These services are meant to provide short term training or therapy to develop critical skills.

Persons providing this service must be licensed in the specific area in which training or consultation is being provided. The areas covered include, but shall not be limited to the following: social work, psychology, professional counseling, nursing, food and nutrition, occupational therapy, physical therapy, and speech pathology and audiology.

#### *Mental Retardation and Related Developmental Disabilities* C

a. a diagnosis of mental retardation. Mental retardation refers to significantly sub-average general intellectual function existing concurrently with deficits in adaptive behavior and manifested prior to age 22; or

b. a severe, chronic disability which is attributable to mental retardation, cerebral palsy, epilepsy or autism; or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment of services similar to those required for these persons; the disability:

- i. is manifested before the person reaches age 22;
- ii. is likely to continue indefinitely;
- iii. results in substantial functional limitations in three or more of the following areas of major life activity: self-care; understanding and use of language; learning; mobility; self-direction; capacity for independent living; economic self-sufficiency; and

iv. reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

*Older Individual* C an individual who is 60 years of age or older.

*Personal Care* C a service that provides personal assistance, stand-by assistance, supervision or cues for persons with the inability to perform one or more of the following activities of daily living: eating, dressing, bathing, toileting, transferring in and out of bed/chair or walking. All appropriate state licensing requirements must be met.

*Qualifying Individual* C the older individual or child receiving the care provided by the family caregiver or the grandparent or older individual who is a relative caregiver.

*Respite Care* C a service that provides temporary or periodic services for frail elderly or individuals with developmental disabilities on a short term basis in order to give a caregiver relief from the continuous care of the disabled family member. This care can be provided in the person's home by a trained worker or in a hospital, nursing home, adult day care, adult day health care or other licensed facility by a certified provider. The service must be provided for periods of at least 4 hours and not more than 72 hours per visit and shall be limited to a maximum of 96 hours per calendar year per qualifying individual. All appropriate state licensing requirements must be met.



*Sitter Service*Ca service in the home setting to ensure the health and safety of the client. It includes observing, conversing, providing food for the client, etc.

C. Support Services

1. Funds allocated under this program for services provided by an area agency on aging, or entity that such agency has contracted with, shall be expended as follows:

- a. information to caregivers about available services Cten percent;
- b. assistance to caregivers in gaining access to the services Cten percent;
- c. individual counseling, organization of support groups, and caregiver training to caregivers to assist the caregivers in making decisions and solving problems relating to their caregiving roles Ctwenty percent;
- d. respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities Cforty percent; and
- e. supplemental services (i.e., sitter service or personal care), to complement the care provided by caregivers Ctwenty percent.

2. Area agencies may use not more than 10 percent of the funds allocated under this program to provide the support services listed in Paragraph 1 of this Subsection to grandparents and older individuals who are relative caregivers.

3. The services provided under this program shall supplement, and not supplant, replace, or substitute for any services described in Paragraph 1 of this Subsection provided by GOEA or other state agency or unit of general purpose local government (including an area agency on aging) using federal, state, or local funds on or before November 12, 2000, which was one day before the date of enactment of Title III-E.

4. Direct payment to family caregivers shall not be allowed in this program.

D. Participant Eligibility and Priority Requirements

1. Eligibility Criteria

- a. Services shall be provided to:
  - i. family caregivers, as defined in Subsection B of this Section; and
  - ii. grandparents or older individuals who are relative caregivers, as defined in Subsection B of this Section.

b. Services specified in §1245.C.1.d and e of this manual, shall be provided to a family caregiver who is providing care to an older individual who is determined to be functionally impaired because the individual

- i. is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
- ii. due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

2. An area agency on aging, or entity that such agency has contracted with, shall give priority for services to older individuals with greatest social and economic need, (with particular attention to low-income older individuals) and older individuals providing care and support to persons with mental retardation and related developmental disabilities.

E. Participant Selection Criteria. Initial participants in this program shall be selected using guidelines established by the Office of Elderly Affairs.

F. Coordination with Service Providers. Each area agency on aging shall coordinate the activities of the agency, or entity that such agency has contracted with, with the activities of other community agencies and voluntary organizations providing the types of services described in §1245.C.

G. Accountability

1. The area agency shall collect data and maintain records relating to this program in the format specified by GOEA. The area agency shall furnish the records to the Office of Elderly Affairs in the prescribed time frame. These records will enable the Office of Elderly Affairs to monitor program administration and compliance, and to evaluate and compare the effectiveness of this program.

2. The area agency shall prepare and submit to GOEA reports on the data and records required under Paragraph 1, including information on the services funded under this program.

3. The area agency on aging, or entity that such agency has contracted with shall comply with standards established by the state agency to assure the quality of services provided with assistance made available under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as amended (P. L. 106-501); and 42 U.S.C. 6001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 27:

A public hearing on this proposed Rule will be held on July 26, 2001 at 10 a.m. in the Mineral Board Auditorium, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, P.O. Box 80374, Baton Rouge, LA 70898-0374. Written comments will be accepted until 5 p.m. July 26, 2001.

P.F. "Pete" Arceneaux, Jr.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: GOEA Policy Manual Revision**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The total cost of the National Family Caregiver Support Program (NFCSP) will be \$2,021,117. Section 308(b) of the Older Americans Act allows the state agency on aging to use 5 percent of the total Title III allotment or \$500,000 to pay for not more than 75 percent of the cost for administration of the state plan. Assuming the funding is constant, GOEA estimates that it will use \$76,750 for administrative purposes. Title III-E funds will be used for state administrative costs in the same manner as other Title III funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will not affect revenue collections of any state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Area agencies on aging (AAAs) will be required to amend the current area plans to incorporate the new Title III-E program. The related costs will vary depending upon the number of subcontracts required to administer the program locally. Older Americans Act Title III-E funds may be used for area plan costs in the same manner as Title III-B and C funds and are subject to the same limitations. These funds may be used to pay for not more than 75 percent of the cost for administration of area plans. The cost of administration of area plans can be taken from any or all of these three sources.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Some NFCSP support services must be provided by licensed entities. AAAs that are not licensed will be required to award contracts in accordance with the state bid law. AAAs and/or successful bidders may need to employ additional staff to provide direct services to eligible participants.

P.F. Arceneaux, Jr.  
Executive Director  
0105#051

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
and  
Department of Social Services  
Office of the Secretary**

Community and Family Support System  
Cash Subsidy (LAC 48:I.16103-16121)

The Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary propose to amend this Rule to implement Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature which created the Community and Family Support System (R.S. 28:772). The original Rule was promulgated to implement the Cash Subsidy Program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. This proposed amendment will implement changes in eligibility criteria, the application process, acceptance to the waiting list for services and payment procedures.

**Title 48**

**PUBLIC HEALTHC GENERAL**

**Part I. General Administration**

**Subpart 11. Community and Family Support System**

**Chapter 161. Community and Family Support System**

**Cash Subsidy**

**§16103. Definitions**

*Agency* the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) which shall administer the cash subsidy program for the exceptionalities of developmental delay for children under

the age of 9, autism, severe mental retardation, profound mental retardation, deaf/blind, traumatic brain injury, multi-handicapped and other health impaired or, the Office of Mental Health (OMH), which shall administer the cash subsidy program for the exceptionality, emotional/behavioral disorder.

*Appropriate Documentation for Exceptionalities Served by the OCDD* the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. No evaluation or assessment can be accepted into consideration for eligibility determination unless incorporated into the report of exceptionality generated through the local school system. Documentation of any kind that is not current within a year can be accepted into consideration for eligibility determination. Appropriate documentation includes: the Department of Education 1508 Evaluation (for infants and toddlers, this may be called a Multidisciplinary Evaluation for Part H Services); the Individualized Education Plan (IEP); an approved home study plan; or, the Individual Family Service Plan (IFSP).

*Appropriate Documentation for the Exceptionality Served by the OMHC* that documentation referenced above; or, evidence of an Interagency Service Coordination Process; or, a certification from a licensed mental health professional that the child meets the Department of Education's criteria for emotional/behavioral disorder.

*Cash Subsidy* a monetary payment to eligible families of children with severe or profound developmental disabilities to offset the costs of keeping their child at home.

*Child* an individual under the age of 18.

*Developmental Disability for a Person Age 5 and Older* a severe, chronic disability which:

1. is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. is manifested before the person attains age 22;
3. is likely to continue indefinitely;
4. results in substantial functional limitations in three or more of the following areas of major life activity: self care, receptive language, expressive language, learning, mobility, self-direction, and capacity for independent living; and
5. reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of life-long or extended duration and are individually planned and coordinated.

*Licensed Mental Health Professional* a person credentialed to provide mental health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

*Qualifying Exceptionality* only the following exceptionalities identified through the Department of Education's 1508 Evaluation Process may be considered for the cash subsidy from the OCDD: autism, deaf/blind, profound mental retardation, severe mental retardation, multi-handicapped, orthopedic handicap, health impaired, traumatic brain injury and developmentally delayed for

children under the age of 9; other exceptionalities listed through that process are not eligible for participation in the cash subsidy program except that the exceptionality, emotional/behavioral disorder may be considered for the cash subsidy from the OMH.

*Responsible Care Giver* Ca child's natural or adoptive mother or father or the person who is responsible for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **§16105. Application Process**

A. Applications for cash subsidy will be accepted by mail only; the responsible care giver shall be responsible for completing the application and for timely submission of appropriate documentation of a qualifying exceptionality.

B. To be deemed complete, the documentation listed in §16103 must accompany the application for the cash subsidy and the application must be signed by the responsible care giver and received by the appropriate program office through the mail.

C. Only when deemed complete will applications be placed on the waiting list for eligibility determination. Applications will be maintained on the waiting list only in the region in which the applicant lives; no child may be placed on a waiting list or receive a cash subsidy from more than one region or program office.

D. Responsible care givers will receive timely confirmation of the date of receipt of the initial completed application and of their date of application on the waiting list for eligibility determination, and annually thereafter.

E. There shall be no closing date for accepting applications; a responsible care giver may submit a new application at any time an application or cash subsidy is terminated for any reason other than exceeding the eligible age for participation in the cash subsidy program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **§16107. Determining Children Eligible for the Cash Subsidy**

A. In all cases, the exceptionality reported on the most current, current within a year, appropriate documentation shall be used to make a determination of eligibility for the cash subsidy program.

B. Evaluations not reported through the Department of Education's 1508 Process will not be accepted for consideration for exceptionalities served by the Office for Citizens with Developmental Disabilities; such evaluations shall be considered if/when reported through that process.

C. Children must be involved in an approved educational setting to be eligible for the cash subsidy; such settings may include home schooling and other educational arrangements which have the approval of the local educational agency.

D. Children must meet the criteria for developmental disability and severity of exceptionality, as appropriate, to be eligible for the cash subsidy, except that children under the

age of 5 who meet the severity criteria will be considered to be developmentally disabled.

E. If a child is found to have a developmental disability and is classified with the following qualifying primary or secondary exceptionalities, the child is eligible for the cash subsidy: autism, deaf-blind, profoundly mentally handicapped, severely mentally handicapped, and multi-handicapped.

F. If a child is found to have a developmental disability and is classified with the following primary or secondary exceptionalities, the child shall be screened to determine whether they meet the severity criteria specific to their exceptionality: Developmental delay for children to age 9, emotional/behavioral disorder (OMH only), orthopedically handicapped, health impaired, and traumatic brain injury. Only children who meet the established criteria for severity of exceptionality shall be eligible to receive the cash subsidy.

G. Children who are adopted are eligible for the cash subsidy, including families who are receiving a specialized adoption subsidy; families who have more than one child who meets the eligibility criteria will be eligible for the cash subsidy amount for each child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **§16109. Children Ineligible for the Cash Subsidy**

A. These children are not eligible for the cash subsidy: children living in out-of-home settings, such as children who live in foster care or specialized foster care settings; children living and/or attending schools outside the state of Louisiana; children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired.

B. Any removal of the cash subsidy recipient from the home of the responsible care giver that exceeds 30 days may be considered an out-of-home placement, except that acute care hospitalization does not disqualify a child from receiving the cash subsidy and psychiatric hospitalizations of up to 90 days are not automatically considered out-of-home placements. With appropriate documentation, the responsible regional program office shall make an individual assessment of the continuation of the cash subsidy in light of family situation and circumstances.

C. It will be the responsibility of the responsible care giver to notify the regional program office when a child is removed from the home; failure to notify the responsible regional program office of such removal shall be potential grounds for termination of the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **§16111. Eligibility Determination**

A. The OCDD Regional Offices and the OMH shall be responsible for determination of eligibility of all applicants for the cash subsidy for which they have responsibility.

B. An initial determination for eligibility for the cash subsidy will be made at the time that a slot becomes

available; if receiving the cash subsidy, an annual determination of eligibility shall be made for the duration of eligibility for the cash subsidy.

C. At any time a responsible care giver cannot provide adequate and appropriate documentation of a qualifying exceptionality, the responsible care giver may request the local school agency to provide an alternative or re-evaluation of the child's exceptionality.

1. If the request for re-evaluation occurs at the point of initial determination of eligibility, the eligibility determination process will be held open for the period of re-evaluation, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will begin in the month that the next slot becomes available.

2. If the request for re-evaluation occurs at the point of annual determination of eligibility, the cash subsidy will be terminated until the re-evaluation becomes available, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will resume in the month when the determination is made.

D. The OCDD Central Office shall be responsible to maintain a centralized waiting list of all cash subsidy applicants to the OCDD throughout the state according to their date of application. The OCDD, in concert with the OMH, shall be responsible to ensure that applicants for the cash subsidy program administered by the OMH are not receiving the cash subsidy from the OCDD.

E. There shall be no financial criteria for eligibility for the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **§16113. Payment Guidelines**

A. The amount of the cash subsidy shall be \$258 monthly to families of eligible children with severe and profound disabilities to off-set the cost of keeping their child at home; families will not be required to document how the subsidy is used.

B. The termination date for a child attaining age 18 shall be the first of the month following that birthday.

C. If for any reason a recipient receives excess payment, repayment of that amount will be requested. Failure to cooperate with repayment will be referred to DHH for recoupment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **§16115. Terminations**

A. Reasons for termination may include the following: family moves out of state; family requests termination of cash subsidy payment; child is placed out of the home or attends school away from the home or in another state; death of the child; judicial removal of the child from the home; fraud; theft; termination or limitation of funding of the program; failure to comply with the provisions of the individual agreement or the cash subsidy program including the requirement to maintain quarterly contact with the office

administering the cash subsidy; child's exceptionality no longer meets eligibility criteria; child attains age 18; and, responsible care giver fails to maintain the child in an approved educational program whether on-site or in-home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **' 16117. Ongoing Monitoring**

A. The responsible care giver is responsible to maintain contact with the regional program office staff in the area in which the family resides at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and cash subsidy program are being met. Licensed case management programs, if available to the cash subsidy recipient, shall be responsible for this quarterly contact and for timely documentation of the contact to the regional program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **§16119. Appeals**

A. All persons receiving an eligibility determination and/or cash subsidy shall have access to the Department of Health and Hospitals= appeal process and shall be informed of their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a cash subsidy for any reason other than exceeding the eligible age for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

#### **§16121. Program Evaluation**

A. An annual external evaluation based on consumer satisfaction with the program and performance may be completed by the responsible program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

As described in R.S. 49:472, this proposed Rule will have a positive effect on the stability, functioning, behavior and personal responsibility of recipient families and children, as well as the earnings and budget of such families and children with severe/profound levels of exceptionalities through the award of a cash subsidy to assist families with the extraordinary expenses of maintaining their child at home. It will have no effect on the authority and rights of parents regarding supervision and education of their children. In addition, the proposed Rule has no effect on the ability of local governments to perform its function.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Community and Family Support System  
Cash Subsidy**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated programmatic costs (savings) to state or local governmental units because this program has an established number of slots based on legislative appropriation for the eligible population. The estimated administrative costs of \$1,000 are limited to the projected expenditures for the publication of this Notice of Intent and subsequent Rule in the *Louisiana Register*.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of state or local governmental units because this program does not generate revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups. The eligibility criteria of age and the determination of a severe and profound disability for this program remains unchanged by the addition of another category of exceptionality.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no effect on competition and employment as this Program serves persons from birth to 18 years of age.

Raymond A. Jetson  
Assistant Secretary  
0106#043

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Durable Medical Equipment  
Ostomy Supplies  
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously reimbursed certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at either 80 percent of the Medicare Fee Schedule, 80 percent of the manufacturer's suggested retail price (MSRP) or billed charges, whichever was the lesser amount. As a result of a budgetary shortfall, the reimbursement for these durable medical equipment items was reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the MSRP or billed charges,

whichever was the lesser amount (*Louisiana Register*, Volume 27, Number 1). In order to assure access to participating providers of ostomy services, the bureau increased the reimbursement for ostomy supplies identified by specific HCPC codes to either 80 percent of the Medicare Fee Schedule, 80 percent of the MSRP or billed charges, whichever is the lesser amount (*Louisiana Register*, Volume 27, Number 4). If an item is not available at 80 percent of the Medicare Fee Schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community. The bureau now proposes to adopt a Rule to continue the provisions contained in the April 6, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972. Recipients will be assured access to participating providers of these medically necessary supplies and services.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for ostomy supplies identified by specific Health Care Financing Administration Common Procedure Codes. The reimbursement is increased to 80 percent of the Medicare Fee Schedule, 80 percent of the manufacturer's suggested retail price (MSRP) or billed charges, whichever is the lesser amount, for the following HCPC codes:

- Ostomy Supplies
- A4360-A4421
- A5051-A5149
- K0137-K0139
- K0278-K0280
- K0421-K0437

If an item is not available at 80 percent of the Medicare Fee Schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Durable Medical Equipment C Ostomy  
Supplies C Reimbursement Increase**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$4,533 for SFY 2000-01, \$19,827 for SFY 2001-02, and \$20,422 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$10,741 for SFY 2000-01, \$47,067 for SFY 2001-02, and \$48,479 for SFY 2002-03.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Implementation of this proposed Rule will increase payments to Durable Medical Equipment providers of ostomy supplies by approximately \$15,154 for SFY 2000-01, \$66,894 for SFY 2001-02, and \$68,901 for SFY 2002-03.

This proposed Rule will protect the health and well being of Medicaid recipients by ensuring access to participating providers of these medically necessary supplies and services.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0106#045

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Inpatient Hospital Services  
Reimbursement Methodology  
Well Baby Care

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). Under the prospective reimbursement methodology, five general peer groups for hospitals and three peer groups for specialty hospital services were established for the reimbursement of inpatient hospital services. In addition, peer groups were established

for the reimbursement of the following high intensity inpatient services: neonatal intensive care, pediatric intensive care, burn care and transplants.

Four levels of neonatal intensive care based on severity of illness and intensity of service are recognized under the current reimbursement methodology. Level 1 (nursery boarder) is a separate prospective per diem rate developed for infants who remain in the hospital nursery after the mother is discharged. The principal cost of the birth is included with the payment for the mother's stay at the general peer group per diem rate. The nursery boarder rate is intended to cover incidental costs associated with an infant's short-term stay in the nursery following the mother's discharge. In order to ensure continuity of access to hospital services for deliveries, the bureau established a separate prospective per diem rate for services rendered to infants who are discharged at the same time that the mother is discharged (*Louisiana Register*, Volume 27, Number 4).

The bureau now proposes to adopt a Rule to continue the provisions contained in the April 10, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a separate prospective per diem rate for well baby care rendered to infants who are discharged at the same time that the mother is discharged. The separate per diem rate for well baby care shall be available to private hospitals that perform more than 1500 Medicaid deliveries per year. The per diem rate for well baby care shall be the lesser of actual costs as documented on the last finalized cost report or the rate for a nursery boarder.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Inpatient Hospital  
Services C Reimbursement Methodology C Well Baby  
Care**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$80,462 for SFY 2000-01, \$377,956 for SFY 2001-02, and

\$389,295 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$192,021 for SFY 2000-01, \$897,198 for SFY 2001-02, and \$924,114 for SFY 2002-03.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed Rule will increase payments to inpatient hospitals that provide well baby care by approximately \$272,363 for SFY 2000-01, \$1,275,154 for SFY 2001-02, and \$1,313,409 for SFY 2002-03. This proposed Rule will protect the health and well-being of Medicaid eligible mothers and infants by ensuring the continuity of access to hospital services for deliveries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0106#046

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation Pipeline Division

Pipeline Safety/Hazardous Liquids  
(LAC 33:V.Chapters 301 and 304)

The Louisiana Office of Conservation proposes to amend LAC 33:V.30101 et seq. in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These proposed Rules amend the minimum pipeline safety requirements for hazardous liquids pipelines and add new requirements for operator qualification of individuals performing covered tasks on a pipeline facility (LAC 33:V.30261).

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part V. Hazardous Waste and Hazardous Materials

##### Subpart 3. Natural Resources

#### Chapter 301. Transportation of Hazardous Liquids by Pipeline

##### Subchapter A. General

#### §30103. Applicability

A. - B.2. ...

3. transportation through the following low-stress pipelines:

- a. an offshore pipeline or pipeline segment that:
  - i. does not transport HVL;
  - ii. is located in a rural area; and
  - iii. is located outside a waterway currently used for commercial navigation;

b. a pipeline subject to safety regulations of the U.S. Coast Guard; or

c. a pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation;

B.4 - 5. ...

6. transportation of a hazardous liquid or carbon dioxide in Outer Continental Shelf pipelines which are located upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator;

B.7 - 8b. ...

C. Breakout tanks subject to this part must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails. Anhydrous ammonia breakout tanks need not comply with §§30189.B, 30202.B, 30215.C, 30239.B and E, 30287.C and D, and 30291.B and C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (April 1994), LR 21:814 (August 1995), LR 27:

#### §30105. Definitions

A. As used in this Chapter:

*Abandoned* C permanently removed from service.

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*Computation Pipeline Monitoring (CPM)* Ca software-based monitoring tool that alerts the pipeline dispatcher of a possible pipeline operation anomaly that may be indicative of a commodity release.

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*Exposed Pipeline* Ca pipeline where the top of the pipe is above the seabed in water less than 15 feet (4.6 meters), as measured from the mean low water.

\*\*\*

*Gulf of Mexico and Its Inlets* C the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (excluding rivers, tidal marshes, lakes and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters) deep, as measured from the mean low water.

*Hazard to Navigation* C for the purpose of this Chapter, a pipeline where the top of the pipe is less than 12 inches (305 millimeters) below the seabed in water less than 15 feet (4.6 meters) deep, as measured from the mean low water.

\*\*\*

*Outer Continental Shelf* C all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

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*Specified Minimum Yield Strength* C the minimum yield strength, expressed in pounds per square inch (p.s.i.) (kPa) gauge, prescribed by the specification under which the

material is purchased from the material is purchased from the manufacturer.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 27:

### §30107. Matter Incorporated by Reference

A. - B.5. ...

6. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

7. National Fire Protection Association (NFPA), 11 Tracy Drive, Avon, MA 02322.

C. The full titles of publications incorporated by reference wholly or partially in this Part are as follows. Numbers in parentheses indicate applicable editions.

C.1. ...

2. American Petroleum Institute (API).

a. API 1130 *Computational Pipeline Monitoring* (1st edition, 1995)

b. API 510 *Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration* (8th edition, June 1997)

c. API Publication 2026 *Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service* (2nd edition, April 1998)

d. API Recommended Practice 651 *Cathodic Protection of Aboveground Petroleum Storage Tanks* (2nd edition, December 1997)

e. API Recommended Practice 652 *Lining of Aboveground Petroleum Storage Tank Bottoms* (2nd edition, December 1997)

f. API Recommended Practice 2003 *Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents* (6th edition, December 1998)

g. API Recommended Practice 2350 *Overfill Protection for Storage Tanks in Petroleum Facilities* (2nd edition, January 1996)

h. API Specification 5L *Specification for Line Pipe* (41st edition, 1995)

i. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21st edition, 1994)

j. API Specification 12F *Specification for Shop Welded Tanks for Storage of Production Liquids* (11th edition, November 1994)

k. API Standard 1104 *Welding Pipelines and Related Facilities* (18th edition, 1994)

l. API Standard 620 *Design and Construction of Large, Welded, Low-Pressure Storage Tanks* (9th edition, February 1996, Including Addenda 1 and 2).

m. API Standard 650 *Welded Steel Tanks for Oil Storage* (9th edition, July 1993, Including Addenda 1 and 2);

n. API Standard 653 *Tank Inspection, Repair Alteration, and Reconstruction* (2nd edition, December 1995, including Addenda 1 and 2)

o. API Standard 2000 *Venting Atmospheric and Low-Pressure Storage Tanks* (4th edition, September 1992);

p. API Standard 2510 *Design and Construction of LPG Installations* (7th edition, May 1995)

C.3. - C.3.e. ...

f. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualifications* (1995 edition with 1995 Addenda)

C.4. - C.4.b. ...

5. American Society for Testing and Materials (ASTM)

a. ASTM Designation A 53 *Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless* (A 53-96)

b. ASTM Designation: A 106 *Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service* (A 106-95)

C.5.c. - f. ...

g. ASTM Designation: A 691 *Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures* (A 691-93)

h. National Fire Protection Association (NFPA): *ANSI/NFPA 30 Flammable and Combustible Liquids Code*. (1996)

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (July 1998), LR 27:

### §30114. Outer Continental Shelf Pipelines

A. Operators of transportation pipelines on the Outer Continental Shelf must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic maintained near the transfer point. If a transfer point is located subsea, the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to RSPA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the Regional Director and the MMS Regional Supervisor will make a joint determination of the transfer point.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### Subchapter B. Reporting Accidents and Safety-Related Conditions

#### §30125. Reporting Accidents

A. An accident report is required for each failure in a pipeline system subject to this Part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

1. explosion or fire not intentionally set by the operator;

2. loss of 50 or more barrels (8 or more cubic meters) of hazardous liquid or carbon dioxide;

3. escape to the atmosphere of more than five barrels (0.8 cubic meters) a day of highly volatile liquids;



A.4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 21:816 (August 1995), LR 27:

**§30133. Reporting Safety-Related Conditions**

A. - A.6. ...

B. A report is not required for any safety-related condition that:

1. exist on a pipeline that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway, or that occur offshore, or at on-shore locations where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water;

B.2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), LS 27:

**§30147. Abandoned Underwater Facilities Report**

A. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility.

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at [703] 317-3073. A digital data format is preferred, but a hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or email to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax [202] 366-4566; email, roger.little@rspa.dot.gov. The information in the report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed before April 10, 2001. Operators may submit reports by mail, fax, email to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128,

400 Seventh Street, SW, Washington DC 20590; fax [202] 366-4566; email, roger.little@rspa.dot.gov . The information in the report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

**Subchapter C. Design Requirements**

**§30161. Internal Design Pressure**

A. Internal design pressure for the pipe in a pipeline is determined in accordance with the following formula:

$$P = (2 St/D) \times E \times F$$

P = internal design pressure in pounds per square inch (p.s.i.) (kPa) gauge.

S = yield strength in pounds per square inch (p.s.i.) (kPa) gauge determined in accordance with §30161.B.

t = nominal wall thickness of the pipe in inches (millimeters). If this is unknown, it is determined in accordance with §30161.C.

D = outside diameter of the pipe in inches (millimeters).

E = seam joint factor determined in accordance with §30161.E.

F = a design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located offshore or on a platform in inland navigable waters, and 0.54 is used for pipe that has been subjected to cold expansion to meet the specified minimum yield strength and is subsequently heated, other than by welding or stress relieving as a part of welding, to a temperature higher than 900° F (482° C) for any period of time or over 600° F (316° C) for more than one hour.

B. The yield strength to be used in determining the internal design pressure under §30161.A is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength to be used in the design formula is one of the following:

1. the yield strength determined by performing all of the tensile tests of API Specification 5L on randomly selected specimens with the following number of tests:

Pipeline Size	Number of Tests
Less than 168.3 mm (6 5/8 in.) nominal outside diameter (168 mm)	One test for each 200 lengths
168.3 through 323.8 mm (6 5/8 through 12 3/4 in.) nominal outside diameter (168 mm through 324 mm)	One test for each 100 lengths
Larger than 323.8 mm (12 3/4 in.) nominal outside diameter 12 3/4 in (324 mm)	One test for each 50 lengths

2. If the average yield-tensile ratio exceeds 0.85, the yield strength shall be taken as 165,474 kPa (24,000 psi). If the average yield tensile ratio is 0.85 or less, the yield strength of the pipe is taken as the lower of the following:

a. eighty percent of the average yield strength determined by the tensile tests;

b. the lowest yield strength determined by the tensile tests.

3. If the pipe is not tensile tested as provided in Subsection B, the yield strength shall be taken as 165,474 kPa (24,000 psi).

C. If the nominal wall thickness to be used in determining internal design pressure under §30161.A is not

known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. However, if the pipe is of uniform grade, size and thickness, only 10 individual lengths or 5 percent of all lengths, whichever is greater, need be measured. The thickness of the lengths that are not measured must be verified by applying a gauge set to the minimum thickness found by the measurement. The nominal wall thickness to be used is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 508 mm (20 in.) nominal outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 508 mm (20 in.) or more in nominal outside diameter.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (April 1994), LR 21:817 (August 1995), LR 27:

### **§30169. New Pipe**

A. - A.2. ...

3. Each length of pipe with a nominal outside diameter of 4 1/2 in. (114.3 mm) or more must be marked on the pipe or pipe coating with the specification to which it was made, the specified minimum yield strength or grade, and the pipe size. The marking must be applied in a manner that does not damage the pipe or pipe coating and must remain visible until the pipe is installed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:

### **§30177. Passage of Internal Inspection Devices**

A. - B.5. ...

6. offshore pipelines, other than main lines 19 inches (254 mm) or greater in nominal diameter, that transport liquids to onshore facilities; and

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:

### **§30189. Above Ground Breakout Tanks**

A. Each aboveground breakout tank must be designed and constructed to withstand the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads.

B. For aboveground breakout tanks first placed in service after October 2, 2000, compliance with paragraph A. of this section requires one of the following.

1. Shop-fabricated, vertical, cylindrical, closed top, welded steel tanks with nominal capacities of 90 to 750 barrels (14.3 to 119.2 m<sup>3</sup>) and with internal vapor space pressures that are approximately atmospheric must be designed and constructed in accordance with API Specification 12F.

2. Welded, low-pressure (i.e., internal vapor space pressure not greater than 15 psig (103.4 kPa)), carbon steel tanks that have wall shapes that can be generated by a single

vertical axis of revolution must be designed and constructed in accordance with API Standard 620.

3. Vertical, cylindrical, welded steel tanks with internal pressures at the tank top approximately atmospheric pressures (i.e., internal vapor space pressures not greater than 2.5 psig (17.2 kPa), or not greater than the pressure developed by the weight of the tank roof) must be designed and constructed in accordance with API Standard 650.

4. High pressure steel tanks (i.e., internal gas or vapor space pressures greater than 15 psig (103.4 kPa)) with a nominal capacity of 2000 gallons (7571 liters) or more of liquefied petroleum gas (LPG) must be designed and constructed in accordance with AOI Standard 2510.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

### **§30191. CPM Leak Detection**

A. This section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). On such systems, each new computational pipeline monitoring (CPM) leak detection system and each replaced component of an existing CPM system must comply with section 4.2 of API 1130 in its design and with any other design criteria addressed in API 1130 for components of the CPM leak detection system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

## **Subchapter D. Construction**

### **§30201. Scope**

A. - B. ...

C. InspectionCGeneral. Inspection must be provided to ensure the installation of pipe or pipeline systems in accordance with the requirements of this Subchapter. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources, of proposed pipeline construction at least seven days prior to commencement of said construction. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected.

D. Material Inspection. No pipe or other component may be installed in a pipeline system unless it has been visually inspected at the site of installation to ensure that it is not damaged in a manner that could impair its strength or reduce its serviceability.

E. Welding of Supports and Braces. Supports or braces may not be welded directly to pipe that will be operated at a pressure of more than 100 p.s.i. (89 kPa) gauge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

### **§30203. Pipe Location**

A. ...

B. No pipeline may be located within 50 feet (15 meters) of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or

assemble, unless it is provided with at least 12 inches (305 mm) of cover in addition to that prescribed in §30221.

AUTHORITY NOTE: Promulgated in accordance with 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

**§30205. Bending of Pipe**

A. - B.3.a. ...

b. the pipe is 12 3/4 (324 mm) or less nominal outside diameter or has a diameter to wall thickness ratio less than 70;

C ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30: 703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21;818 (August 1995), LR 27:

**§30215. Cathodic Protection System**

A. - B. ...

C. For the bottoms of aboveground breakout tanks with greater than 500 barrels (79.5 m³) capacity built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), the installation of a cathodic protection system under paragraph A of this section after October 2, 2000, must be in accordance with API Recommended Practice 651, unless the operator notes in the procedural manual (§30259.C)) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of a particular breakout tank.

D. For the internal bottom of aboveground breakout tanks built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), the installation of a tank bottom lining after October 2, 2000, must be in accordance with API Recommended Practice 652, unless the operator notes in the procedural manual (§30259.C)) why compliance with all or certain provisions of API Recommended Practice 652 is not necessary for the safety of a particular breakout tank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

**§30221. Cover Over Buried Pipeline**

A. Unless specifically exempted in this Subchapter, all pipe must be buried so that it is below the level of cultivation. Except as provided in §30221.B, the pipe must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or sea bottom, as applicable, complies with the following table:

Location	Cover inches (millimeters)	
	For Normal Excavation	For Rock Excavation
Industrial, commercial and residential area	36 (914)	30 (762)
Crossing of inland bodies of water with a width of at least 100 ft. (30 m) from high water mark to high water mark	48 (1219)	48 (1219)
Drainage ditches at public roads and railroads	36 (914)	36 (914)
Deepwater port safety zone	48 (1219)	24 (610)
Other offshore areas under water less than 12 ft. (3.7 m) deep as measured from the mean low tide	36 (914)	18 (457)
Any other area	30 (762)	18 (457)

A.1. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:818 (August 1995), LR 27:

**§30223. Clearance Between Pipe and Underground Structures**

A. Any pipe installed underground must have at least 12 inches (305 mm) of clearance between the outside of the pipe and the extremity of any other underground structure except that for drainage tile the minimum clearance may be less than 12 inches (305 mm) but not less than two inches (51 mm). However, where 12 inches (305 mm) of clearance is impracticable, the clearance may be reduced if adequate provisions are made for corrosion control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

**§30235. Valves: Location**

A. A valve must be installed at each of the following locations:

A.1. - A.4. ...

5. on each side of a water crossing that is more than 100 feet (30 m) wide from high-water mark to high-water mark unless the secretary finds in a particular case that valves are not justified;

A.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

**§30239. Impoundment, Protection Against Entry, Normal/Emergency Venting or Pressure/Vacuum Relief for Aboveground Breakout Tanks**

A. A means must be provided for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tank.

B. After October 2, 2000, compliance with paragraph A. of this section requires the following for the aboveground breakout tanks specified.

1. for tanks built to API Specification 12F, API Standard 620, and others (such as API Standard 650 or its predecessor Standard 12C), the installation of impoundment must be in accordance with the following sections of NFPA 30:

a. impoundment around a breakout tank must be installed in accordance with Section 2-3.4.3; and

b. impoundment by drainage to a remote impounding area must be installed in accordance with Section 2-3.4.2.

2. For tanks built to API Standard 2510, the installation of impoundment must be in accordance with Section 3 or 9 of API Standard 2510.

C. Aboveground breakout tank areas must be adequately protected against unauthorized entry.

D. Normal/emergency relief venting must be provided for each atmospheric pressure breakout tank. Pressure/vacuum-relieving devices must be provided for each low-pressure and high-pressure breakout tank.

E. For normal/emergency relief venting and pressure/vacuum-relieving devices installed on aboveground breakout tanks after October 2, 2000, compliance with paragraph D. of this section requires the following for the tanks specified.

1. Normal/emergency relief venting installed on atmospheric pressure tanks built to API Specifications 12F must be in accordance with Section 4, and Appendices B and C, of API Specification 12F.

2. Normal/emergency relief venting installed on atmospheric pressure tanks (such as those built to API Standard 650 or its predecessor Standard 12C) must be in accordance with API Standard 2000.

3. Pressure-relieving and emergency vacuum-relieving devices installed on low pressure tanks built to API Standard 620 must be in accordance with Section 7 of API Standard 620 and its references to the normal and emergency venting requirements in API Standard 2000.

4. Pressure and vacuum-relieving devices installed on high pressure tanks built to API Standard 2510 must be in accordance with Sections 5 or 9 of API Standard 2510.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

### **Subchapter E. Hydrostatic Testing**

#### **§30247. General Requirements**

A. - C. ...

1. before December 7, 1998, for each pipeline each operator shall:

a. plan and schedule testing, according to this Subsection; or  
b. establish the pipelines maximum operating pressure under §30265.A.5;

2. for pipelines scheduled for testing, each operator shall:

a. before December 7, 2000, pressure test:  
i. each pipeline identified by name, symbol, or otherwise that existing records show contains more than 50 percent by mileage (length) of electric resistance welded pipe manufactured before 1970; and  
ii. at least 50 percent of the mileage (length) of all other pipelines; and

b. before December 7, 2003, pressure test the remainder of the pipeline mileage (length).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:818 (August 1995), LR 27:

#### **§30248. Test Pressure**

A. The test pressure for each pressure test conducted under this Subpart must be maintained throughout the part of the system being tested for at least four continuous hours at a pressure equal to 125 percent, or more, of the maximum operating pressure and in the case of a pipeline that is not visually inspected for leakage during the test, for at least an additional four continuous hours at a pressure equal to 110 percent, or more, of the maximum operating pressure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

#### **§30249. Testing**

A. - B.2.a. ...

b. each building within 300 feet (91 meters) of the test section is unoccupied while the test pressure is equal to or greater than a pressure which produces a hoop stress of 50 percent of specified minimum yield strength;

B.2.c. - 3.a. ...

b. each building within 300 feet (91 meters) of the test section is unoccupied while the test pressure is equal to or greater than a pressure that produces a hoop stress of 50 percent of specified minimum yield strength;

3.c. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 27:

#### **§30250. Pressure Testing Aboveground Breakout Tanks**

A. For aboveground breakout tanks built to API Specification 12F and first placed in service after October 2, 2000, pneumatic testing must be in accordance with section 5.3 of API Specification 12F.

B. For aboveground breakout tanks built to API Standard 620 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with section 5.18 of API Standard 620.

C. For aboveground breakout tanks built to API Standard 650 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with section 5.3 of API Standard 650.

D. For aboveground atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated and tanks built to API Standard 650 or its predecessor Standard 12C that are returned to service after October 2, 2000, the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in section 10.3 of API Standard 653.

E. For aboveground breakout tanks built to API Standard 2510 and first placed in service after October 2, 2000, pressure testing must be in accordance with ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 or 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

#### **§30251. Records**

A. - B.8. ...

9. where elevation differences in the section under test exceed 100 feet (30 meters), a profile of the pipeline that shows the elevation and test sites over the entire length of the test section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

**Subchapter F. Operation and Maintenance**  
**§30259. Procedural Manual for Operations, Maintenance, and Emergencies**

A. - C.9. ...

10. abandoning pipeline facilities, including safe disconnection from an operating pipeline system, purging of combustibles, and sealing abandoned facilities left in place to minimize safety and environmental hazards;

C.11. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 24:1314 (July 1998), LR 27:

**§30262. Emergency Response Training**

After October 28, 2002, this Section will be in effect.

A. Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

1. carry out the emergency procedures established under §30259 that relate to their assignments;

2. know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

3. recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action;

4. take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and

5. learn the proper use of firefighting procedures and equipment, fire suits, and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition.

B. At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

1. review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph A of this section; and

2. make appropriate changes to the emergency response training program as necessary to insure that it is effective.

C. Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under §30259 for which they are responsible to ensure compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 27:

**§30264. Protection Against Ignitions and Safe Access/Egress Involving Floating Roofs**

A. After October 2, 2000, protection provided against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving above ground breakout tanks must be in accordance with API Recommended Practice 2003, unless the operator notes in the procedural manual (Sec. 195.402 (c)) why compliance with all or certain provisions of API

Recommended Practice 2003 is not necessary for the safety of a particular breakout tank.

B. The hazards associated with access/egress onto floating roofs of in-service aboveground breakout tanks to perform inspection, service, maintenance or repair activities (other than specified general considerations, specified routine tasks or entering tanks removed from service for cleaning) are addressed in API Publication 2026. After October 2, 2000, the operator must review and consider the potentially hazardous conditions, safety practices and procedures in API Publication 2026 for inclusion in the procedure manual (Sec. 195.402 (c)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

**§30265. Maximum Operating Pressure**

A. - A.1.a. ...

b. if the pipe is 12 3/4 in. (324 mm) or less outside diameter and is not tested to yield under this paragraph, 200 p.s.i. (1379 kPa) gauge.

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:819 (August 1995), LR 27:

**§30269. Line Markers**

A. - A.2. ...

a. the word "Warning," "Caution," or "Danger," followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline," or "Carbon Dioxide Pipeline," all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch (25 millimeters) high with an approximate stroke of 1/4 inch (6.4 millimeters).

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 24:1314 (July 1998), LR 27:

**§30272. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and Its Inlets**

A. Except for gathering lines of 4 1/2 inches (114 mm) nominal outside diameter or smaller, each operator shall, in accordance with this section, conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before November 16, 1992.

B. - B.1. ...

2. promptly, but not later than 7 days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center; and

3. within 6 months after discovery, or not later than November 1 of the following year if the 6 month period is after November 1 of the year that the discovery is made, place the pipeline so that the top of the pipe is 36 inches

(914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:703.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18:865 (August 1992), LR 21:820 (August 1995), LR 27:

### **§30275. External Corrosion Control**

A. - E. ...

F. Any pipe that is found to be generally corroded so that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances must be replaced with coated pipe that meets the requirements of this part. However, generally corroded pipe need not be replaced if:

1. the operating pressure is reduced to be commensurate with the limits on operating pressure specified in this subpart, based on the actual remaining wall thickness; or

2. the pipe is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

G. - H. ...

I. Each operator shall clean, coat with material suitable for the prevention of atmospheric corrosion, and , maintain this protection for, each component in its pipeline system that is exposed to the atmosphere.

J. For aboveground breakout tanks where corrosion by a cathodic protection system, the cathodic protection system must be inspected to ensure it is operated and maintained in accordance with API Recommended Practice 651, unless the operator notes in the procedure manual (Sec. 195.402 (c)) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of a particular breakout tank.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:703.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:820 (August 1995), LR 27:

### **§30283. Pipe Movement**

A. - B.3.a. ...

b. the lowest practical level that will maintain the highly volatile liquid in a liquid state with continuous flow, but not less than 50 p.s.i. (345 kPa) gauge above the vapor pressure of the commodity.

C. - C.2. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:703.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

### **§30287. Overpressure Safety Devices**

A. - B. ...

C. Aboveground breakout tanks that are constructed or significantly altered according to API Standard 2510 after October 2, 2000, must have an overfill protection system installed according to section 5.1.2 of API Standard 2510. Other aboveground breakout tanks with 600 gallons (2271 liters) or more of storage capacity that are constructed or significantly altered after October 2, 2000, must have an overfill protection system installed according to API Recommended Practice 2350. However, operators need not comply with any part of API Recommended Practice 2350

for a particular breakout tank if the operator notes in the manual required by Sec. 195.402 why compliance with that part is not necessary for safety of the tank.

D. After October 2, 2000, the requirements of paragraphs A and B of this section for inspection and testing of pressure control equipment apply to the inspection and testing of overfill protection systems.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:703.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

### **§30291. Inspection of In-Service Breakout Tanks**

A. Except for breakout tanks inspected under paragraphs B and C of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each in-service breakout tank.

B. Each operator shall inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to section 4 of API Standard 653. However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under Sec. 195.402 (c)(3).

C. Each operator shall inspect the physical integrity of in-service steel aboveground breakout tanks built to API Standard 2510 according to section 6 of API 510.

D. The intervals of inspection specified by documents referenced in paragraphs B and C of this section begin on May 3, 1999, or on the operator's last recorded date of the inspection, whichever is earlier.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:703.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

### **§30296. Smoking or Open Flames**

A. Each operator shall prohibit smoking and open flames in each pump station area and each breakout tank area where there is a possibility of the leakage of a flammable hazardous liquid or of the presence of flammable vapors.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:703.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30297. Public Education**

A. Each operator shall establish a continuing educational program to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbon dioxide pipeline emergency and to report it to the operator or the fire, police, or other appropriate public officials. The program must be conducted in English or in other languages commonly understood by a significant number and concentration of non-English speaking population in the operator's operating areas.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:703.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:866 (August 1992), LR 27:

### §30298. Damage Prevention Program

A. Except as provided in Subsection C of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

B. An operator may comply with any of the requirements of Subsection C of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of the responsibility for compliance with this section. However, an operator must perform the duties of Subsection C.3. of this section through participation in a one-call system, if that one-call system is a qualified one call-system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of the section, a one-call system is considered a "qualified one-call system" if it meets the requirements of Subsection B.1. or B.2. of this section:

1. the state has adopted a one-call damage prevention program under 49 CFR 198.37; or
2. the one-call system:
  - i. is operated in accordance with 49 CFR 198.39;
  - ii. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and
  - iii. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline.

C. The damage prevention program required by Subsection A. of this section must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.
2. provide for notification of the public in the vicinity of the pipeline and actual notification of persons identified in Subsection C.1. of this section of the following as often as needed to make them aware of the damage prevention program:
  - a. the program's existence and purpose; and
  - b. how to learn the location of underground pipelines before excavation activities are begun;
3. provide a means of receiving and recording notification of planned excavation activities;
4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;
5. provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins;

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities;

- a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and
- b. in the case of blasting, any inspection must include leakage surveys.

D. A damage prevention program under this section is not required for the following pipelines:

1. pipelines located offshore;
2. pipelines to which access is physically controlled by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1315 (July 1998), amended LR 27:

### §30299. CPM Leak Detection

A. Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

## Subchapter G. Operator Qualification

### §30301. Scope

A. This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

B. For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

1. is performed on a pipeline facility;
2. is an operations or maintenance task;
3. is performed as a requirement of this part; and
4. affects the operation or integrity of the pipeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### §30303. Definitions

*Abnormal Operating Condition Ca* a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

1. indicate a condition exceeding design limits; or
2. result in a hazard(s) to persons, property, or the environment.

*Evaluation Ca* a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

1. written examination;
2. oral examination;
3. work performance history review;
4. observation during:
5. performance on the job;
6. on the job training, or
7. simulations; or
8. other forms of assessment.

*Qualified* Can individual has been evaluated and can:

1. perform assigned covered tasks; and
2. recognize and react to abnormal operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30305. Qualification Program**

A. Each operator shall have and follow a written qualification program. The program shall include provisions to:

1. identify covered tasks;
2. ensure through evaluation that individuals performing covered tasks are qualified;
3. allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;
4. evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in §30125;
5. evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;
6. communicate changes that affect covered tasks to individuals performing those covered tasks; and
7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30307. Record Keeping**

A. Each operator shall maintain records that demonstrate compliance with this subpart.

1. Qualification records shall include:
  - a. identification of qualified individual(s);
  - b. identification of the covered tasks the individual is qualified to perform;
  - c. date(s) of current qualification; and
  - d. qualification method(s).
2. Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30309. General**

- A. Operators must have a written qualification program by April 27, 2001.
- B. Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.
- C. Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to August 27, 1999.
- D. After October 28, 2002, work performance history may not be used as a sole evaluation method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

## **Chapter 304. Hazardous Liquids Pipeline Enforcement**

### **§30401. Scope**

A. This regulation prescribes the authority of the assistant secretary of the Office of Conservation and procedures to be utilized by him in carrying out his duties regarding administration and enforcement of R.S. 30:701, et seq., and the Rules and regulations promulgated thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30403. Service**

A. Except as herein provided, any order, notice or other documents required to be served under this regulation shall be served personally or by registered or certified mail.

B. Should the assistant secretary elect to make personal service, it may be made by an officer authorized to serve process or any agent or employee of the assistant secretary in the same manner as is provided by law for the service of citation in civil actions in the district courts. Proof of service by an agent or employee shall be by the affidavit of the person making it.

C. Service upon a person's duly authorized representative, officer or agent constitutes service upon that person.

D. Service by registered or certified mail is complete upon mailing. An official U.S. postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:.

### **§30405. Subpoenas**

A. The assistant secretary may sign and issue subpoenas either on his own initiative or, upon request and adequate showing by any person participating in any proceeding before the assistant secretary that the information sought is relevant and will materially advance the proceeding.

B. A subpoena may require the attendance of a witness for the purpose of giving testimony, or the production of documents or other tangible evidence in the possession or under the control of the person served, or both.

C. A subpoena may be served by any agent of the Department of Conservation, by the sheriff of the parish where service is to be made or the parish where the action is pending or by any other person authorized by the law to serve process in this state.

D. Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person. Delivery of a copy of a subpoena may be made by handing them to the person, leaving them at his office with persons in charge thereof, leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, or by any method whereby actual notice is given to him.



E. When the person to be served is not a natural person, delivery of a copy of the subpoena may be affected by handing them to a designated agent or representative for service, or to any officer, director, or agent in charge of any office of the person.

F. The original subpoena bearing a certificate of service shall be filed in the assistant secretary's records for the proceedings in connection with which the subpoena was issued.

G. No person shall be excused from attending and testifying or producing books, papers, or records, or from obeying the subpoena of the assistant secretary, or of a court of record on the grounds that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. Pursuant to R.S. 30:8(4), no natural person shall be subject to criminal prosecution or to any penalty or forfeiture on account of anything concerning which may be required to testify or produce evidence before the assistant secretary or a court of law; however, no person testifying shall be exempt from prosecution and punishment for perjury.

H. In the case of failure or refusal of a person to comply with a subpoena issued by the assistant secretary, or in the case of a refusal of a witness to testify or answer as to a matter regarding which he may be lawfully interrogated, any district court on the application of the assistant secretary may, in term time or in vacation, issue an attachment for the person to compel him to comply with the subpoena and to attend before the assistant secretary with the desired documents and to give his testimony upon whatever matters are lawfully required. The court may punish for contempt those disobeying its orders as in the case of disobedience of a subpoena issued by the court or refusal to testify therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30407. Inspection, Field Inspection Reports**

A. Officers, employees or agents authorized by the assistant secretary, upon presenting proper credentials, are authorized to enter upon, inspect and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent that such records and properties are relevant to determining compliance of such person with R.S. 30:701, et seq. or any Rules, regulations or orders issued thereunder.

B. Inspection may be conducted pursuant to a routine schedule, a complaint received from a member of the public, information obtained from a previous inspection, report of accident or incident involving facilities, or whenever deemed appropriate by the assistant secretary.

C. If, after inspection, the assistant secretary believes that further information is needed or required to determine compliance or appropriate action, the assistant secretary may request specific information of the person or operator to be answered within ten days of receipt of said request.

D. The assistant secretary may, to the extent necessary to carry out his responsibilities, require reasonable testing of any portion of a facility in connection with a violation or suspected violation.

E. When information obtained from an inspection indicates that a violation has probably occurred, the

inspector shall complete a field inspection report as to the nature of the violation citing the specific provisions which have been violated. Said field inspection report shall be filed with the assistant secretary for review and further action, if appropriate.

F. The assistant secretary or his agent, after review of the field inspection report, and depending upon the severity of the violation and the exigency of the situation, may issue to the operator a letter of non-compliance or initiate one or more enforcement proceedings prescribed by §30411 through 30419.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation Pipeline Division, LR 27:

### **§30409. Letter of Non-compliance; Relief Therefrom**

A. Upon determination that a probable violation of R.S. 30:701, et seq., or any Rule, regulation or order issued thereunder has occurred, the assistant secretary may institute enforcement procedures by serving upon the hazardous liquid pipeline operator a letter of non-compliance notifying said operator of said probable violation and directing said operator to correct said violation within a designated period of time to be determined by the assistant secretary or be subject to enforcement action prescribed by §30411 through §30419. A copy of the field inspection report or other evidence of violation shall be attached to the letter of non-compliance. The letter of non-compliance may inform the operator of the time at which reinspection of the facility will be conducted to confirm compliance and shall inform the operator of the time delays and procedure available to said operator for securing relief from said letter of non-compliance.

B. Except in cases of emergency action instituted pursuant to §30415, within seven days of receipt of a letter of non-compliance, the operator who believes himself to be in compliance with the applicable statute and the Rules, regulations or orders issued thereunder or who believes the time limits imposed upon him for compliance to be burdensome, may request for said conference may be verbal or presented in writing.

C. The conference before the assistant secretary or his agent shall be informal without strict adherence to Rules of evidence. The operator may submit any relevant information and materials which shall become part of the record and may examine the assistant secretary's files relative to the probable violation. If circumstances are deemed appropriate by the assistant secretary and upon request of the operator, this conference may be held by telephone conference.

D. Upon conclusion of the conference for relief the assistant secretary may issue to the operator a modified letter of non-compliance extending the time for compliance or containing such other terms and conditions as may be appropriate considering the nature of the probable violation, the circumstances and exigency of the situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30411. Reinspection, Show Cause Conference**

A. Upon expiration of the delay allowed in the letter of non-compliance of modified letter of non-compliance for correcting said probable violation, the operator's facilities shall be reinspected and if the operator is found to be in compliance, the enforcement file for said violation will be closed.

B. If upon reinspection the operator is found to be in violation of the statute, Rule or regulation for which a letter of non-compliance has been issued, the assistant secretary may:

1. re-issue to the operator in the form of a letter of non-compliance containing such modifications or extensions of time as the case may warrant;

2. require that the operator attend a show cause conference with the assistant secretary or his agent to review the compliant and the operator's efforts in resolving correcting the violation and at the conclusion of said conference the assistant secretary may re-issue a modified letter of non-compliance containing such modifications or extensions of times as the case may warrant; or

3. immediately after reinspection or after the show cause conference, initiate one or more enforcement proceedings prescribed by §30413 through §30419.

C. The show cause conference shall be conducted informally without strict adherence to the Rules of evidence. The operator may submit any relevant information, call witnesses against him. No detailed record of said conference shall be prepared but said record shall contain the materials in the enforcement case file pertinent to the issues, relevant submissions of the operator and the written recommendations of the assistant secretary or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30413. Show Cause Hearing, Notice, Rules of Procedure, Record, Order of Compliance**

A. At any time that the assistant secretary determines that such action is appropriate, he may direct that an operator attend a formal show cause hearing and to show cause at said hearing why he should not be compelled to comply with applicable statutes and the Rules and regulations promulgated thereunder.

B. The operator shall be given at least ten days notice of said show cause hearing in the manner herein provided and shall be required to attend. The assistant secretary may issue such subpoenas as may be necessary for the attendance of witness and the production of documents.

C. The show cause hearing shall be conducted in accordance with the procedures for adjudication prescribed by the Administration Procedures Act.

D. The record of the case shall include those items required by R.S. 49:955E together with the enforcement file for the violation in question which enforcement file may include inspection reports and other evidence of violation, letters of non-compliance, modified letters of non-compliance, materials submitted by the operator pursuant to §30409 and §30411, all correspondence and orders directed to the operator by the assistant secretary correspondence received by the assistant secretary from the operator, and

evaluations and recommendations of the assistant secretary or his staff.

E. After conclusion of the show cause hearing the assistant secretary shall issue an order of compliance directed to the operator setting forth findings and determinations on all material issues, including a determination as to whether each alleged violation has been proven, and a statement of the actions required to be taken by the operator and the time by which such actions must be accomplished. The compliance order shall become final as specified by the Administrative Procedures Act.

F. The assistant secretary may tax the operator with all costs of said hearing including but not limited to transcription and service costs and hearing fees in the amount prescribed by R.S.30:21.

G. The operator and the assistant secretary may consent to waiver of the show cause hearing and enter into a consent order which will become final and non-appealable upon its issuance.

H. If the operator fails to comply with the final order of compliance, the assistant secretary may take whatever civil or criminal action is necessary to enforce said order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30415. Emergency**

A. Should the assistant secretary, the director of pipelines or the chief of pipeline safety find an existing emergency due to non-compliance with law or the Rules, regulations or orders issued pursuant thereto or due to leakage or other hazard which in his judgment requires the issuance of an emergency order or an order for the immediate termination of the offending service without first complying with the procedures set forth herein and without having a hearing, he may issue the emergency order or terminate said offending service and invoke a show cause hearing pursuant to §30413 requiring the operator to show cause why the circumstances giving rise to the emergency should not be corrected. The emergency order or order for termination of the offending service shall remain in force no longer than 15 days from its effective date. In any event, the emergency order shall expire when the order made after notice and hearing with respect to the same subject matter becomes effective. An emergency is defined as any situation where there is a substantial likelihood that loss of life, personal injury, health or property will result before the procedures under this regulation for notice and hearing can be fully complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§30417. Hazardous Facility Orders**

A. Notwithstanding any self imposed regulatory limitations, if the assistant secretary finds, after reasonable notice and an opportunity to be heard in accordance with §30413, a particular pipeline facility subject to R.S. 30:701 to be hazardous to life or property, he may issue an order requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, inspection, testing, repair,

replacement, or other action as appropriate. The provisions of §30415 shall also be applicable for issuance of hazardous facility orders on an emergency basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### §30419. Civil Enforcement, Injunction

A. Whenever it appears to the assistant secretary that any person or operator has engaged, is engaged, or is about to engage in any act or practice constituting a violation of R.S. 30:701, et seq., or any Rule, regulation or order issued thereunder, he may bring an action in the court having jurisdiction, to enjoin such acts or practice and to enforce compliance with the applicable statute and the Rules, regulations and orders issued pursuant thereto, and upon proper showing a temporary restraining order or a preliminary or permanent injunction commanding any person to comply with the applicable law or any Rule, regulation or order issued thereunder, and to make restitution of money received in violation of any such Rule, regulation or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### §30421. Violation, Penalties

A. After notice and opportunity to be heard, in accordance with §30413, the assistant secretary may, after determining that a person has violated any provision of R.S. 30:701 et seq., or any Rule, regulation or order issued pursuant thereto, assess a civil penalty upon or against said person not to exceed the amounts fixed by statute, particularly, but not exclusively, R.S. 30:705. The amount of the penalty shall be assessed by the assistant secretary by written notice. In determining the amount of penalty, the assistant secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

B. The assistant secretary may transmit such evidence as may be available concerning acts or practice in violation of R.S. 30:701, et seq. or any Rules, regulation or order issued pursuant thereto or any order issued pursuant to this regulation to the district attorney having jurisdiction over same who, in his discretion, may institute necessary proceedings to collect the fines and impose the penalties provided by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### §30423. Waiver of Compliance with Standards

A. Upon application by any person engaged in the transportation of hazardous liquids or the operation of intrastate pipeline facilities, the assistant secretary shall, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as the assistant

secretary may deem reasonable and proper, waive in whole or in part compliance with any standard established under R.S. 30:701, et seq., if he determines that compliance with such standard works a substantial hardship on an owner or operator of pipeline facilities or is not in the public interest and a waiver of compliance with such standard is not inconsistent with pipeline safety, provided that such waiver shall not be effective until the requirements of 49 U.S.C.A. Section 2001, et seq. relative to such a waiver have first been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, amended LR 27:

### Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earnings and family budget.

5. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on the functioning of the family.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may contact Mariano Hinojosa, Director, Pipeline Division, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275 or by calling (225) 342-5505.

Philip N. Asproditis  
Commissioner of Conservation

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Pipeline SafetyC Hazardous Liquids

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs or savings regarding the amendment of this Rule. This action adopts federal amendments to pipeline safety regulations.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue or costs as the Department was previously enforcing similar Rules.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no significant costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There should be no effect on competition or employment.

Philip N. Asproditis  
Commissioner  
0106#052

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation  
Pipeline Division**

Pipeline Safety Natural Gas (LAC 43:XIII.Chapters 1-30)

The Louisiana Office of Conservation proposes to amend LAC 43:XIII.101 et seq. in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These proposed Rules amend the minimum pipeline safety requirements for natural gas pipelines and add new requirements for operator qualification of individuals performing covered tasks on a pipeline facility (LAC 43:XII:3001).

**Title 43**

**NATURAL RESOURCES**

**Part XIII. Office of Conservation-Pipeline Safety**

**Subpart 1. General Provisions**

**Chapter 1. General**

**§101. Applicability**

A. - B.2. ...

3. on the outer continental shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (April 1994), LR 27:

**§125. Definitions**

*Abandoned* permanently removed from service.

*Administrator* the administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

*Building* any structure in which gas can accumulate.

*Business* a permanent structure occupied for the express usage of wholesale or retail sales, services, the manufacture or storage of products, or a public building.

*Business District* an area of two or more businesses within 100 yards (300 feet) of each other and within 100 yards along the linear length of any gas pipeline. The district will extend 100 feet past the defined boundaries of the last business in the district.

\* \* \*

*Exposed Pipeline* a pipeline where the top of the pipe is above the seabed in water less than 15 feet (4.6 meters) deep, as measured from the mean low water.

\* \* \*

*Gulf of Mexico and its Inlets* the waters from the mean high water mark of the Gulf of Mexico and its inlets open to the sea (excluding river, tidal marshes, lakes, and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters), as measured from the mean low water.

*Hazard to Navigation* for the purpose of this Part, a pipeline where the top of the pipe is less than 12 inches (305 millimeters) below the seabed in water less than 15 feet (4.6 meters), as measured from the mean low water.

\* \* \*

*Outer Continental Shelf* means all submerged lands lying seaward and outside the area of lands beneath navigable water as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

\* \* \*

*Petroleum Gas* propane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 208 psi (1434 kPa) gage at 100°F (38°C).

\* \* \*

*Public Building* a structure which members of the public may congregate such as schools, hospitals, nursing homes, churches, civic centers, post offices, and federal, state and local government buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (April 1994), LR 21:821 (August 1995), LR 24:1306 (July 1998), LR 27:

**Chapter 3. Reporting of Incidents, Safety-Related Conditions, and Annual Reports**

**§301. Scope**

A. - B.2.a. ...

b. any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

3. on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 27:

**§303. Definitions**

\* \* \*

*Municipality* a city, parish, or any other political subdivision of a state.

*Offshore* beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

*Operator* a person who engages in the transportation of gas.

*Person* any individual, firm, joint venture, partnership, corporation, association, state, municipality, corporation,

association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

*State* the state of Louisiana.

*Transportation of Gas* the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in or affecting interstate or foreign commerce.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:

### **§307. Addressee for Written Reports**

A. One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII, must be submitted to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590. However, no report to the Information Resources Manager is required if the estimated property damage, including cost of gas lost of the operator or others, or both, is less than \$50,000. Safety-related condition reports required by LAC 43:XIII.321 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 20:442 (1994), LR 27:

### **§321. Reporting Safety-Related Conditions**

A. - B.2. ...

3. exists on a pipeline (other than an LNG facility) that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly, except that reports are required or conditions within the right-of-way of an active railroad, paved road, street, or highway; or

4. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 27:

## **Chapter 5. Class Locations**

### **§501. Class Locations**

A. This Section classifies pipeline locations for purposes of this Part. The following criteria apply to classifications under this Section.

1. A class location unit is an onshore area that extends 220 yards (200 meters) on either side of the centerline of any continuous one-mile (1.6 kilometers) length of pipeline.

A.2. - 3.a. ....

b. an area where the pipeline lies within 100 yards (91 meters) of either a building or a small, well-defined

outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least five days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

4. A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

C. The length of Class locations 2, 3, and 4 may be adjusted as follows.

1. A Class 4 location ends 220 yards (200 meters) from the nearest building with four or more stories aboveground.

2. When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards (200 meters) from the nearest building in the cluster.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998), LR 27:

### **§502. Outer Continental Shelf Pipelines**

A. Operators of transportation pipelines on the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act; 43 U.S.C. 1331) must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic located near the transfer point. If a transfer point is located subsea, then the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to RSPA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the Regional Director and the MMS Regional Supervisor will make a joint determination of the transfer point.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **§509. Customer Notification**

A. - B.4. ...

5. The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customers buried piping.

C. - D. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

## **Chapter 7. Qualification of Pipe**

### **§705. Steel Pipe**

A. - B.4. ...

C. New or used steel pipe may be used at a pressure resulting in a hoop stress of less than 6,000 psi (41 MPa)

where no close coiling or close bending is to be done, if visual examination indicates that the pipe is in good condition and that it is free of split seams and other defects that would cause leakage. If it is to be welded, steel pipe that has not been manufactured to a listed specification must also pass the weldability tests prescribed in Paragraph II-B of Appendix B to Part XIII.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**Chapter 9. Pipe Design**

**§905. Design Formula for Steel Pipe**

A. The design pressure for steel pipe is determined in accordance with the following formula:

$$P = (2St/D) H F H E H T$$

P = design pressure in pounds per square inch (kPa) gage.

S = yield strength in pounds per square inch (kPa) determined in accordance with §905.

D = nominal outside diameter of the pipe in inches (millimeters).

B. - C.2.a.ii. ...

b. If the pipe is not tensile tested as provided in Subsection B.1 of this Section, 24,000 psi (165 Mpa).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998), LR 27:

**§907. Nominal Wall Thickness (t) for Steel Pipe**

A. ...

B. However, if the pipe is of uniform grade, size, and thickness and there are more than 10 lengths, only 10 percent of the individual lengths, but not less than 10 lengths, need to be measured. The thickness of the lengths that are not measured must be verified by applying a gauge set to the minimum thickness found by the measurement. The nominal wall thickness to be used in the design formula in §905 is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness used may not be more than 1.14 times the smallest measurement taken on pipe less than 20 inches (508 millimeters) in outside diameter, nor more than 1.11 times the smallest measurement take on pipe 20 inches (508 millimeters) or more in outside diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§911. Longitudinal Joint Factor (E) for Steel Pipe**

A. The longitudinal factor to be used in the design formula in §905 is determined in accordance with the following table:

Specification	Pipe Class	Longitudinal Joint Factor (E)
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM 106	Seamless	1.00
ASTM A 333/A 333 M	Seamless	1.00
	Electric resistance welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric fusion welded	1.00
ASTM A 62	Electric fusion welded	1.00
ASTM A 691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	.60
Other	Pipe four inches (102 millimeters) less	.80
Other	Pipe four inches (102 millimeters) or less	.60

B. If the type of longitudinal joint cannot be determined, the joint factor to be used must not exceed that designated for "other."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1922), LR 20:444 (April 1994), LR: 27:

**§913. Temperature Derating Factor (T) for Steel Pipe**

A. The temperature derating factor to be used in the design formula in 905 is determined as follows:

Gas Temp. in degrees Fahrenheit (Celsius)	Temp. Derating Factor (T)
250 °F or less (121 °C)	1.000
300 °F (149 °C)	0.967
350 °F (177 °C)	0.933
400 °F (204 °C)	0.900
450 °F (232 °C)	0.867

B. For intermediate gas temperatures, the derating factor is determined by interpolation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:444 (April 1994), LR: 27:

**§917. Design of Plastic Pipe**

A. Subject to the limitations of §919, the design pressure for plastic pipe is determined in accordance with either of the following formulas:

$$P = 2S \frac{t}{D} H 0.32$$

D - t

2S

$$P = \frac{2SDR - 1}{SDR} H 0.32$$

SDR - 1

where:

P = Design pressure, gauge, kPa (psig).

S = For thermoplastic pipe, the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 73EF (23EC), 100EF (38EC), 120EF (49EC), or 140EF (60EC); for reinforced thermosetting plastic pipe, 11,000 psi (75,842 kPa).

t = Specified wall thickness, mm (in).

D = Specified outside diameter, mm (in).

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:

**§919. Design Limitations for Plastic Pipe**

A. - A.2. ...

B. Plastic pipe may not be used where operating temperatures of the pipe will be:

1. below -20 EF (-20EC), or -40EF (-40EC) if all pipe and pipeline components whose operating temperature will be below -29EC (-20EF) have a temperature rating by the manufacturer consistent with that operating temperature; or

2. above the following applicable temperatures:

a. for thermoplastic pipe, the temperature at which the long-term hydrostatic strength used in the design formula under §917 is determined at 73EF (23EC), it may be used at temperatures up to 100EF (38EC).

b. for reinforced thermosetting plastic pipe, 150EF (66EC).

C. The wall thickness for thermoplastic pipe may not be less than 0.062 inches (1.57 millimeters).

D. The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table:

Nominal size in inches (millimeters).	Minimum wall thickness inches (millimeters).
2 (51).....	0.060 (1.52)
3 (76).....	0.060 (1.52)
4 (102).....	0.070 (1.78)
6 (152).....	0.100 (2.54)

**§921. Design of Cooper Pipe**

A. Copper pipe used in mains must have a minimum wall thickness of 0.065 inches (1.65 millimeters) and must be hard drawn.

B. Copper pipe used in service lines must have wall thickness not less than indicated in the following table:

Standard Size Inch (millimeter)	Nominal O.D.inch (millimeter)	Wall Thickness Inch (millimeter)
		Nominal Tolerance
2 (13)	.625 (16)	.040 (1.06) .0035 (.0889)
e (16)	.750 (19)	.042 (1.07) .0035 (.0889)
: (19)	.875 (22)	.045 (1.14) .004 (.102)
1 (25)	1.125 (29)	.050 (1.27) .004 (.102)
13 (32)	1.375 (35)	.055 (1.40) .004 (.102)
12 (38)	1.625 (41)	.060 (1.52) .0045 (.1143)

C. Copper pipe used in mains and service lines may not be used at pressures in excess of 100 p.s.i. (689 kPa) gage.

D. Copper pipe that does not have an internal corrosion resistant lining may not be used to carry gas that has an average hydrogen sulfide content of more than 0.3 grains/100 ft<sup>3</sup> (6.9/m<sup>3</sup>) under standard conditions. Standard conditions refers to 60EF and 14.7 psia (15.6EC and one atmosphere) of gas.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 27:

**Chapter 11. Pipeline Design Requirements**

**§1107. Valves**

A. - C. ...

D. No valve having shell components made of ductile iron may be used at pressures exceeding 80 percent of the pressure ratings for comparable steel valves at their temperature. However, a valve having shell components made of ductile iron may be used at pressures up to 80 percent of the pressure ratings for comparable steel valves at their listed temperature, if:

1. the temperature-adjusted service pressure does not exceed 1,000 p.s.i.g. (7 Mpa) gage; and

D.2. - E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 27:

**§1112. Passage of Internal Inspection Devices**

A. - B.6. ...

7. offshore pipelines, other than transmission lines 10 inches (254 millimeters) or greater in nominal diameter, that transport gas to onshore facilities; and

A.8. - C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated with the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:821 (August 1995), amended LR 27:

**§1113. Tapping**

A. - C.1. ...

2. a 13-inch (32 millimeters) tap may be made in a 4-inch (102 millimeters) cast iron or ductile iron pipe, without reinforcement. However, in areas where climate, soil, and service conditions may create unusual external stresses on cast iron pipe, unreinforced taps may be used only on 6-inch (152 millimeters) or larger pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§1115. Components Fabricated by Welding**

A. - C. ...

D. Except for flat closures designed in accordance with Section VIII of the ASME Boiler and Pressure Code, flat closures and fish tails may not be used on pipe that either operates at 100 p.s.i. (689 kPa) gage, or more, or is more than 3 inches (76 millimeters) nominal diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:444 (April 1994), LR 27:

**§1125. Compressor Stations: Design and Construction**

A. ...

B. Building Construction. Each building on a compressor station site must be made of noncombustible materials if it contains either:

1. pipe more than 2 inches (51 millimeters) in diameter that is carrying gas under pressure; or

B.2. - C. ...

D. Fenced Areas. Each fence around a compressor station must have at least two gates located so as to provide a convenient opportunity for escape to a place of safety, or have other facilities affording a similarly convenient exit from the area. Each gate located within 200 feet (61 meters) of any compressor plant building must open outward and, when occupied, must be openable from the inside without a key.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 27:

**§1129. Compressor Stations: Emergency Shutdown**

A. Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:

A.1. - 4.b. ...

c. not more than 500 feet (153 meters) from the limits of the station.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§1137. Pipe-Type and Bottle-Type Holders**

A. ...

B. Each pipe-type or bottle-type holder must have minimum clearance from other holders in accordance with the following formula:

$C = (DHPHF/48.33) (C = (3DHPHF/1,000))$  in which:

C = minimum clearance between pipe containers or bottles in inches (millimeters).

D = outside diameter of pipe containers or bottles in inches (millimeters).

P = maximum allowable operating pressure, p.s.i. (kPa) gage.

F = design factor as set forth in §909 of Part XIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§1139. Additional Provisions for Bottle-Type Holders**

A. Each bottle-type holder must be:

1. located on a site entirely surrounded by fencing that prevents access by unauthorized persons and with minimum clearance from the fence as follows:

Maximum Allowable Operating Pressure	Minimum Clearance feet (meters)
Less than 1,000 p.s.i. (7 MPa) gage.....	25 (7.6)
1,000 p.s.i. (7 MPa) gage or more.....	100 (31)

A.2. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 20:445 (April 1994), LR 27:

**§1141. Transmission Line Valves**

A. Each transmission line, other than offshore segments, must have sectionalizing block valves spaced as follow, unless in a particular case the administrator finds that alternative spacing would provide an equivalent level of safety:

1. each point on the pipeline in a Class 4 location must be within 2 2 miles of a valve;

2. each point on the pipeline in a Class 3 location must be within 4 miles (6.4 kilometers) of a valve;

3. each point on the pipeline in a Class 2 location must be within 7 2 miles (12 kilometers) of a valve;

4. each point on the pipeline in a Class 1 location must be within 10 miles (16 kilometers) of a valve.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998), LR 27:

**§1145. Vaults: Structural Design Requirements**

A. - B. ...

C. Each pipe entering, or within, a regulator vault or pit must be steel for sizes 10 inches (254 millimeters), and less, except that control and gage piping may be copper. Where



pipe extends through the opening and to aver strains in the pipe.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

#### **§1149. Vaults: Sealing, Venting, and Ventilation**

A. Each underground vault or closed top pit containing either a pressure regulating or reducing station, or a pressure limiting or relieving station, must be sealed, vented or ventilated, as follows:

1. when the internal volume exceeds 200 cubic feet (5.7 cubic meters):

a. the vault or pit must be ventilated with two ducts, each having at least the ventilating effect of a pipe 4 inches (102 millimeters) in diameter;

b. the ventilation must be enough to minimize the formulation of combustible atmosphere in the vault or pit; and

c. the ducts must be high enough above grade to disperse any gas-air mixtures that might be discharged;

2. when the internal volume is more than 75 cubic feet (2.1 cubic meters) but less than 200 cubic feet (5.7 cubic meters):

a. if the vault or pit is sealed, each opening must have a tight fitting cover without open holes through which an explosive mixture might be ignited, and there must be a means for testing the internal atmosphere before removing the cover;

b. if the vault or pit is vented, there must be a means of preventing external sources of ignition from reaching the vault atmosphere; or

c. if the vault or pit is ventilated, Paragraphs 1 and 3 of this Subsection applies;

A.3. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

#### **§1159. Control of the Pressure of Gas Delivered from the High-Pressure Distribution Systems**

A. If the maximum actual operating pressure of the distribution system is under 60 p.s.i. (414 kPa) gage and a service regulator having the following characteristics is used, no other pressure limiting device is required:

A.1. - 3. ...

4. pipe connections to the regulator not exceeding two inches (51 millimeters) in diameter;

A.5. - 6. ...

B. If the maximum actual operating pressure of the distribution system is 60 p.s.i. (414 kPa) gage or less, and a service regulator that does not have all of the characteristics listed in Subsection A of this Section is used, or if the gas contains materials that seriously interfere with the operation of service regulators, there must be suitable protective devices to prevent unsafe overpressuring of the customers appliances if the service regulator fails.

C. If the maximum actual operating pressure of the distribution system exceeds 60 p.s.i. (414 kPa) gage, one of the following methods must be used to regulate and limit, to

the maximum safe value, the pressure of gas delivered to the customer:

1. a service regulator having the characteristics listed in §1159.A, and another regulator located upstream from the service regulator. The upstream regulator may not be set to maintain a pressure higher than 60 p.s.i. (414 kPa) gage. A device must be installed between the upstream regulator and the service regulator to limit the pressure of the inlet of the service regulator to 60 p.s.i. (414 kPa) gage or less in case the upstream regulator fails to function properly. This device may be either a relief valve or an automatic shutoff that shuts if the pressure on the inlet of the service regulator exceeds the set pressure (60 p.s.i. (414 kPa) gage or less), and remains closed until manually reset;

C.2. ...

3. a service regulator with a relief valve vented to the outside atmosphere, with the relief valve set to open so that the pressure of gas going to the customer does not exceed a maximum safe value. The relief valve may either be built into the service regulator or it may be a separate unit installed downstream from the service regulator. This combination may be used alone only in those cases where the inlet pressure on the service regulator does not exceed the manufacturer's safe working pressure rating of the service regulator, and may not be used where the inlet pressure on the service regulator exceeds 125 p.s.i. (862 kPa) gage. For higher inlet pressure, the methods in Paragraphs 1 or 2 of this Subsection must be used;

C.4. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 27:

#### **§1163. Required Capacity of Pressure Relieving and Limiting Station**

A. - A.1. ...

2. in pipelines other than a low pressure distribution system:

a. if the maximum allowable operating pressure is 60 p.s.i. (414 kPa) gage or more, the pressure may not exceed the maximum allowable operating pressure plus 10 percent, or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower;

b. if the maximum allowable operating pressure is 12 p.s.i. (83 kPa) gage or more, but less than 60 p.s.i. (414 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 6 p.s.i. (41 kPa) gage; or

c. if the maximum allowable operating pressure is less than 12 p.s.i. (83 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 50 percent.

B. - C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

#### **§1165. Instrument, Control, and Sampling Pipe and Components**

A. - B.2. ...

3. brass or cooper material may not be used for metal temperatures greater than 400EF (204EC);

B.4. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 27:

### **Chapter 13. Welding Requirements**

#### **§1307. Limitations on Welders**

A. - D.2.a. ...

b. for welders who work only on service lines 2 inches (51 millimeters) or smaller in diameter, two sample welds tested and found acceptable in accordance with the test in Section III of Appendix C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998), LR 27:

#### **§1315. Inspection and Test of Welds**

A. - B. ...

1. the pipe has a nominal diameter of less than six inches (152 millimeters); or

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998), LR 27:

#### **§1511. Plastic Pipe; Qualifying Joining Procedures**

A. - B.2. ...

3. the speed of testing is 0.20 in. (5.0 mm) per minute, plus or minus 25 percent;

4. pipe specimens less than 4 inches (102 mm) in diameter are qualified if the pipe yields to an elongation of no less than 25 percent or failure initiates outside the joint area;

5. pipe specimens 4 inches (102 mm) and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 100EF (38EC) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five test results or the manufacturer's rating, whichever is lower must be used in the design calculations for stress;

B.6. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:

### **Chapter 17. Transmission Line Construction**

#### **§1709. Repair of Steel Pipe**

A. - A.2. ...

B. Each of the following dents must be removed from steel pipe to be operated at a pressure that produces a hoop stress of 20 percent, or more, of SMYS, unless the dent is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe:

B.1. - 3. ...

a. more than one-quarter inch (6.4 millimeters) in pipe 12 : inches (324 millimeters) or less in outer diameter; or

b. more than 2 percent of the nominal pipe diameter in pipe over 12 : inches (324 millimeters) in outer diameter.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:857 (August 1992), LR 27:

#### **§1713. Bends and Elbows**

A. - A.3.a. ...

b. the pipe is 12 inches (305 millimeters) or less in outside diameter or has a diameter to wall thickness ratio less than 70.

B. ...

C. Wrought-steel welding elbows and transverse segments of these elbows may not be used for changes in direction on steel pipe that is 2 inches (51 millimeters) or more in diameter unless the arc length, as measured along the crotch, is at least 1 inch (25 millimeters).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

#### **§1715. Wrinkle Bends in Steel Pipe**

A. - B.2. ...

3. on pipe 16 inches (406 millimeters) or larger in diameter, the bend may not have a deflection of more than 12E for each wrinkle.

A.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

#### **§1719. Installation of Pipe in a Ditch**

A. - B. ...

C. All offshore pipe in water at least 12 feet (3.7 meters) deep but not more than 200 feet (61 meters) deep, as measured from the mean low tide, except pipe in the Gulf of Mexico and its inlets under 15 feet (4.6 meters) of water, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. Pipe in the Gulf of Mexico and its inlets under 15 feet (4.6 meters) of water must be installed so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:

#### **§1721. Installation of Plastic Pipe**

A. - C. ...

D. Thermoplastic pipe that is not encased must have a minimum wall thickness of 0.090 inches (2.29 millimeters), except that pipe with an outside diameter of 0.875 inches

(22.3 millimeters) or less may have a minimum wall thickness of 0.062 inches (1.58 millimeters).

E. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1310 (July 1998), LR 27:

**§1725. Underground Clearance**

A. Each transmission line must be installed with at least 12 inches (305 millimeters) of clearance from any other underground structure not associated with the transmission line. If this clearance cannot be attained, the transmission line must be protected from damage that might result from the proximity of the other structure.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 27:

**§1727. Cover**

A. Cover as provided in §1727.C, E, F and G, each buried transmission line must be installed with a minimum cover as follows:

Location	Normal Soil	Consolidated Rock
Inches (Millimeters).	30 (762)	18 (457)
Class 1 locations.....	36 (914)	24 (610)
Class 2,3 and 4 locations.....	36 (914)	24 (610)
Drainage ditches of public roads and railroad crossings.....		

B. Except as provided in Subsections C and D of this Section, each buried main must be installed with at least 24 inches (610 millimeters) of cover.

C. ...

D. A main may be installed with less than 24 inches (610 millimeters) of cover if the law of the state or municipality:

1. establishes a minimum cover of less than 24 inches (610 millimeters);

D.2. - 3. ...

E. Except as provided in §1727.C, all pipe installed in a navigable river, stream, or harbor must be installed with a minimum cover of 48 inches (1219 millimeters) in soil or 24 inches (610 millimeters) in consolidated rock between the top of the pipe and the natural bottom.

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet (60 meters) deep, as measured from the mean low tide, must be installed as follows:

1. except as provided in §1727.C, pipe under water less than 12 feet (3.66 meters) deep, must be installed with a minimum cover of 36 inches (914 millimeters) in soil or 18 inches (457 millimeters) in consolidated rock between the top of the pipe and the natural bottom.

2. pipe under water at least 12 feet (3.66 meters) deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:

**Chapter 19. Meters, Regulators, Service Lines and Valve Requirements**

**§1903. Customer Meters and Regulators: Location**

A. - B. ...

C. Each meter installed within a building must be located in a ventilated place and not less than three feet (914 millimeters) from any source of ignition or any source of heat which might damage the meter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§1909. Customer Meter Installations: Operating Pressure**

A. ...

B. Each newly installed meter manufactured after November 12, 1970, must have been tested to a minimum of 10 p.s.i. (69 kPa) gage.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§1911. Service Lines: Installation**

A. Depth. Each buried service line must be installed with at least 12 inches (305 millimeters) of cover in private property and at least 18 inches (457 millimeters) of cover in streets and roads. However, where an underground structure prevents installation at those depths, the service line must be able to withstand any anticipated external load.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§1921. Service Lines: Steel**

A. Each steel service line to be operated at less than 100 p.s.i. (689 kPa) gage must be constructed of pipe designed for a minimum of 100 p.s.i. (689 kPa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§1923. Service Lines: Cast Iron and Ductile Iron**

A. Cast or ductile iron pipe less than 6 inches (152 millimeters) in diameter may not be installed for service lines.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§1931. Service Lines: Excess Flow Valve Performance Standards**

A. Excess flow valves to be used on single residence service lines that operate continuously throughout the year at a pressure not less than 10 p.s.i. (69 kPa) gage must be manufactured and tested by the manufacturer according to an industry specification, or the manufacturer's written specification, to ensure that each valve will:

- 1. function properly up to the maximum operating pressure at which the valve is rated;
- 2. function properly at all temperatures reasonably expected in the operating environment of the service line;
- 3. at 10 p.s.i. (69 kPa) gage:
  - a. close at, or not more than 50 percent above, the rated closure flow rate specified by the manufacturer; and
  - b. upon closure, reduce gas flow:
    - i. for an excess flow valve designed to allow pressure to equalize across the valve, to no more than 5 percent of the manufacturer's specified closure flow rate, up to a maximum of 20 cubic feet per hour (0.57 cubic meters per hour); or
    - ii. for an excess flow valve designed to prevent equalization of pressure across the valve, to no more than 0.4 cubic feet per hour (.01 cubic meters per hour); and

A.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1311 (July 1998), amended LR 27:

**§1933. Excess Flow Valve Customer Notification**

A. Definitions. As used in this section:

*Costs Associated with Installation*—the costs directly connected with installing an excess flow valve, for example, costs of parts, labor, inventory, and procurement. It does not include maintenance and replacement costs until such costs are incurred.

*Replaced Service Line*—a natural gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

*Service Line Customer*—the person who pays the gas bill, or where service has not yet been established, the person requesting service.

B. Which Customers Must Receive Notification. Notification is required on each newly installed service line or replaced service line that operates continuously throughout the year at a pressure not less than 68.0 kPa (10 psig) and that serves a single residence. On these lines an operator of a natural gas distribution system must notify the service line customer once in writing.

C. What to Put in the Written Notice

- 1. An explanation for the customer that an excess flow valve meeting the performance standards prescribed under §1931 is available for the operator to install if the customer bears the costs associated with installation;
- 2. An explanation for the customer of the potential safety benefits that may be derived from installing an excess flow valve. The explanation must include that an excess flow valve is designed to shut off flow of natural gas automatically if the service line breaks;
- 3. A description of installation, maintenance, and replacement costs. The notice must explain that if the customer requests the operator to install an EFV, the

customer bears all costs associated with installation, and what those costs are. The notice must alert the customer that the costs for maintaining and replacing an EFV may later be incurred, and what those costs will be, to the extent known.

D. When Notification and Installation Must Be Made

- 1. After February 3, 1999 an operator must notify each service line customer set forth in §1933.B:
  - a. on new service lines when the customer applies for service;
  - b. on replaced service lines when the operator determines the service line will be replaced.
- 2. If a service line customer requests installation an operator must install the EFG at a mutually agreeable date.

E. What Records Are Required

- 1. An operator must make the following records available for inspection by the Administrator or a State agency participating under 49 U.S.C. 60105 or 60106:
  - a. a copy of the notice currently in use; and
  - b. evidence that notice has been sent to the service line customers set forth in §1933.B, within the previous three years.

F. When Notification Is Not Required. The notification requirements do not apply if the operator can demonstrate:

- 1. that the operator will voluntarily install an excess flow valve or that the state or local jurisdiction requires installation;
- 2. that excess flow valves meeting the performance standards in §1931 are not available to the operator;
- 3. that the operator has prior experience with contaminants in the gas stream that could interfere with the operation of an excess flow valve, cause loss of service to a residence, or interfere with the operation of an excess flow valve, cause loss of service to a residence, or interfere with necessary operation or maintenance activities, such as blowing liquids from the line.
- 4. that an emergency or short time notice replacement situation made it impractical for the operator to notify a service line customer before replacing a service line. Examples of these situations would be where an operator has to replace a service line quickly because of:
  - a. third party excavation damage;
  - b. grade 1 leaks as defined in the Appendix G §192B11 of the Gas Piping Technology Committee guide for gas transmission and distribution systems;
  - c. a short notice service line relocation request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

**Chapter 21. Corrosion Requirements**

**§2107. External Corrosion Control: Buried or Submerged Pipelines Installed After July 31, 1971**

A. - A.2. ...

B. An operator need not comply with Subsection A of this Section, if the operator can demonstrate by tests, investigation, or experience in the area of application, including as a minimum, soil resistivity measurements and tests for corrosion accelerating bacteria, that a corrosive environment does not exist. However, within six months after an installation made pursuant to the preceding sentence, the operator shall conduct tests, including pipe-to-soil

potential measurements with respect to either a continuous reference electrode or an electrode using close spacing, not to exceed 20 feet (6 meters), and soil resistivity measurements at potential profile peak locations to adequately evaluate the potential profile along the entire pipeline. If the tests made indicate that a corrosive condition exists, the pipeline must be cathodically protected in accordance with Subsection A.2 of this Section.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998), LR 27:

#### **§2111. External Corrosion Control: Examination of Buried Pipeline When Exposed**

A. Whenever an operator has knowledge that any portion of a buried pipeline is exposed, the exposed portion must be examined for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion requiring remedial action under §2135 through 2141 is found, the operator shall investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

#### **§2117. External Corrosion Control: Monitoring**

A. Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §2115. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended 10:503 (July 1984), LR 27:

#### **§2127. Internal Corrosion Control: General**

A. - B. ...

C. Gas containing more than 0.25 grain of hydrogen sulfide per 100 cubic feet (5.8 milligrams/m<sup>3</sup>) at standard conditions (4 parts per million) may not be stored in pipe-type or bottle-type holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1311 (July 1998), LR 27:

#### **§2137. Remedial Measures: Transmission Lines**

A. General Corrosion. Each segment of transmission line with general corrosion and with a remaining and with a remaining wall thickness less than that required for the MAOP of the pipeline must be replaced or the operating pressure reduced commensurate with the strength of the pipe based on actual remaining wall thickness. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this Subsection.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998), LR 27:

#### **§2139. Remedial Measures: Distribution Lines other than Cast Iron or Ductile Iron Lines**

A. General Corrosion. Except for cast iron or ductile iron pipe, each segment or generally corroded distribution line pipe with a remaining wall thickness less than that required for the MAOP of the pipeline, or a remaining wall thickness less than 30 percent of the nominal wall thickness, must be replaced. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this Subsection.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

#### **Chapter 23. Test Requirements**

##### **§2305. Strength Test Requirements for Steel Pipeline to Operate at a Hoop Stress of 30 Percent or More of SMYS**

A. Except for service lines, each segment of a steel pipeline that is to operate at a hoop stress of 30 percent or more of SYMS must be strength tested in accordance with this Section to substantiate the proposed maximum allowable operating pressure. In addition, in a Class 1 or Class 2 location, if there is a building intended for human occupancy within 300 feet (91 meters) of a pipeline, a hydrostatic test must be conducted to a test pressure of at least 125 percent of maximum operating pressure on that segment of the pipeline within 300 feet (91 meters) of such a building, but in no event may the test section be less than 600 feet (183 meters) unless the length of the newly installed or relocated pipe is less than 600 feet (183 meters). However, if the buildings are evacuated while the hoop stress exceeds 50 percent of SMYS, air or inert gas may be used as the test medium.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 ( July 1984), LR 27:

**§2307. Test Requirements for Pipelines to Operate at a Hoop Stress Less than 30 Percent of SMYS and at or Above 100 p.s.i. (689 kPa) Gage**

A. Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated at a hoop stress less than 30 percent of SMYS and at or above 100 p.s.i. (689 kPa) gage must be tested in accordance with the following:

A.1. - 2. ...

a. a leak test must be made at a pressure between 100 p.s.i. (689 kPa) gage and the pressure required to produce a hoop stress of 20 percent of SMYS; or

A.2.b. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§2309. Test Requirements for Pipelines to Operate below 100 p.s.i. (689 kPa) gage**

A. Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated below 100 p.s.i. (689 kPa) gage must be leak tested in accordance with the following:

1. the test procedure used must ensure discovery of all potentially hazardous leaks in the segment being tested;

2. each main that is to be operated at less than one p.s.i. (6.9 kPa) gage must be tested to at least 10 p.s.i. (69 kPa) gage and each main to be operated at or above one p.s.i. (6.9 kPa) gage must be tested to at least 90 p.s.i. (621 kPa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§2311. Test Requirements for Service Lines**

A. ...

B. Each segment of a service line (other than plastic) intended to be operated at a pressure of at least one p.s.i. (6.9 kPa) gage but not more than 40 p.s.i. (276 kPa) gage must be given a leak test at a pressure of not less than 50 p.s.i. (345 kPa) gage.

C. Each segment of a service line (other than plastic) intended to be operated at pressures of more than 40 p.s.i. (276 kPa) gage must be tested to at least 90 p.s.i. (621 kPa) gage, except that each segment of the steel service line stressed to 20 percent or more of SMYS must be tested in accordance with §2307 of Part XIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§2313. Test Requirements for Plastic Pipelines**

A. - B. ...

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i. (345 kPa) gage, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under §917, at a temperature not less than the pipe temperature during the test.

D. During the test, the temperature of thermoplastic material may not be more than 100EF (38EC), or the temperature at which the materials long-term hydrostatic strength has been determined under the listed specification, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998),LR 27:

**Chapter 25. Uprating**

**§2507. Uprating: Steel Pipelines to a Pressure that will Produce a Hoop Stress less than 30 Percent of SMYS: Plastic, Cast Iron, and Ductile Iron Pipelines**

A. - B. ...

C. After complying with Subsection B of this Section, the increase in maximum allowable operating pressure must be made in increments that are equal to 10 p.s.i. (69 kPa) gage or 25 percent of the total pressure increase, whichever produces the fewer number of increments. Whenever the requirements of Subsection B.6 of this Section apply, there must be at least two approximately equal incremental increases.

D. - D.2. ...

3. unless the actual nominal wall thickness is known, the operator shall determine the wall thickness by cutting and measuring coupons from at least three separate pipe lengths. The coupons must be cut from pipe lengths in area where the cover depth is most likely to be the greatest. The average of all measurements taken must be increased by the allowance indicated in the following table:

Pipe Size (inches) (millimeters)	Allowance (inches) (millimeters)		Ductile iron pipe
	Cast iron pipe		
	Pit cast pipe	Centrifugally cast pipe	
3 to 8 (76 to 203)	0.075 (1.91)	0.065 (1.65)	0.065 (1.65)
10 to 12 (254 to 305)	0.08 (2.03)	0.07 (1.78)	0.07 (1.78)
14 to 24 (356 to 610)	0.08 (2.03)	0.08 (2.03)	0.075 (2.03)
30 to 42 (762 to 1067)	0.09 (2.29)	0.09 (2.29)	0.075 (1.91)
48 (1219)	0.09 (2.29)	0.09 (2.29)	0.08 (2.03)
54 to 60 (1372 to 1524)	0.09 (2.29)		

4. for cast iron pipe, unless the pipe manufacturing process is known, the operator shall assume that the pipe is pit cast pipe with a bursting tensile strength of 11,000 p.s.i. (76 Mpa) gage and a modulus of rupture of 31,000 p.s.i. (214 Mpa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

## Chapter 27. General Operating Requirements

### §2712. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and its Inlets

A. - B.1. ...

2. promptly, but not later than seven days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center; and

3. within six months after discovery, or not later than November 1 of the following year if the six-month period is later than November 1 of the year the discovery is made, place the pipeline so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:858 (August 1992), amended LR 27:

### §2715. Damage Prevention Program

A. Except as provided in D and E of this section, each operator of a buried pipeline shall carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means, and other earth moving operations.

B. An operator may comply with any of the requirements of §2715.C through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section. However, an operator must perform the duties of §2715.C.3 through participation in a one-call system, if that one-call system is a qualified one-call system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of this section, a one-call system is considered a "qualified one-call system" if it meets the requirements of §2715.B.1 or B.2.

1. The state has adopted a one-call damage prevention program under §198.37 of CFR 49, or

2. The one-call system:

a. is operated in accordance with §198.39 of CFR 49;

b. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and

c. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call systems' coverage of the operator's pipeline.

C. The damage prevention program required by §2715.A must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located;

2. provide for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in §2715.C.1 of the following as often as needed to make them aware of the damage prevention program:

a. the program's existence and purpose; and

b. how to learn the location of underground pipelines before excavation activities are begun.

3. provide a means of receiving and recording notification of planned excavation activities;

4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;

5. provide for temporary marking of buried pipelines in the area of excavation activity before the activity begins, except in emergency situations;

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

b. in the case of blasting, any inspection must include leakage surveys.

D. A damage prevention program under this section is not required for the following pipelines:

1. pipelines located offshore;

2. pipelines, other than those located offshore, in Class 1 or 2 locations until September 20, 1995;

3. pipelines to which access is physically controlled by the operator.

E. Pipelines operated by persons other than municipalities (including operators of master meters) whose primary activity does not include the transportation of gas need not comply with the following:

1. the requirements of §2715.A that the damage prevention program be written; and

2. the requirements of §2715.C.1 and C.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:822 (August 1995), LR 27:

### §2721. Maximum Allowable Operating Pressure: Steel or Plastic Pipelines

A. - A.1.a. ...

b. if the pipe is 12: inches (324 mm) or less in outside diameter and is not tested to yield under this Subsection, 200 p.s.i. (1379 kPa) gage.

2. The pressure obtained by dividing the pressure to which the segment was tested after construction as follows:

a. for plastic pipe in all locations, the test pressure is divided by a factor of 1.5.

b. for steel pipe operated at 100 p.s.i. (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table:

Class location	Factors <sup>1</sup> , segment		
	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970)	Covered under §192.14
1	1.1	1.1	1.25
2	1.25	1.25	1.25
3	1.4	1.5	1.5
4	1.4	1.5	1.5

<sup>1</sup> For offshore segments installed, uprated or converted after July 31, 1977, that are not located on an offshore platform, the factor is 1.25. For segments installed, uprated or converted after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

A.3. - D.1. ...

2. 60 p.s.i. (414 kPa) gage, for a segment of a distribution system otherwise designated to operate at over 60 p.s.i. (414 kPa) gage, unless the service lines in the segment are equipped with service regulators or other pressure limiting devices in series that meet the requirements of §1159.C;

3. 25 p.s.i.(172 kPa) gage in segments of cast iron pipe in which there are unreinforced bell and spigot joints;

D.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998), LR 27:

**§2725. Odorization of Gas**

A. - H.2.a. ...

b. the quantity of each kind of malodorant agent used during each quarter; Farm taps are exempt from this requirement. and

H.2.c. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**Chapter 29. Maintenance Requirements**

**§2905. Transmission Lines: Patrolling**

A. ...

B. The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following:

Class location of line	Maximum interval between patrols	
	At highway and railroad crossings	At all other places
1, 2	7 1/2 months; but at least twice each calendar year	15 months; but at least once each calendar year
3	4 1/2 months; but at least four times each calendar year	7 1/2 months; but at least twice each calendar year
4	4 1/2 months; but at least four times each calendar year	4 1/2 months; but at least four times each calendar year

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 24:1313 (July 1998), LR 27:

**§2909. Line Markers for Mains and Transmission Lines**

A. - C. ...

D. Marker Warning. The following must be written legibly on a background of sharply contrasting color on each line marker:

1. the word AWarning,@ ACaution,@ or ADanger@ followed by the words AGas (or name of gas transported) Pipeline@ all of which, except for markers in heavily developed urban areas, must be in letters at least one inch (25 millimeters) high with one-quarter inch (6.4 millimeters) stroke;

D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1313 (July 1998), LR 27:

**§2913. Transmission Lines: General Requirements for Repair Procedures**

A. - A.2. ...

B. Except as provided in §2919.B.3, no operator may use a welded patch as a means of repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§2915. Transmission Lines: Permanent Field Repair of Imperfections and Damages**

A. Each imperfection or damage that impairs the serviceability of pipe in a steel transmission line operating at or above 40 percent of SMYS must be:

1. removed by cutting out and replacing a cylindrical piece of pipe; or

2. repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

B. Operating pressure must be at a safe level during repair operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

**§2917. Transmission Lines: Permanent Field Repair of Welds**

A. Each weld that is unacceptable under §1315 must be repaired as follows.

1. If it is feasible to take the segment of transmission line out of service, the weld must be repaired in accordance with the applicable requirements of §1319.

2. A weld may be repaired in accordance with §1319 while the segment of transmission line is in service if:

a. a weld is not leaking;

b. the pressure in the segment is reduced so that it does not produce a stress that is more than 20 percent of the SMYS of the pipe;



c. grinding of the defective area can be limited so that at least C-inch (3.2 millimeters) thickness in the pipe weld remains.

3. A defective weld which cannot be repaired in accordance with Paragraphs 1 and 2 of this section must be repaired by installing a full encirclement welded split sleeve of appropriate design.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

### **§2919. Transmission Lines: Permanent Field Repair of Leaks**

A. Each permanent field repair of a leak on a transmission line must be made by:

1. removing the leak by cutting out and replacing a cylindrical piece of pipe; or
2. repairing the leak by one of the following methods;
  - a. a full encirclement welded split sleeve of appropriate design, unless the transmission line is joined by mechanical couplings and operates at less than 40 percent of SMYS;
  - b. if the leak is due to a corrosion pit, install a properly designed bolt-on-leak clamp;
  - c. if the leak is due to a corrosion pit on the pipe of not more than 40,000 p.s.i. (276 Mpa) gage SMYS, fillet weld over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size.
  - d. if the leak is on a submerged offshore pipeline in inland navigable water, mechanically apply a full encirclement split sleeve of appropriate design;
  - e. apply a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

### **§2927. Abandonment or Deactivation of Facilities**

A. - F. ...

G. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility.

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at [www.npms.rspa.dot.gov](http://www.npms.rspa.dot.gov) or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operators knowledge, all of the reasonably available information requested was provided and, to the best of the operators knowledge, the

abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, [roger.little@rspa.dot.gov](mailto:roger.little@rspa.dot.gov). The information on the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed by before April 10, 2001. Operators may submit reports by mail, fax or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, [roger.little@rspa.dot.gov](mailto:roger.little@rspa.dot.gov). The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:824 (August 1995), LR 27:

### **§2936. Compressor Stations: Gas Detection**

A. - A.1. ...

2. located in an unattended field compressor station of 1,000 horsepower (746 kW) or less.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:824 (August 1995), amended LR 27:

### **§2947. Vault Maintenance**

A. Each vault housing pressure regulating and pressure limiting equipment, and having a volumetric internal content of 200 cubic feet (5.66 cubic meters) or more, must be inspected at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is in good physical condition and adequately ventilated.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

### **§2951. Caulked Bell and Spigot Joint**

A. Each cast-iron caulked bell and spigot joint that is subject to pressures of 25 p.s.i. (172 kPa) gage or more must be sealed with:

A.1. - A.2.c. ...

B. Each cast iron caulked bell and spigot joint that is subject to pressures of less than 25 p.s.i. (172 kPa) gage and

is exposed for any reason, must be sealed by a means other than caulking.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

### **Chapter 30. Operator Qualification**

#### **§3001. Scope**

A. This chapter prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

B. For the purpose of this chapter, a covered task is an activity, identified by the operator, that:

1. is performed on a pipeline facility;
2. is an operations or maintenance task;
3. is performed as a requirement of this chapter; and
4. affects the operation or integrity of the pipeline.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

#### **§3003. Definitions**

**Abnormal Operating Condition** Ca condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

1. indicate a condition exceeding design limits; or
2. result in a hazard(s) to persons, property, or the environment.

**Evaluation** Ca process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

1. written examination;
2. oral examination;
3. work performance history review;
4. observation during;
5. performance on the job;
6. on the job training;
7. simulations;
8. other forms of assessment.

**Qualified** C that an individual has been evaluated and can:

1. perform assigned covered tasks; and
2. recognize and react to abnormal operating conditions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

#### **§3005. Qualification Program**

A. Each operator shall have and follow a written qualification program. The program shall include provisions to:

1. identify covered tasks;
2. endure through evaluation that individuals performing covered tasks are qualified;
3. allow individuals that are not qualified pursuant to this chapter to perform a covered task if directed and observed by an individual that is qualified.
4. evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Chapter 3;

5. evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task.

6. communicate changes that affect covered tasks to individuals performing those covered tasks; and

7. identify those covered tasks and the intervals at which evaluation of the individual's qualification is needed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

#### **§3007. Recordkeeping**

A. Each operator shall maintain records that demonstrate compliance with this chapter.

1. Qualification records shall include:

- a. identification of qualified individual(s);
- b. identification of the covered tasks the individual is qualified to perform;
- c. date(s) of current qualification; and
- d. qualification method(s).

2. records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

#### **§3009. General**

A. Operators must have a written qualification program by April 27, 2001.

B. Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.

C. Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to August 27, 1999.

D. After October 28, 2002, work performance history may not be used as a sole evaluation method.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

#### **' 3011. List of Organizations and Addresses**

A. The following organizations develop and publish material standards and specifications that are used by the pipeline industry. The most current editions of such publications can be procured directly from the organization, agency or committee listed below.

1. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, VA 22209.

2. American National Standards Institute (ANSI), 11 West 42<sup>nd</sup> Street, New York, NY 10036.

3. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

3. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47<sup>th</sup> Street, New York, NY 10017.

4. The American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

5. Manufactures Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NW., Vienna, VA 22180.

6. National Fire Protection Association (NFPA), 1 Battery march Park, P.O. Box 9101, Quincy, MA 02269-9101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### ' 3013. Documents

A. The following documents are incorporated by reference. The material standards and specifications depicted in these publications establish the minimum requirements for pipeline construction, operations and maintenance.

1. American Gas Association (AGA)
  - a. AGA Pipeline Research Committee, Project PR-3-805, *A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe* (December 22, 1989).
2. American Petroleum Institute (API)
  - a. API Specification 5L *Specification for Line Pipe* (41<sup>st</sup> edition, 1995).
  - b. API Recommended Practice 5L1 *Recommended Practice for Railroad Transportation of Line Pipe* (4<sup>th</sup> edition, 1990).
  - c. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21<sup>st</sup> edition, 1994).
  - d. API Standard 1104 *Welding of Pipelines and Related Facilities* (18<sup>th</sup> edition, 1994).
3. American Society for Testing and Materials (ASTM)
  - a. ASTM Designation: A 53 *Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless* (a53-96).
  - b. ASTM Designation: a106 *Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service* (a106-95).
  - c. ASTM Designation: A333/A333M *Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service* (A333/A333M-94).
  - d. ASTM Designation: A372/A372M *Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels* (A372/A372M-95).
  - e. ASTM Designation: A381 *Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems* (A381-93).
  - f. ASTM Designation: A671 *Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures* (A671-94).
  - g. ASTM Designation: A672 *Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures* (A672-94).
  - h. ASTM Designation: A691 *Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures* (A691-93).
  - i. ASTM Designation: D638 *Standard Test method for Tensile Properties of Plastics* (D638-96).
  - j. ASTM Designation: D2513 *Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing,*

*and Fittings* (D2513-87 edition for ' 192.63(a), otherwise D2513-96a).

k. ASTM Designation: D2517 *Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings* (D2517-94).

l. ASTM Designation: F1055 *Standard Specification for Electro fusion Type Polyethylene fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing* (F1055-95).

4. The American Society of Mechanical Engineers(ASME)

a. ASME/ANSI B16.1 *Cast Iron Pipe Flanges and Flanged Fittings* (1989).

b. ASME/ANSI B16.5 *Pipe Flanges and Flanged Fittings* (1988 with October 1988 Errata and ASME/ANSI B16.5a-1992 Addenda).

c. ASME/ANSI B31G *Manual for Determining the Remaining Strength of Corroded Pipelines* (1991).

d. ASME/ANSI B31.8 *Gas Transmission and Distribution Piping Systems* (1995).

e. ASME Boiler and Pressure Vessel Code, Section I *Power Boilers* (1995 edition with 1995 Addenda).

f. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 *Pressure Vessels* (1995 edition with 1995 Addenda).

g. ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 *Pressure Vessels: Alternative Rules* (1995 edition with 1995 Addenda).

h. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualification* (1995 edition with 1995 Addenda).

5. Manufactures Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

a. MSS SP-44-96 *Steel Pipe Line Flanges* (includes 1996 errata) (1996).

b. .[Reserved].

6. National Fire Protection Association (NFPA):

a. NFPA 30 *Flammable and Combustible Liquids Code* (1996).

b. ANSI/NFPA 58 *Standard for the Storage and Handling of Liquefied Petroleum Gases* (1995).

c. ANSI/NFPA 59 *Standard for the storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants* (1995).

d. ANSI/NFPA 70 *National Electrical Code* (1996).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### ' 3015. Qualification of Pipe

A. The following publications are incorporated by reference. These publications define minimum material standards and specifications for pipe.

1. Listed Pipe Specifications. (Numbers in Parentheses Indicate Applicable Editions.)

a. API 5L-Steel pipe (1995)

b. ASTM A53-Steel pipe (1995a)

c. ASTM A106-Steel pipe (1994a)

d. ASTM A333/A333M Steel pipe (1994)

e. ASTM A381-Steel pipe (1993)

f. ASTM A671-Steel pipe (1994)

g. ASTM A672-Steel pipe (1994)

h. ASTM D2513-Thermoplastic pipe and tubing [1996(a)].

i. ASTM D2517-Thermosetting plastic pipe and tubing (1994)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

**' 3017. Steel Pipe of Unknown or Unlisted Specification**

A. Bending properties. For pipe 2 inches (51 millimeters) or less in diameter, a length of pipe must be cold bent through at least 90 degrees around a cylindrical mandrel that has a diameter 12 times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld.

1. For pipe more than 2 inches (51 millimeters) in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM A53, except that the number of tests must be at least equal to the minimum required in Paragraph D of this section to determine yield strength.

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Subpart E of this part. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104. If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with section IX of the ASME Boiler and Pressure Vessels Code. The same number of chemical tests must be made as are required for testing a girth weld.

C. Inspection. The pipe must be cleaned enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are not defects which might impair the strength or tightness of the pipe.

D. Tensile properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. (165 Mpa) or less, or the tensile properties may be established by performing tensile tests as set forth in API Specification 5L. All test specimens shall be selected at random and the following numbers of tests must be performed:

Number of Tensile Tests-All Sizes	
10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths but not less than 20 tests.

1. If the yield -tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in ' 192.55 (c):

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

**' 3019. Steel Pipe Manufactured before November 12, 1970, to Earlier Editions of Listed Specifications**

A. Steel pipe manufactured before November 12, 1970, in accordance with a specification of which a later edition is listed in ' 3015, is qualified for use under this part if the following requirements are met.

1. Inspection. The pipe must be clean enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and that there are no defects which might impair the strength or tightness of the pipe.

2. Similarity of specification requirements. The edition of the listed specification under which the pipe was manufactured must have substantially the same requirements with respect to the following properties as a later edition of that specification listed in ' 3015:

a. physical (mechanical) properties of pipe, including yield and tensile strength, elongation, and yield to tensile ratio, and testing requirements to verify those properties.

b. chemical properties of pipe and testing requirements to verify those properties.

3. Inspection or test of welded pipe. On pipe with welded seams, one of the following requirements must be met.

a. The edition of the listed specification to which the pipe was manufactured must have substantially the same requirements with respect to nondestructive inspection of welded seams and the standards for acceptance or rejection and repair as a later edition of the specification listed in ' 3015.

b. The pipe must be tested in accordance with Subpart J of this part to at least 1.25 times the maximum allowable operating pressure if it is to be installed in a class 1 location and to at least 1.5 times the maximum allowable operating pressure if it is to be installed in a class 2,3 or 4 location. Notwithstanding any shorter time period permitted under Subpart J of this part, the test pressure must be maintained for at least 8 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

**' 3021. Qualification of Welders for Low Stress Level Pipe**

A. Basic Test. The test is made on pipe 12 inches (305 millimeters) or less in diameter. The test weld must be made with the pipe in a horizontal fixed position so that the test weld includes at least one section of overhead position welding. The beveling, root opening, and other details must conform to the specifications of the procedure under which the welder is being qualified. Upon completion, the test weld is cut into four coupons and subjected to a root bend test. If, as a result of this test, two or more of the four coupons develop a crack in the weld material, or between the weld material and base metal, that is more than 1/8-inch (3.2 millimeters) long in any direction, the weld is unacceptable.

Cracks that occur on the corner of the specimen during testing are not considered.

B. Additional Tests for Welders of Service Line Connections to Mains. A service line connection fitting is welded to a pipe section with the same diameter as a typical main. The weld is made in the same position as it is made in the field. The weld is unacceptable if it shows a serious undercutting or if it has rolled edges. The weld is tested by attempting to break the fitting off the run pipe. The weld is unacceptable if it breaks and shows incomplete fusion, overlap, or poor penetration at the junction of the fitting and run pipe.

C. Periodic Tests for Welders of Small Service Lines. Two samples of the welders' work, each about 8 inches (203 millimeters) long with the weld located approximately in the center, are cut from steel service line and tested as follows:

1. One sample is centered in a guided bend testing machine and bent to the contour of the die for a distance of 2 inches (51 millimeters) on each side of the weld. If the sample shows any breaks or cracks after removal from the bending machine, it is unacceptable.

2. The ends of the second sample are flattened and the entire joint subjected to a tensile strength test. If failure occurs adjacent to or in the weld metal, the weld is unacceptable. If a tensile strength testing machine is not available, this sample must also pass the bending test prescribed in subparagraph 1. of this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

### **' 3023. Criteria for Cathodic Protection and Determination of Measurements**

#### **A. Criteria for Cathodic Protection**

##### **1. Steel, Cast Iron, and Ductile Iron Structures**

a. A negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-copper sulfate half cell. Determination of this voltage must be made with the protective current applied, and in accordance with paragraphs B and D of this section.

b. A negative (cathodic) voltage shift of at least 300 millivolts. Determination of this voltage shift must be made with the protective current applied, and in accordance with Paragraphs B and D of this section. This criterion of voltage shift applies to structures not in contact with metals of different anodic potentials.

c. A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Paragraphs C and D of this section.

d. A voltage at least as negative (cathodic) as that originally established at the beginning of the Tael segment of the E-log-I curve. This voltage must be measured in accordance with Paragraph D of this section.

e. A net protective current from the electrolyte into the structure surface as measured by the earth current technique applied at predetermined current discharge (anodic) points of the structure.

##### **2. Aluminum structures.**

a. Except as provided in subparagraphs c. and d. of this paragraph, a minimum negative (cathodic) voltage shift of 150 millivolts, produced by the application of protective current. The voltage shift must be determined in accordance with Paragraphs B and D of this section.

b. Except as provided in subparagraphs c. and d. of this paragraph, a minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Paragraphs C and D of this section.

c. Notwithstanding the alternative minimum criteria in subparagraphs a. and b. of this paragraph, aluminum, if cathodically protected at voltages in excess of 1.20 volts as measured with reference to a copper-copper sulfate half cell, in accordance with Paragraph D. of this section, and compensated for the voltage (IR) drops other than those across the structure-electrolyte boundary may suffer corrosion resulting from the build-up of alkali on the metal surface. A voltage in excess of 1.20 volts may not be used unless previous test results indicate no appreciable corrosion will occur in the particular environment.

d. Since aluminum may suffer from corrosion under high pH conditions, and since application of cathodic protection tends to increase the pH at the metal surface, careful investigation or testing must be made before applying cathodic protection to stop pitting attack on aluminum structures in environments with a natural pH in excess of 8.

3. Copper Structures. A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Sections C. and D. of this section.

4. Metals of Different Anodic Potentials. A negative (cathodic) voltage, measured in accordance with section D. of this appendix, equal to that required for the most anodic metal in the system must be maintained. If amphoteric structures are involved that could be damaged by high alkalinity covered by Subparagraphs c. and d. of Paragraph A.2. of this section, they must be electrically isolated with insulating flanges, or the equivalent.

B. Interpretation of Voltage Measurement. Voltage (IR) drops other than those across the structure electrolyte boundary must be considered for valid interpretation of the voltage measurement in Subparagraphs A.1.a. and A.1.b. and Subparagraph A.2.a. of this Section.

C. Determination of Polarization Voltage Shift. The polarization voltage shift must be determined by interrupting the protective current and measuring the polarization decay. When the current is initially interrupted, an immediate voltage shift occurs. The voltage reading after the immediate shift must be used as the base reading from which to measure polarization decay in Subparagraphs A.1.c. and A.2.b. and paragraph A.3. of this section.

#### **D. Reference Half Cells**

1. Except as provided in Paragraphs 2 and 3 of this section, negative (cathodic) voltage must be measured between the structure surface and a saturated copper-copper sulfate half cell contacting the electrolyte.

2. Other standard reference half cells may be substituted for the saturated copper-copper sulfate half cell. Two commonly used reference half cells are listed below along with their voltage equivalent to -0.85 volt as referred to a saturated copper-copper sulfate half cell:

- a. Saturated KC1 calomel half cell: -0.78 volt.
- b. Silver-silver chloride half cell used in sea water: -0.80 volt.

3. In addition to the standard reference half cells, and alternate metallic material or structure may be used in place of the saturated copper-copper sulfate half cell if its potential stability is assured and if its voltage equivalent referred to a saturated copper-copper sulfate half cell is established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

**Chapter 31. Drug Testing**

**§3101. Scope and Compliance**

A. - C. ...

D. This chapter applies to pipeline operators, only with respect to pipeline employees located within the territory of the United States, including those employees located within the limits of the outer continental shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 27:

**§3103. Definitions**

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*Covered Employee*Ca person who performs, on a pipeline or LNG facility, an operations, maintenance, or emergency-response function regulated by 49 CFR Part 192, 193, or 195. This does not include clerical, truck driving, accounting, or other functions not subject to 49 CFR Part 192, 193, or 195. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

*Covered Function*Can operations, maintenance, or emergency-response function conducted on the pipeline or LNG facility that is regulated by 49 CFR Part 192, 193, or 195.

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*Employee*Cdefinition repealed

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998), LR 27:

**§3107. Anti-Drug Plan**

A. - A.2. ...

3. the name and address of the operator's medical review officer, and substance abuse professional; and

A.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998), LR 27:

**§3111. Drug Tests Required**

A. Each operator shall conduct the following drug tests for the presence of a prohibited drug:

A.1. - 4. ...

5. Return to Duty Testing. A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has been evaluated face-to-face by a SAP, has properly followed any prescribed assistance, has passed a return-to-duty drug test administered under this Chapter and the SAP has determined that the employee may return to duty.

6. Follow Up Testing. A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:135 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 21:826 (August 1995), repromulgated LR 21:955 (September 1995), LR 27:

**§3115. Review of Drug Testing Results**

A. - C.2.e. ...

3. ensure that an employee has been drug tested in accordance with the DOT Procedures before the employee returns to duty.

D. MRO Determinations. The following Rules govern MRO determinations.

1. If the MRO determines, after appropriate review, that there is a legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO is not required to take further action.

2. If the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO shall refer:

- a. the individual tested to a personnel or administrative office for further proceedings in accordance with the operator's anti-drug program; and

b. for evaluation by a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with drug misuse.

3. Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the MRO may conclude that a particular drug test result is scientifically insufficient for further action. Under these circumstances, the MRO should conclude that the test is negative for the presence of a prohibited drug or drug metabolite in an individual's system.

E. Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment or costs shall be made in accordance with the operator/employee agreements and operator/employee policies.

F. The operator shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring a covered employee for assistance provided through:

1. a public agency, such as a state, parish, or municipality;

2. the operator or a person under contract to provide treatment for drug problems on behalf of the operator;

3. the sole source or therapeutically appropriate treatment under the employee's health insurance program; or  
4. the sole source of therapeutically appropriate treatment reasonably accessible to the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16:534 (June 1990), LR 27:

### **§3117. Retention of Samples and Retesting**

A. Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or the employee's representative, the operator, the administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:136 (February 1990), repromulgated LR 16:535 (June 1990), amended LR 21:827 (August 1995), LR 27:

### **Family Impact Statement**

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on the functioning and family budget.

5. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on the functioning of the family.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may contact Mariano Hinojosa, Director, Pipeline Division, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by calling (225) 342-5505.

Philip N. Asprodites  
Commissioner of Conservation

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Pipeline Safety Natural Gas**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs or savings regarding the amendment of this Rule. This action adopts federal amendments to pipeline safety regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue or costs as the Department was previously enforcing similar Rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no significant costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Philip N. Asprodites  
Commissioner  
0106#010

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of the State Fire Marshal**

NFPA Codes (LAC 55:V.103)

In accordance with the provisions of R.S.49:950, et seq. and R.S. 40:1563.F, relative to the authority of the State Fire Marshal to promulgate and enforce Rules, the Office of the State Fire Marshal proposes to amend the following Rules.

**Title 55**

**PUBLIC SAFETY**

**Part V. Fire Protection**

**Chapter 1. Preliminary Provisions**

**' 103. General Provisions**

A. It shall be the policy of the state fire marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the state fire marshal, that the National Fire Codes published by the National Fire Protection Association and the Standard Building Code shall be used as the references and standards for determinations by the state fire marshal as follows.

NFPA 1	1997 Edition	Fire Prevention Code
NFPA 10	1998 Edition	Standard for Portable Fire Extinguishers
NFPA 11	1998 Edition	Standard for Low-Expansion Foam
NFPA 12	2000 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	1997 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	1999 Edition	Standard for the Installation of Sprinkler Systems
NFPA 13D	1999 Edition	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	1999 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2000 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	1996 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	1999 Edition	Standard for the Installation of Deluge Foam-Water Sprinkler Systems
NFPA 17	1998 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	1998 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	1995 Edition	Standard on Wetting Agents
NFPA 20	1999 Edition	Standard for the Installation of Centrifugal Pumps
NFPA 24	1995 Edition	Standard for the Installation of Private Fire Service Mains and Their Appurtenances
NFPA 25	1998 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	1996 Edition	Flammable and Combustible Liquids Code
NFPA 30A	1996 Edition	Automotive and Marine Service Station Code
NFPA 30B	1998 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	1997 Edition	Standard for the Installation of Oil-Burning Equipment

NFPA 32	1996 Edition	Standard for Dry Cleaning Plants
NFPA 33	1995 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	1995 Edition	Standard for Dipping and Coating Processed Using Flammable or Combustible Liquids
NFPA 37	1998 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	1997 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	1996 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 49	1994 Edition	Hazardous Chemicals Data
NFPA 50	1996 Edition	Standard for Bulk Oxygen Systems at Consumer Sites
NFPA 50A	1999 Edition	Standard for Gaseous Hydrogen Systems at Consumer Sites
NFPA 50B	1998 Edition	Standard for Liquefied Hydrogen Systems at Consumer Sites
NFPA 51	1997 Edition	Standards for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 52	1998 Edition	Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems
NFPA 53	1999 Edition	Guide on Fire Hazards in Oxygen Enriched Atmospheres
NFPA 54	1999 Edition	National Fuel Gas Code
NFPA 55	1998 Edition	Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders
NFPA 57	1999 Edition	Standard for Liquefied Natural Gas (LNG) Vehicular Fuel Systems
NFPA 58	1998 Edition	Standard for the Storage and Handling of Liquefied Petroleum Gases
NFPA 59A	1996 Edition	Standard for the production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	1999 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 68	1998 Edition	Guide for Venting of Deflagrations
NFPA 69	1997 Edition	Standard on Explosion Prevention Systems
NFPA 70	1999 Edition	National Electrical Code
NFPA 72	1999 Edition	National Fire Alarm Code
NFPA 75	1999 Edition	Standard for Protection of Electronic Computer/Data Processing Equipment
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	1999 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	1998 Edition	Standard for Parking Structures
NFPA 88B	1999 Edition	Standard for Repair Garages
NFPA 90A	1999 Edition	Standard for the Installation of Air Conditioning and Ventilating Systems
NFPA 90B	1999 Edition	Standard for the Installation of Warm Air Heating and Air Conditioning Systems
NFPA 92A	1996 Edition	Standard for Installation of Air Conditioning and Ventilation Systems
NFPA 92B	1995 Edition	Guide for Smoke Management in Malls, Atria, and Large Areas
NFPA 96	1998 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 97	2000 Edition	Standard Glossary of Terms Relating to Chimneys, Vents, and Heat Producing Appliances
NFPA 99	1999 Edition	Standard for Health Care Facilities
NFPA 99B	1999 Edition	Standard for Hypobaric Facilities
NFPA 101	2000 Edition	Code for Safety to Life from Fire in Buildings and Structures



NFPA 101A	1998 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	1999 Edition	Recommended Practice for the Installation of Smoke Control Door Assemblies
NFPA 110	1999 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	1996 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 150	1995 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 170	1999 Edition	Standard for Fire Safety Symbols
NFPA 204	1998 Edition	Guide for Smoke and Heat Venting
NFPA 211	2000 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	1999 Edition	Standard on Types of Building Construction
NFPA 221	1997 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 230	1999 Edition	Standard for General Storage
NFPA 231D	1994 Edition	Standard for Storage of Rubber Tires
NFPA 232	1995 Edition	Standard for the Protection of Records
NFPA 303	1995 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	1995 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	1996 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	1995 Edition	Standard on Aircraft Hangars
NFPA 415	1997 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	1995 Edition	Standard for Heliports
NFPA 430	2000 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	1997 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	1998 Edition	Code for the Storage of Pesticides
NFPA 490	1998 Edition	Code for the Storage of Ammonium Nitrate
NFPA 491M	1991 Edition	Manual of Hazardous Chemical Reactions
NFPA 495	1996 Edition	Explosive Materials Code
NFPA 496	1998 Edition	Standard for Purged and Pressurized Enclosures for Electrical Equipment
NFPA 513	1998 Edition	Standard for Motor Freight Terminals
NFPA 701	1999 Edition	Standard Methods of Fire Tests for Flame-Resistant Textiles and Films
NFPA 703	1995 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 704	1996 Edition	Standard System for the Identification of the Hazards of Materials for Emergency Response
NFPA 705	1997 Edition	Recommended Practice for a Field Flame Test for Textiles and Films
NFPA 750	1996 Edition	Standard on Water Mist Fire Protection Systems
NFPA 801	1998 Edition	Standard for Facilities Handling Radioactive Materials
NFPA 901	1995 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 902	1997 Edition	Fire Reporting Field Incident Guide
NFPA 903	1996 Edition	Fire Reporting Property Survey
NFPA 904	1996 Edition	Incident Follow-up Report Guide
NFPA 906	1998 Edition	Guide for Fire Incident Field Notes
NFPA 1123	1995 Edition	Code for Fireworks Display

NFPA 1124	1995 Edition	Code for the Manufacture, Transportation, and Storage of Fireworks
NFPA 1126	1996 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	1999 Edition	Standard for the Installation, Maintenance, and Use of Public Fire Communication Systems
NFPA 1402	1997 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	1997 Edition	Standard on Live Fire Training Evolutions
NFPA 2001	2000 Edition	Standard on Clean Agent Fire Extinguishing Systems
NFPA 8501	1997 Edition	Standard for Single Burner Boiler Operation
NFPA 8502	1999 Edition	Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers
NFPA 8506	1998 Edition	Standard on Heat Recovery Steam Generator Systems

B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after June 30, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc. All references to performance based criteria in the 2000 Edition of the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after December 31, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1997 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1998 will be made utilizing new construction requirements set forth in the 1997 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

D. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal on or after January 5, 1995, will be made utilizing new construction requirements set forth in the 1994 edition of the *Life Safety Code* of the National Fire protection Association and Section 506-Special Provisions for High-Rise Buildings published by the 1991 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

E. All inspections of building constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1992, will be made utilizing new construction requirements set forth in the 1991 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings

published by the 1998 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

F. With regard to buildings constructed or remodeled between February 19, 1989, and May 31, 1992, or whose construction was timely completed pursuant to plans submitted to the Office of State Fire Marshal prior to May 31, 1992, inspections will be made utilizing the new construction requirements set forth in the 1998 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by the *Standard Building Code* of the Southern Building Code Congress International, Inc. (1985 edition).

G. All inspections of buildings constructed or remodeled between September 1, 1986, and February 19, 1989, will be made utilizing the requirements set forth in the 1985 edition of the *Life Safety Code* of the National Fire Protection Association and Section 518 Special Provisions for High Rise of Chapter 4 of the 1985 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

H. All inspections of building constructed or remodeled between September 1, 1981, and September 1, 1986 will be made utilizing the requirements set forth in the 1981 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506 Special Provisions for high rise of the *Standard Building Code* (1979 edition) of the Southern Building Code Congress International, Inc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 F.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981). LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:

Interested persons may submit written comments on these proposed Rules to Mark Gates at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business July 20, 2001.

Jerry Jones  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Fire Protection**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated implementation costs or savings.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated impact on revenue collections or state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This Rule is intended to align Louisiana with national standards regarding fire safety and building construction. The Rules merely adopt the most recent changes to codes of the National Fire Protection Association (NFPA) that are already in effect in Louisiana. The purpose of the code(s) is fire safety

and the economic benefit derived from the saving of lives and property damage.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated effect on competition and employment.

Jerry W. Jones  
Undersecretary  
0106#041

John Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Revenue  
Policy Services Division**

**Composite Returns (LAC 61:I.1401)**

Under the authority of R.S. 47:201.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1401 relative to composite returns and composite payments of tax made by a partnership or limited liability company on behalf of nonresident partners or members.

Act 21 of the 2000 Second Extraordinary Session of the Louisiana Legislature enacted R.S. 47:201.1 to require certain partnerships and limited liability companies with nonresident partners or members to file composite returns and make composite payments of tax for nonresident partners or members who do not agree to file and pay Louisiana income tax on their own behalf. This Rule will provide guidance concerning which partnerships and limited liability companies must file composite returns and make composite payments; when composite returns and payments are due; which partners or members are to be included on the composite return; and how partners or members who do not wish to be included in a composite return can enter into an agreement with the Department of Revenue to file and pay on their own behalf.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 14. Income: Partnerships**

**§1401. Composite Return Requirement, Composite  
Payment Requirement, Exceptions**

A. Definitions. For the purpose of this Rule, the following terms are defined.

*Corporation* Can entity that is treated as a corporation for state income tax purposes as set forth in R.S. 47:287.11(A).

*Individual Return* Ca Louisiana personal income tax return or a Louisiana fiduciary income tax return.

*Partner* Ca member or partner of an association that is treated as a partnership for state income tax purposes, including but not limited to, a member in a limited liability company or a partner in a general partnership, a partnership in commendam, or a registered limited liability partnership. A partner is the ultimate owner of a partnership interest; therefore someone holding or managing a partnership interest on behalf of another, such as a broker, is not a partner for purposes of this Rule.

*Partnership* Any association that is treated as a partnership for state income tax purposes including, but not limited to, a general partnership, partnership in commendam, a registered limited liability partnership, or a limited liability company. Because of R.S. 47:287.11(A), the above listed business associations that do not elect to be taxed as corporations for federal income tax purposes are treated as partnerships for Louisiana income tax purposes.

#### B. Composite Return Requirement

1. Partnerships that have nonresident partners are required to file a composite partnership return. However, if every nonresident partner is either a corporation or has filed an agreement to file an individual return and pay income tax on all income derived from or attributable to sources in this state, no composite partnership return is required.

2. All nonresident partners, other than partners that are corporations, who were partners at any time during the taxable year and who do not have an agreement on file with the Department of Revenue must be included in the composite partnership return.

3. A schedule must be attached to each composite return that includes the following information for every partner in the partnership, including all partners not included in the composite return:

- a. the name of the partner;
- b. the address of the partner;
- c. the taxpayer identification number of the partner;
- d. the partner's distributive share; and
- e. whether or not that partner has an agreement on

file with the Department of Revenue to file an individual return on his or her own behalf.

4. The filing of a composite return by the partnership does not relieve any partner included in the composite return from the duty to file an individual return.

C. Corporate partners cannot be included in composite returns filed by a partnership. Corporate partners must file a Louisiana corporation income and franchise tax return, and must report all sources of income, including income from the partnership in that return.

#### D. Composite Payment Requirement

1. All partnerships that engage in activities in this state and have nonresident partners shall make composite payments on behalf of all of their nonresident partners, other than corporate partners, who do not file an agreement to file an individual return and pay Louisiana income tax.

2. The composite payment is due on the earlier of the date of filing of the composite return or the due date of the composite return, without regard to extensions of time to file. An extension of time to file the composite return does not extend the time to pay the composite payment.

3. Each partner's share of the composite payment is the maximum tax rate for individuals multiplied by the nonresident partner's share of partnership income that was derived from or attributable to sources in this state. This computation applies whether or not the partnership income is distributed.

4. The composite payment to be made by the partnership is the sum of each nonresident partner's share of the composite payment for all nonresident partners included in the composite return.

5. Amounts paid by the partnership for a nonresident partner will be treated as a payment of the Louisiana income tax liability of the partner.

#### E. Partner's Agreement to File an Individual Return

1. No composite return or composite payment is required from a partnership for a partner for whom the partnership files an agreement with the Department of Revenue in which the partner has agreed to file an individual return and pay income tax on all income derived from or attributable to sources in this state.

2. The partner will execute the agreement and forward the agreement to the partnership, on or before the original due date of the composite return.

3. The partnership will file the original agreement with the composite return filed for that taxable year. The partnership must keep a copy of the agreement on file until the partner is no longer a partner of the partnership.

4. The agreement must be in the form of an affidavit and must include all of the following:

- a. a statement that the taxpayer is a nonresident partner or member;
- b. the partner's name;
- c. the partner's address;
- d. the partner's social security number or taxpayer identification number;
- e. the name of the partnership;
- f. the address of the partnership;
- g. the partnership's taxpayer identification number;
- h. a statement that the taxpayer agrees to timely file all appropriate returns and make payment of all Louisiana taxes required by law;

i. a statement that the taxpayer agrees that he or she is subject to personal jurisdiction in the state of Louisiana for the purpose of determining and collecting any Louisiana taxes, including estimated taxes, penalties and interest;

j. a statement that the agreement binds the taxpayer's heirs, assigns, successors, administrators, curators, representatives, and executors;

k. a statement that the taxpayer understands that the Louisiana Department of Revenue is not bound by the agreement if the taxpayer fails to abide by the terms of the agreement;

l. the statement that "under penalties of perjury, I declare that I have examined this affidavit and agreement and to the best of my knowledge, and belief, it is true correct and complete;" and

m. the signature of the partner.

5. Once an agreement is signed by the partner, forwarded to the partnership, and the partnership has filed the agreement with the Department of Revenue, the agreement will continue in effect until the partner or the Department of Revenue revokes the agreement.

F. A partnership making a composite return and payment must furnish the following information to all partners included in the composite return:

1. the partnership's taxpayer identification number;
2. the amount of the payment made on the partner's behalf;
3. a statement that the amount paid on the partner's behalf can be used as a payment of Louisiana income tax when the partner files an individual return with the Department of Revenue;

4. the mailing address of the Louisiana Department of Revenue; and

5. the internet address of the Louisiana Department of Revenue.

G Nothing in this regulation shall restrict the secretary's authority to otherwise provide for efficient administration of the composite return and composite payment requirements of R.S. 47:201.1.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:201.1 and R.S. 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue, Policy Services Division, LR 27:

#### **Family Impact Statement**

The proposed adoption of LAC 61:I.1401, regarding composite returns and composite payments of tax made by a partnership or limited liability company on behalf of nonresident partners or members should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Leonore Heavey, Attorney, Policy Services Division, in person to 330 North Ardenwood Drive, Baton Rouge, LA, 70806, or by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409. All comments must be submitted no later than 4:30 p.m., July 26, 2001. A public hearing will be held on July 27, 2001, at 1:30 p.m. in the Secretary's Conference room on the second floor of 330 North Ardenwood Drive, Baton Rouge, Louisiana.

Cynthia Bridges  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Composite Returns**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The implementation of this proposed regulation will have no impact upon any local governmental units.

The implementation of this proposed regulation, which requires certain entities taxed as partnerships to file composite returns, will have minor impact on the agency's costs. The number of returns is expected to be small. The primary cost

will be the cost of examining the returns for names of nonresident natural persons not filing individual income tax returns. There will be minimal costs associated with storing the returns and agreements signed by partners. In the future, there will be the cost of entering the information into the information data storage.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There should be no effect on revenue collections of local governmental units as a result of this proposed regulation. There should be some increase in revenue collections for the state. The size of that increase cannot be determined.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Partnerships and limited liability companies with nonresident partners or members that have business activities within the state will have cost of preparing the composite return or filing agreements from nonresident partners or members.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges  
Secretary  
0106#061

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

#### **NOTICE OF INTENT**

#### **Department of Revenue Policy Services Division**

#### **Inventory Tax Credit (LAC 61:I.1902)**

Under the authority of R.S. 47:6006 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1902 relative to the application of inventory tax credits to different business associations.

Act 153 of the 1991 Regular Session of the Louisiana Legislature enacted R.S. 47:6005 to allow a credit against the corporate and personal income taxes and the corporation franchise tax for ad valorem taxes paid to political subdivisions on inventory held by manufacturers, distributors, and retailers. The section was redesignated as R.S. 47:6006 pursuant to the statutory revision authority of the Louisiana State Law Institute. This rule will clarify the application of inventory tax credits to different business associations.

#### **Title 61**

#### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue**

#### **Chapter 19. Miscellaneous Tax Exemptions § 1902. Inventory Tax Credits**

A. Tax Credits for Local Inventory Taxes Paid. R.S. 47:6006 allows a credit for ad valorem taxes paid to local governments on inventory held by manufacturers, distributors, and retailers.

B. Application to Corporations. All entities taxed as corporations for Louisiana income or corporation franchise tax purposes shall claim any credit allowable for inventory taxes paid by them on their corporation income and

corporation franchise tax return. This includes, but is not limited to:

1. S corporations;
2. partnerships taxed as corporations for income tax purposes;
3. limited liability companies (LLC's) taxed as corporations for income tax purposes.

C. Application to Individuals, Estates, and Trusts

1. All individuals shall claim on their individual income tax returns any credit allowable for inventory taxes paid by them.

2. Estates or trusts shall claim on their fiduciary income tax returns any credit allowable for inventory taxes paid by them.

D. Application to Partnerships. Any credit allowable for inventory taxes paid by partnerships not taxed as corporations shall be claimed on the returns of the partners as follows.

1. Corporation partners shall claim the credit on their corporation income or corporation franchise tax returns.

2. Individual partners shall claim the credit on their individual income tax returns.

3. Partners that are estates or trusts shall claim the credit on their fiduciary income tax returns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6006 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:

**Family Impact Statement**

The proposed adoption of LAC 61:I.1902, regarding inventory tax credits should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to William (Mac) E. Little, Attorney, Policy Services Division, in person to 330 North Ardenwood Drive, Baton Rouge, Louisiana, 70806, or by mail to P.O. Box 15409, Baton

Rouge, LA 70895-5409. All comments must be submitted no later than 4:30 p.m., July 26, 2001. A public hearing will be held on July 27, 2001, at 2:30 p.m. in the Secretary's Conference room on the second floor of 330 North Ardenwood Drive, Baton Rouge, Louisiana.

Cynthia Bridges  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Inventory Tax Credit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed Regulation, which clarifies the application of inventory tax credits to different business associations, will have no impact on the agency's costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections for the state as a result of this proposed regulation.

There should be no effect on revenue collections of local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits that directly affect persons or nongovernmental groups as a result of this proposed regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges  
Secretary  
0106#026

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Wrap-Around Child Care (LAC 67:III.5202)**

The Department of Social Services, Office of Family Support, proposes to amend Title 67, Part III of the Louisiana Administrative Code, the Wrap-Around Child Care Program.

In an effort to increase the availability of child care services to more low income families, the agency is making eligibility requirements less restrictive for full-day/full-year child care services. To remove the burden of receiving applications and verification from Head Start Grantees or other qualified providers, the agency assumes full responsibility for all Wrap-Around Child Care applications.

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

**Subpart 12. Child Care Assistance**

**Chapter 52. Wrap-Around Child Care Program**

**§5202. Definitions**

*Household-Ca* group of individuals who live together consisting of the head of the household, the legal spouse of the head of the household or non-legal spouse if the parent of a child in the household, and all children under age 18, including the minor unmarried parent of dependent children who need child care services, unless the minor unmarried parent has been emancipated by law.

*Training and Employment Mandatory Participant-Ce*ach household member who is required to be employed or engaged in a combination of employment and job training or educational program. These members may include the head of household, the legal spouse of the head of household, the non-legal spouse of the head of household if the parent of a child in the home, and the minor unmarried parent of a child in need of Wrap-Around Child Care services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

**§5203. Conditions of Eligibility**

A. A household must meet all of the following eligibility criteria:

1. ...  
2. effective May 1, 2001, a child may not receive child care services simultaneously from the Wrap-Around Child Care Program, the Family Independence Work Program (FW), or the Child Care Assistance Program (CCAP);

3. effective May 1, 2001, a household in which any member receives Food Stamps, Medicaid, LaCHIP, SSI, Free or Reduced School Lunch, or Kinship Care Subsidy will be categorically income-eligible and may receive Wrap-Around Child Care if otherwise eligible;

4. effective May 1, 2001, FITAP children who live with a qualified relative who is not a required member of the FITAP assistance unit may receive Wrap-Around Child Care if otherwise eligible;

5. the head of household, that person's spouse, or non-legal spouse if the parent of a child in the household, when a child in that household is in need of Wrap-Around Child Care services, must be:

a. effective May 1, 2001, employed a minimum average of 20 hours per week ; or

b. effective May 1, 2001, engaged in a combination of employment and job training or an educational program, for a combined average of at least 20 hours per week; or

c. if the household includes a minor unmarried parent who is not legally emancipated and whose child is in need of Wrap-Around Child Care services, the household must contain an adult household member who meets the 20-hour criteria. The minor unmarried parent is required to have some countable activity hours. If the adult household members do not meet the 20-hour criteria, the minor unmarried parent must meet the 20-hour criteria. In this situation the adults are not required to have any countable activity hours, unless they have children in need of care, then they are required to have some countable activity hours.

6. effective May 1, 2001, the number of hours that child care is provided must reasonably correspond to the number of activity hours of the parents and/or adult household members;

7. effective May 1, 2001, at the time of application the household must include at least one child with a need for Wrap-Around Child Care services defined as full-day/full-year child care, that is, full-time (30 or more hours per week) or part-time (less than 30 hours per week), or holiday care that is provided in conjunction with part-time care during the school year, who is;

a. under age 13; or

b. age 13 through age 17, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by receipt of SSI or a signed statement of disability from a physician or licensed psychologist;

8. the child needing care must customarily reside more than half of the time with the head of household who is applying for child care services, ensuring that only one household can receive child care services for that child;

9. the head of household or another adult household member must be responsible for the payment of child care costs for a child who lives in the household. A need for child care services does not exist if child care costs will be paid by a third party who is not a household member. However, this will not apply if a third party, not legally obligated to make child care payments, is temporarily doing so until payments begin.

B. - D. ...

E. The household must provide the information and verification necessary for determining eligibility and payment amount. Required verification includes:

1. ...

2. effective May 1, 2001, proof of age;

3. - 5. ...

F. - G ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:

**§5205. Income Limits**

A. Effective May 1, 2001, unless determined categorically income eligible, a household must have total countable income no greater than 130 percent of the Federal poverty level. These amounts are updated annually.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

**§5209. Head Start Grantees and Other Qualified Providers**

A. Effective May 1, 2001, the agency will provide services to eligible individuals through contracts with some Head Start Program grantees and other qualified providers who meet the standards and requirements set forth in Paragraphs C through E of this Section, for a designated number of slots. Available slots will be filled on a first-come, first-served basis.

B. Effective May 1, 2001, the contracted Head Start grantee or other qualified provider will establish a child care program that consists of full-day/full-year child care, that is,

full-time (30 or more hours per week) or part-time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year.

C. - E. ...

F. Effective May 1, 2001, the Head Start grantee or other qualified provider shall ensure that procedures are in place to prevent, identify, and report suspected abuse or neglect of children as required by Children's Code Articles 601-610 and 45 CFR 1301.31.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

#### **§5211. Payments Effective May 1, 2001**

A. The Head Start grantee or other qualified provider will be paid a weekly rate of \$85 (\$17 per day) per child for full-day, full-time child care.

B. The Head Start grantee or other qualified provider will be paid \$2.12 per hour per child for part-time care up to a maximum of eight hours per day per child.

C. The Head Start grantee or other qualified provider will be paid \$2.12 per hour for up to a maximum of eight hours per day per child (\$17 per day) for allowable, holiday care provided in conjunction with part-time care during the school year.

D. Payment will not be made for a child who is absent from day care more than ten days in a calendar month or for an extended closure by a provider of more than five consecutive days in a calendar month.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:431 (March 2001), amended LR 27:

#### **FAMILY IMPACT STATEMENT**

I. What effect will this Rule have on the stability of the family? This Rule will have a positive effect on families, as child care services will be available to more low income working families.

II. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The relaxation of the requirements for Wrap-Around Child Care will allow more children to be eligible for this service.

III. What effect will this have on the functioning of the family? This Rule should have a positive effect on the functioning of the family as it will make available more quality child care for low income working families or those families working and attending a job training or educational program.

IV. What effect will this have on family earnings and family budget? This Rule should have a positive effect on family earnings as the entire cost of child care is paid by the agency.

V. What effect will this have on the behavior and personal responsibility of children? Quality child care helps children to be more socially and intellectually prepared and ready to learn. Studies show that high-quality child care may prevent children from committing crimes.

VI. Is the family or local government able to perform the function as contained in this proposed Rule? The function as contained in this proposed Rule can only be performed by the child care providers and the agency.

Interested persons may submit written comments by July 27, 2001, to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the responding authority to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on July 27, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Wrap-Around Child Care**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No expenditures outside of previously allocated TANF funds (\$24 Million) are expected. The cost of publishing the Rule, related policy, and forms are minimal and are included in the budget.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no impact on revenue collections of state or local governmental units.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs to affected persons on Non-Governmental groups. However, these actions will increase the availability of child care services to more low income families. Newly eligible households will have total full-time and part-time child care costs paid for by the Wrap-Around Child Care Program. Head Start and other qualified providers will receive payments (income) from the Program for these children.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule could increase: participation by the Head Start Centers, year-round employment for employees, and hours of employment. It may also produce new employment for other qualified providers.

Vera W. Blakes  
Assistant Secretary  
0106#038

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Social Services Office of Rehabilitation Services

Management Services Provided by the State Licensing  
Agency (LAC 67:VII.517)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is revising its Blind Enterprises Program Policy Manual, Section 517. Revision to the Management Services Provided by the State Licensing Agency is being made to provide the agency with a better means of ensuring accurate reporting by blind enterprise managers in vending facilities.

#### Title 67

#### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

#### Chapter 5. Business Enterprises Program Manual

#### §517. Management Services Provided by the State

#### Licensing Agency

A. Overview of Management Services. Management services include inspection, quality control, consultation, accounting, annual fiscal accountability reviews, regulating, in-service training, and other related services on a systematic basis to support and improve vending facilities.

B. -H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:527 (March 1999), amended LR 27:

#### Family Impact Statement

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed Rules for the Business Enterprises Program policy manual to the Management Services Provided by the State Licensing Agency will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments for 40 days from the date of this publication on the proposed Rules to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806 - 4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed Rule.

Public Hearings will be conducted at 10 a.m. on Wednesday, July 25, 2001, as follows, Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS

Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-925-4131 or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Management Services Provided by the State Licensing Agency

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one time cost to LRS of approximately \$12,000 for contract work to be performed by a certified public accountant to evaluate the fiscal records needed to be maintained by blind enterprise managers, develop an evaluation instruments for fiscal accountability reviews and train staff on how to access and compile needed information to complete the review form.

This is based on paying \$150 per hour for 80 hours to a certified public accountant.

The estimated impact of the proposed action will result in a slight workload adjustment and the introduction of one new form to be completed by the Randolph-Sheppard Management Analyst.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increase or decrease in revenues.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The licensed blind managers would be directly affected by the proposed action. The licensed blind managers would be required to maintain and organize paperwork on a daily basis. At present the licensed blind managers submit biweekly reports to the agency. The main affect would be an expansion of the amount of documentation on a daily basis that would be required for review purposes. It is not anticipated that any additional staff would be required to maintain the daily records of blind managers business operations.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact of the proposed action on competition and employment in either the public or private sector.

J. Renea Austin-Duffin  
Secretary  
0106#039

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office



## NOTICE OF INTENT

### Department of Social Services Office of Rehabilitation Services

#### Vocational Rehabilitation Services Program Methodology for Determining Need (LAC 67:VII. Chapter 1)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to amend its Vocational Rehabilitation Policy Manual, Section 115, Financial. The agency is amending the methodology to determine a consumer's financial need, for certain vocational rehabilitation services. The revised methodology consistently applies a financial need level of 250 percent of the 2001 U.S. Department of Health and Human Services (HHS) Poverty Guidelines as the basis for determining financial need. This proposed Rule does not change the vocational rehabilitation services that are based on financial need.

## Title 67

### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

##### Chapter 1. General Provisions

##### §115. Financial

A.1. - f. ...

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. Neither a financial needs test nor a budgetary analysis of assets, income, and disability-related expenses shall be applied as a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals and individuals who are under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

2.a. - 3.ii. ...

C. LRS shall use the following methodology to determine an individual's financial need for certain vocational rehabilitation services:

**LOUISIANA REHABILITATION SERVICES  
Financial Need Analysis**

Consumer's Name : \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Is the consumer currently receiving any of the following types of assistance?

	Yes*	No		Yes*	No
TANF (formerly AFDC)	_____	_____	SSI	_____	_____
Food Stamps	_____	_____	SSDI	_____	_____

If you answered **YES** to any of the above, the consumer is not expected to contribute to the cost of services on the Individualized Plan for Employment (IPE). Complete comparable services and benefits and have consumer/representative sign the form on page 3.

**COMPARABLE SERVICES AND BENEFITS**

- |                                    |          |                  |          |
|------------------------------------|----------|------------------|----------|
| 1. Pell Grant                      | \$ _____ | 7. Other (List): |          |
| 2. SEOG                            | \$ _____ |                  |          |
| 3. VA Scholarship                  | \$ _____ | a. _____         | \$ _____ |
| 4. JTPA                            | \$ _____ | b. _____         | \$ _____ |
| 5. Scholarships, (i.e. TOPS, etc.) | \$ _____ | c. _____         | \$ _____ |
| 6. Stipends, Fellowships, etc.     | \$ _____ |                  |          |

**INCOME DETERMINATION**

1. Total Yearly Gross Income \$ \_\_\_\_\_

\*Verification Source:

- \_\_\_\_\_ Federal tax return--1040, 1040A, 1040EZ (most current)
- \_\_\_\_\_ Pay stub showing gross income per \_\_\_\_\_ (month, week, etc.)
- \_\_\_\_\_ Employer's Statement
- \_\_\_\_\_ Other (specify) \_\_\_\_\_

2. Determine the Basic Living Requirement (BLR)

a. Check family size in appropriate box.

<b>Persons</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>Other**</b>
<b>Check Family Size</b>									
<b>Allowable BLR**</b>	\$21,475	\$29,025	\$36,575	\$44,125	\$51,675	\$59,225	\$66,775	\$74,325	

\*\*For each additional person over 8, add \$3020.

b. Does income exceed the allowable Basic Living Requirement (BLR)? Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered **NO** to 2.b., **STOP**. The consumer is not expected to contribute to the cost of services on the Individualized Plan for Employment (IPE).

If you answered **YES** to 2.b., **CONTINUE**.

\* Verification must be filed in the consumer's case record.

3. Disability Related Expenses. List the YEARLY costs for necessary disability-related expenses for family members if such disability-related expenses are not covered by any other benefit or resource. (Do not include the costs of any disability related expenses that will be purchased or provided by LRS or any comparable service or benefit.)

Personal Care Attendant Services	\$ _____
Medications, medical supplies, prescriptions, non-prescription items, and special diet/food related to the disability.	\$ _____
Medical/health insurance premiums, if not already deducted from gross wages	\$ _____
Disability related clothing needs, devices, and adaptive equipment, including maintenance of such devices and equipment	\$ _____
Other (List): _____	\$ _____
	\$ _____
<b>TOTAL ANNUAL DISABILITY RELATED EXPENSES*</b>	<b>\$ _____</b>

4. Assets
- a. Liquid Assets - List the total value of any of the following assets owned by either the consumer, consumer's spouse, or consumer's family, as applicable:

Savings	\$ _____
Stocks/bonds	\$ _____
Certificates of Deposit	\$ _____
Other Liquid Assets	\$ _____

- b. Other Assets - List the total equity in any of the following other fixed or personal assets owned by the consumer, the consumer's spouse, or consumer's family, as applicable.  
**DO NOT INCLUDE THE VALUE OF EQUITY IN THE PRIMARY RESIDENCE OR AUTOMOBILES.**

Land or buildings	\$ _____
Second/vacation homes	\$ _____
Rental property	\$ _____
Other Assets	\$ _____

- c. TOTAL ASSETS (Add 4. a. & b.) \$ \_\_\_\_\_

**\*Verification must be in the consumer's case record.**

**NEED DETERMINATION**

Enter total yearly gross income from No. 1 on page 1	1. \$ _____
Enter Total Disability Related Expenses from No. 3 on Page 2.	2. \$ _____
Subtract Line 2 from Line 1 for <b>Net Income</b>	3. \$ _____
Enter <b>Total Assets</b> from No. 4.c. on page 2.	4. \$ _____
Add lines 3 and 4 above for <b>total available resources</b> .	5. \$ _____
Enter amount of Basic Living Requirement (BLR) from chart on page 1.	6. \$ _____

Check applicable line:

\_\_\_\_\_ The amount (\$) on Line 5 is **equal to or less than the amount (\$) on line 6.**  
The consumer **MEETS** Louisiana Rehabilitation Services financial need criteria.

\_\_\_\_\_ The amount (\$) on Line 5 is **greater than the amount (\$) on line 6.**  
The consumer **DOES NOT MEET** Louisiana Rehabilitation Services financial need criteria.

I certify the information is correct and complete to the best of my knowledge. I understand that formal planning for services will be on my IPE and will document the application of comparable services and similar benefits to the cost of planned services.

\_\_\_\_\_  
Consumer's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counselor's Signature

\_\_\_\_\_  
Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999), LR 27:212 (February 2001), LR 27:

**Family Impact Statement**

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed Rule for the Vocational Rehabilitation Policy Manual, Section 115, Financial, has no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed Rule.

Public Hearings will be conducted at 10 a.m. on Wednesday, July 25, 2001, as follows, Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-925-4131 or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

J. Renea Austin-Duffin  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Vocational Rehabilitation Services  
ProgramC Methodology for Determining Need**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Based on \$2,198 as the average cost per client and 866 additional consumers being provided cost services, an additional \$1,903,468 will be needed. Funds will be appropriated when House Bill 1 of the 2001 regular session has been signed into law. The cost to implement this Rule is minimal and only involves the cost to promulgate. (Detailed information as to how these figures were calculated can be found in worksheets and Item III below.)

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated increase or decrease for this proposed Rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Listed below is information obtained from the 1990 Census which shows the various income levels in the State of Louisiana.

Income Range		Number	Percentage
Beginning	Ending		
0	22,499	765,770	51.11%
22,500	24,999	60,065	4.01%
25,000	27,499	65,292	4.36%
27,500	29,999	50,856	3.39%
30,000	32,499	61,674	4.12%
32,500	34,999	43,526	2.90%
35,000	39,999	86,623	5.78%
40,000	44,999	75,247	5.02%
45,000	49,999	57,964	3.87%
50,000	59,999	85,301	5.69%
60,000	74,999	68,564	4.58%
75,000	up	77,489	5.17%

Listed below is the 1998 National Census data with the Number of Household being listed in thousands.

Household of	Number of Household	Percentage
1	26,327	25.68%
2	32,965	32.15%
3	17,331	16.90%
4	15,358	14.98%
5	7,048	6.87%
6	2,232	2.18%
7+	1,267	1.24%

If an estimated 22,506 consumers could possibly receive cost services and 41% of these clients actually receive cost services, an estimated 9,928 consumers would be effected by the change in economic need. Based on the above two tables, the table listed below would be the percentage of change.

Household	Present	Proposed 250	Change
1	21,346	21,475	No change
2	24,146	29,025	7.50%
3	26,946	36,575	10.40%
4	29,746	44,125	17.80%
5	32,546	51,675	17.60%
6	35,346	59,225	20.00%
7+	38,146	66,775	19.20%

Listed below is a table which details the number of consumers in each household level with the last column reflecting the actual increase in the number of consumers.

Household	Present	Proposed 250
1	2,549	
2	3,192	239
3	1,678	175
4	1,487	265
5	682	120
6	216	43
7+	123	24

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated impact of the proposed action on competition and employment in either the public or the private sector.

May Nelson  
Director  
0106#040

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Social Services Office of the Secretary Bureau of Licensing

Class "B" Child Residential Care Licensing Standards  
(LAC 48:I:Chapter 79)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to promulgate the following in Title 48, Part I, Subpart 3, Licensing and Certification.

This proposed Rule is authorized by Revised Statute 46:1410 et seq. which authorizes the Louisiana Committee on Private Child Care to develop minimum standards for licensure of Class "B" facilities. This proposed Rule establishes the regulations for Class "B" child residential facilities.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 79. Child Residential Care

#### §7951. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in childcare facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

#### §7953. Authority

##### A. Legislative Provisions

1. The Louisiana Committee on Private Child Care is charged with the responsibility of developing standards for the licensing of Class "B" facilities.

2. The licensing authority of the Department of Social Services is established by LRS 46:1401 et seq. and LRS 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A Class "B" child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24-hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody, and no state or federal funds received for the care of the children.

##### B. Penalties

1. All childcare facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed.

2. As stipulated in LRS 46:1421, whoever operates any child care facility without a valid license shall be fined not less than \$75, nor more than \$250 for each day of such offense.

##### C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice, all child care facilities and child placing agencies subject to the provisions of the Chapter" (LRS 46:1417).

2. When the department is advised or has reason to believe that any person, agency or organization is operating a child residential facility without a license, the department shall make an investigation to ascertain the facts.

3. When the department is advised or has reason to believe that any person, agency or organization is operating in violation of the Class "B" Child Residential Care Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment received by the Department will be investigated.

D. The Louisiana Committee on Private Child Care (Class "B" Child Care Committee)

1. The Louisiana Committee on Private Child Care was created by Act 286 of 1985 to serve two functions.

a. Develop minimum standards for licensure of Class "B" facilities.

b. Consult with the department on matters pertaining to decisions to revoke or refuse to grant a Class "B" license.

2. The Committee is composed of seven members, elected by the Class "B" licensed facilities in the state, representing different types of Class "B" licensed facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

#### §7955. Procedures

##### A. Initial Application

1. New buildings shall be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located, considering such issues as scale, appearance, density and population. A child residential facility shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services, Bureau of Licensing. The following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances for the area in which you are planning to locate. Guidelines from the Office of Public Health, Sanitarian Services; the Office of State Fire Marshal, Code Enforcement and Building Safety; and the City Fire Department (if applicable) should be obtained.

b. After securing property, obtain an application form issued by Department of Social Services, Bureau of

Licensing, P.O. Box 3078, Baton Rouge, LA 70821-3078, phone: (225) 922-0015, fax: (225) 922-0014.

c. After the facility's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

- i. Office of Public Health, Sanitarian Services;
- ii. Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department (if applicable);
- iv. Zoning Department (if applicable); and
- v. City or Parish Building Permit Office.

d. Upon receipt of the facility's application by the Bureau of Licensing, a request will be made to the Office of State Fire Marshal, Code Enforcement and Building Safety; Office of City Fire Department (if applicable); Office of Public Health and any known required local agencies to inspect the location as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist shall visit the facility to conduct a licensing inspection.

e. A license will be issued on an initial application when the following requirements have been met and verification is received by the Bureau of Licensing:

- i. approval by the Office of Public Health, Sanitarian Services;
- ii. approval by the Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. approval by the City Fire Department (if applicable);
- iv. approval by the City or Parish Zoning (if applicable);
- v. approval by the City or Parish Building Permit (if applicable);
- vi. a completed licensure inspection verifying substantial compliance with these standards; and
- vii. full license fee paid.

3. When a facility changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §7955.A.2.e shall be in compliance for the new location.

4. When a facility changes ownership, a new application and fee shall be submitted. All approvals listed in §7955.A.2.e shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a facility requires approval from agencies listed in §7955A.2.c and the Bureau of Licensing.

6. The department is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked for the facility's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If an administrator or member of his immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal or

denial have been corrected and the administrator/facility is in substantial compliance with all minimum standards.

#### B. Fees

1. An initial application fee of \$25 shall be submitted with all initial license applications. This fee will be applied toward the license fee when the facility is licensed. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all changes of ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. However, Class "B" childcare facilities or agencies owned or operated by a church or religious organization are exempt from license fees. Fee schedules (based on licensed capacity) are listed below:

- a. 4 to 6 children - \$400;
- b. 7 to 15 children - \$500; and
- c. 16 or more children - \$600.

3. Other licensure fees include:

a. replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. (There is no replacement charge when the request coincides with the regular renewal of a license.); and

b. processing fee of five dollars for issuing a duplicate license with no changes.

#### C. Relicensing

1. A license shall be renewed on an annual basis. The month of issue of the initial license becomes the anniversary month for all renewals. Generally, all licenses expire on the last day of the month.

2. Approximately 90 days prior to the annual expiration of a license, a notice and an application form will be mailed to the licensee. The completed application along with the full license fee, if applicable, shall be returned prior to relicensure.

3. A relicensing inspection will be made by staff of the Bureau of Licensing to determine continued compliance with licensing regulations.

4. A current approval from the Office of State Fire Marshal, Code Enforcement and Building Safety; the City Fire Department (if applicable); and the Office of Public Health, Sanitarian Services shall be received by the Bureau of Licensing. It is the responsibility of the licensee to obtain these inspections and approvals.

5. The Department of Social Services, Bureau of Licensing, shall be notified prior to making changes which might have an effect upon the license, i.e., age range of children served, usage of indoor and outdoor space, administrator, hours/months/days of operation, ownership, location, etc.

#### D. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied for any of the following reasons:

a. failure to meet any of the minimum standards for licensure; or

b. conviction of a felony by any of these persons, as shown by a certified copy of the record of the court of conviction:

- i. the applicant;
- ii. any members or officers if the applicant is a firm or corporation; or

iii. any staff providing care, supervision, or treatment to a resident of the facility.

2. A license may be revoked or renewal denied for any of the following reasons:

a. cruelty or indifference to the welfare of the children in care;

b. violation of any provision of the minimum standards, Rules, regulations, or orders of the Department of Social Services;

c. disapproval from any agency whose approval is required for licensure;

d. nonpayment of licensure fee or failure to submit a licensure application;

e. any validated instance of child abuse, corporal punishment, physical punishment, or cruel, severe or unusual punishment may result in revocation, denial or nonrenewal of the license if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure; or

g. any act of fraud such as falsifying or altering documents required for licensure.

E. Appeal Procedure. If the license is refused or revoked because the facility does not meet minimum requirements for licensure, the procedure is as follows:

1. The Department of Social Services, Bureau of Licensing, by certified letter, shall advise the licensee or applicant of the reasons for the denial or revocation and the right of appeal.

2. The administrator or owner may appeal this decision by submitting a written request with the reasons to the Secretary of the Department of Social Services, Bureau of Appeals, P.O. Box 2944, Baton Rouge, LA 70821. This written request shall be postmarked within 30 days of the receipt of the notification in §7955.E.1 above.

3. The Bureau of Appeals shall set a hearing to be held within 30 days after receipt of such a request.

4. An Appeals Hearing Officer shall conduct the hearing. Within 90 days after the date the appeal is filed, the Hearing Officer shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the facility shall terminate operation immediately.

5. If the facility continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the facility is located for injunctive relief.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1410 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

### §7957. Definitions

**Abuse and Neglect Reporting**—Any suspected abuse and/or neglect of a child in a childcare center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

**Administrator**—the person responsible for the on-site, daily implementation and supervision of the overall facility's

operation. The Administrator shall have a Bachelor's degree in a social services field and four years of experience in a similar type of child care facility, or a Master's degree and two years of related experience.

**Bedroom Space**—a distinct area used as a sleeping area for clients; a dormitory-style bedroom may be broken into several bedroom spaces by the use of partitions. A facility shall have a minimum of 60 square feet of floor area per child in living areas accessible to children and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

**Client**—a person who receives service from a provider.

**Client's Service Plan**—a daily care plan based on the assessment of a client's psychological, social and educational evaluations.

**Curator**—a person appointed by the court when an individual is interdicted to act as guardian with either limited or full powers over the individual's estate and/or person, depending upon the needs of the individual interdicted.

**DSSC**—Department of Social Services.

**Discipline**—a system of rules governing conduct which usually prescribes consequences for the violation of particular rules.

**Direct Service Management**—the act of controlling the various aspects of a provider involving direct services to clients in order to ensure effective care and treatment.

**Direct Service Worker**—any employee of a provider who works directly with clients as a major function of his/her job.

**Family**—the natural or adoptive father, mother, brother(s) and sister(s), but "family" may be interpreted broadly to include any person, whether related to the client by blood or not, who resides in the client's home and takes part in the client's family life.

**Governing Body**—a person or persons with the ultimate responsibility for conducting the affairs of a provider as, for example, the Board of Directors.

**Legally Responsible Person**—as appropriate, the parent(s) or tutor of a minor or the curator of an interdicted client.

**License**—a written certification, whether provisional, extended or regular, of a provider's authorization to operate under State Law.

**Living Unit**—an integral living space utilized by a particular group of clients who reside in that space.

**Parent(s)**—natural or adoptive mother and father of a client.

**Passive Physical Restraint**—the least amount of direct physical contact required on the part of a staff member to prevent a client from harming himself/herself or others.

**provider**—any 24-hour residential facility, whether public or private, that services clients.

**Psychotropic Medication**—prescription medication given for the purpose of producing specific changes in mood, thought processes, or behavior. They exert specific effects on brain function and can be expected to bring about specific clinically beneficial responses in clients for whom they are prescribed. The term as used in this policy does not include all drugs which affect the central nervous system or which may have behavioral effects; i.e., anticonvulsants or hormones.

**Restraint**—the extraordinary restriction of a client's freedom or freedom of movement.



*Service Plan*Ca comprehensive, time-limited goal-oriented, individualized plan for care, treatment and education of a client in the care of a provider. The service plan is based on a current comprehensive evaluation of the client's needs.

*Social Worker*Ca Master's level professional.

*Time-Out Procedure*Cthe isolation of a client for a period of less than 30 minutes in an unlocked room.

*Training*Cany activity outside the normal routine of the provider which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

*Treatment Strategy*Can orientation or set of clinical techniques included in a particular therapeutic model and used to meet a diagnosed need of a client in care over and above the provisions of basic care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

### **§7959. Administration and Organization**

A. Class "B" facilities must comply with all regulations set by the Office of the State Fire Marshall, the Office of Public Health, local zoning laws and all laws regarding child abuse or neglect. Client-staff ratios and minimum space requirements will be enforced by the Department of Social Services. Class "B" facilities must comply with regulations restricting hiring felons, prohibiting racial discrimination and prohibiting the use of corporal punishment without parental permission. Class "B" facilities must comply with additional regulations promulgated by the Louisiana Committee on Private Child Care. Core regulations must promote safe physical facilities, adequate supervision and qualified staff, healthful food service, procedures for nighttime care, and procedures for the disposition of complaints.

#### **B. General Requirements**

1. A provider shall follow federal and state laws on client civil rights. No residential facility shall discriminate based on race, color, creed or national origin or ancestry. However, this shall not restrict the hiring or admission policies of a church or religious organization which may give preference in hiring or admission to members of the church or denomination.

2. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department and without previous notice, all residential child care facilities subject to the provisions of Chapter 14 of Title 46. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. The facility shall be open to inspection only during working hours by parents or legal guardians of clients in care and by authorized inspection personnel.

3. The provider is required to show evidence of compliance with the regulations set by the Louisiana Committee on Private Child Care. Documentation indicating compliance with a standard will not be required when it is obvious that the standard is met.

C. Other Jurisdictional Approvals. The provider shall show appropriate evidence of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including DSS Licensing Bureau, Office of Health Services, Office of the State Fire Marshal, City Fire Marshal's Office (if applicable), applicable local zoning ordinances (if applicable) and Department of Education (if applicable).

#### **D. Governing Body**

1. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the provider.

2. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership, if applicable; officers of the governing body, if applicable; and terms of office of all officers, if applicable.

3. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year. A provider shall have written minutes of all formal meetings of the governing body, and by-laws specifying the frequency of meetings and quorum requirements.

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. ensure that the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;

6. designate a person to act as Chief Administrator and delegate sufficient authority to this person to manage the provider;

7. formulate and annually review, in consultation with the Chief Administrator, policies concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

8. annually evaluate the Chief Administrator's performance;

9. have the authority to dismiss the Chief Administrator;

10. meet with representatives of DSS whenever required to do so;

11. inform representatives of DSS prior to initiating any substantial changes in the program, services, or physical plant of the provider.

F. Accessibility of Executive. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff or representatives of DSS at all times.

#### **G. Documentation of Authority to Operate**

1. A private provider shall have documentation of its authority to operate under state law.

2. A privately owned provider shall have documents identifying the names and addresses of owners.

3. A corporation, partnership or association shall identify the names and addresses of its members and officers

and shall, where applicable, have a charter, partnership agreement, constitution, articles of association or by-laws.

H. Statement of Philosophy and Goals. A provider shall have a written statement describing its philosophy and both long-term and short-term goals.

I. Program Description. A provider shall have a written program plan describing the services and programs offered by the provider.

J. Accounting and Recordkeeping

1. A provider should establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

2. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

3. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state and federal laws.

K. Confidentiality and Security of Files

1. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and the provider, as custodian, shall secure records against loss, tampering or unauthorized use.

2. A provider shall maintain the confidentiality of all clients' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly or indirectly, to any unauthorized person.

3. A provider shall obtain written authorization of the client and the client's parent(s), tutor or curator, as applicable, prior to releasing the client's confidential records to anyone other than authorized state or federal agencies or another provider to whom the client may be released.

4. A provider shall, upon request, make available information in the case record to the client, the legally responsible person or legal counsel of the client. If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be damaging to a client, then that information may be withheld except under court order.

5. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that the client's name and other identifying information is disguised or deleted.

L. Administrative File. A provider shall have an administrative file including:

1. documents identifying the governing body;
2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;
3. documentation of the provider's authority to operate under state law;
4. organizational chart of the provider;
5. insurance policies; and
6. master list of all consulting professional providers used by the provider.

M. Client's Case Record. A provider shall have a written record for each client which shall include administrative, treatment, and educational data from the time of admission

until the time the client leaves the provider. A client's case record shall include:

1. name, sex, race, religion, birth date and birthplace of the client;
2. other identification data including court status, legal status, who is authorized to give consents;
3. client's history including, if applicable, family data, educational background, employment record, prior medical history and prior placement history;
4. copy of the client's individual service plan and any modifications thereto, and an appropriate summary to guide and assist direct service workers in implementing the client's program; and
5. findings made in periodic reviews of the plan, including summary of the successes and failures of the client's program and recommendations for any modifications deemed necessary.

N. Medical and Dental Records

1. A provider shall maintain complete health records of a client including:

- a. report of admission physical examination;
- b. complete record of all immunizations provided;
- c. record of medications;
- d. records of vision, physical or dental examinations;
- e. complete record of any medical treatment provided for specific illness or medical emergencies; and,
- f. authorization signed by the parent or legal guardian for medical care, immunizations and hospitalization, when indicated.

2. Upon discharge the provider shall provide a summary of the client's health record to the person or agency responsible for the future planning and care of the client.

3. A provider shall make every effort to compile a complete past medical history on every client. This history shall, whenever possible, include:

- a. allergies to medication;
- b. immunization history;
- c. history of serious illness, serious injury or major surgery;
- d. developmental history;
- e. current use of prescribed medication;
- f. current use of alcohol or nonprescribed drugs; and
- g. medical history.

O. Personnel File

1. A provider shall have a personnel file for each employee which shall contain:

- a. application for employment and/or resume';
- b. three reference letters from former employer(s) and personal references or phone notes on such references;
- c. any medical examinations required by the provider;
- d. criminal record and fingerprinting report (LA 15.587.1) and citizenship report (I-9). No felon shall be employed in a Class "B" facility unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer;
- e. evidence of applicable professional credentials/certifications according to state law;

- f. annual performance evaluations;
- g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility; and
- h. employee's starting and termination dates.

2. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. A provider shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

**P. Fund Raising and Publicity**

1. A provider shall have a policy regarding participation of clients in activities related to fund raising and publicity.

2. Consent of the client and, if applicable, the legally responsible person shall be obtained prior to participation in fund raising activities.

3. A provider shall have policies and procedures regarding the photographing and audio or audio-visual recording of clients.

4. The written consent of the client and, if applicable, the legally responsible person shall be obtained before the client is photographed or recorded for research or program publicity purposes.

5. All photographs and recordings shall be used in a manner which respects the dignity and confidentiality of the client.

**Q. Representation at Hearings.** A provider shall, when allowed by law, have a representative present at all judicial, educational or administrative hearings which address the status of the client in care of the provider.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1410 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

**§7961. Human Resources**

**A. Staff Plan.** A provider should have a policy for recruitment, supervision and training.

**1. Screening**

a. A provider's screening procedures should address the prospective employee's qualifications, ability, related experience, character, and social skills as related to the appropriate job description.

b. Prior to employing any person and upon obtaining a signed release and the names of references from the potential employee, a provider shall obtain written references or phone notes on oral references from three persons.

c. All center staff shall be required to obtain within two weeks before or 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is:

- i. in good health and physically able to care for clients; and
- ii. free from infectious and contagious diseases.

d. Prior to or 30 days after the time of employment all persons shall be free of tuberculosis in a communicable state as evidenced by a negative skin test or a negative chest x-ray. Evidence that an employee is free of active tuberculosis is required on an annual basis thereafter.

e. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

f. A provider shall not knowingly hire, or continue to employ, any person whose health impairs his/her ability to properly protect the health and safety of the clients or is such that it would endanger the physical or psychological well being of the clients. This requirement is not to be interpreted to exclude the hiring or continued employment of persons undergoing temporary medical or emotional problems if the health and safety of the clients can be assured through reasonable accommodation of the employee's condition.

2. **Orientation.** A provider's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the facility, and shall include instruction in safety and emergency procedures and in the specific responsibilities of the employee's job.

**3. Training**

a. A provider is encouraged to provide in-service training each year. Orientation training and activities related to routine supervision of the employee's task shall not be considered as in-service training.

b. All staff are to maintain a current certification of CPR training. New employees will have 90 days to comply. Documentation will be a copy of certificates on file at the facility.

**4. Evaluation**

a. A provider should undertake an annual performance evaluation of all staff members.

b. For any person who interacts with clients, a provider's evaluation procedures shall address the quality and nature of a staff member's relationships with clients.

**B. Personnel Practices.** A provider shall have written personnel policies and written job descriptions for each staff position.

**C. Number and Qualifications of Staff**

1. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the responsibilities the provider undertakes are carried out and to adequately perform the following functions:

- a. administrative functions;
- b. fiscal functions;
- c. clerical functions;
- d. housekeeping, maintenance and food service functions;
- e. direct client service functions;
- f. supervisory functions;
- g. record keeping and reporting functions;
- h. social service functions; and
- i. ancillary service functions.

2. A provider shall ensure that all staff members are properly certified and/or licensed as legally required.

3. A provider shall ensure that an adequate number of qualified direct service staff are present with the clients as necessary to ensure the health and well-being of clients. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider and the ages, needs and functioning levels of the clients.

4. A provider shall ensure that direct services staff who perform client-living services are administratively responsible to a person whose training and experience is appropriate to the provider's program.

D. External Professional Services. A provider shall obtain any required professional services not available from employees.

E. Volunteers/Student Interns. A provider which utilizes volunteers or student interns on a regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall be:

1. directly supervised by a paid staff member;
2. oriented and trained in the philosophy of the facility and the needs of clients and the methods of meeting those needs;
3. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student; and
4. aware of and briefed on any special needs or problems of clients.

#### F. Staff Communications

1. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the client. This system of communication shall include:

- a. a regular review of individual and aggregate problems of clients including actions taken to resolve these problems;
- b. sharing of daily information, noting unusual circumstances, and other information requiring continued action by staff; and
- c. records maintained of all accidents, personal injuries and pertinent incidents related to implementation of clients' individual service plans.

2. Any employee of a provider working directly with clients in care shall have access to information from clients' case records that is necessary for effective performance of the employee's assigned tasks.

3. A provider shall establish procedures which facilitate participation and feedback by staff members in policymaking, planning and program development for clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

### §7963. Quality of Life

#### A. Family Involvement

1. A provider should create a policy that encourages ongoing positive communication and contact between clients and their families, their friends and others significant in their lives.

2. A provider should discuss the following with the client's family, other legally responsible persons and significant others, when appropriate:

- a. the philosophy and goals of the provider;
- b. behavior management and disciplinary practices of the provider;
- c. any specific treatment or treatment strategy employed by the provider that is to be implemented for a particular client;
- d. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with clients by mail or telephone;

e. the name, telephone number and address of a staff person who may be contacted by the legally responsible person to ask questions or register concerns on an ongoing basis;

f. a procedure for registering complaints concerning the client's care or treatment. All cases of client abuse or neglect or suspicion of abuse or neglect must be reported to the Child Protection Agency in the DSS Office of Community Services for investigation.

3. Visits to parents and relatives in their own homes should be encouraged, unless they are not of benefit to the client, in order to maintain not only family ties but also ties in the neighborhood and community.

4. A written description of these family involvement strategies is suggested.

#### B. Normalization. A provider shall ensure that:

1. clients of grossly different ages, developmental levels and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together.

2. clients who are nonambulatory, deaf, blind, epileptic, etc., shall be integrated with peers of comparable social and intellectual development and shall not be segregated on the basis of their handicaps.

#### C. Community Involvement

1. The client should have opportunities to participate in community life when individual treatment has progressed, so that community activities can become part of the treatment plan.

2. The client might participate in activities sponsored by school, church, and national and local youth agencies (Girl Scouts, Boy Scouts, 4-H Clubs, etc.).

3. The client should have help, when necessary, to conform to community standards.

4. Mass excursions, transportation in vehicles labeled with the name of the center, wearing of uniforms, etc., are undesirable if they call attention to the clients and make them feel different from others.

5. Community interest in clients and efforts in their behalf (parties, entertainment, invitations to visit other families, etc.) should be carefully evaluated to ascertain that they are of benefit to the clients and do not exploit their dependency status.

#### D. Communication and Visits

##### 1. Telephone Communication

a. A provider shall allow a client to receive and originate telephone calls, subject only to reasonable rules and to any specific restriction in the client's service plan.

b. Any restriction on telephone communication in a client's service plan must be formally approved and shall be reviewed every 30 days.

##### 2. Mail

a. A provider shall allow clients to send and receive mail unopened and unread by staff, unless contraindicated by a restriction in the client's service plan which shall be reviewed every 30 days.

b. A provider shall ensure that clients have access to all materials necessary for writing and sending letters and shall, when necessary, ensure that clients who wish to correspond with others are given any required assistance.

##### 3. Visits

a. A provider shall allow a client to visit or be visited by family and friends, subject only to reasonable rules and to any specific restrictions in the client's service plan.

b. Special restrictions shall be imposed only to prevent serious harm to the client. The reasons for any special restrictions shall be recorded in the client's service plan.

c. Special restrictions must be reviewed every 30 days. If restrictions are renewed, the reasons for renewal shall be recorded in the client's service plan.

d. A written description of these rules and procedures is suggested.

#### E. Routines

1. A provider shall have a written set of daily routines for clients that are designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to clients and in the provision of adequate periods of recreation, privacy, rest and sleep.

2. Routines should be determined in relation to needs and convenience of both clients and adults living together.

3. Routines should be sufficiently adaptable to a particular client's physical and emotional capacity to conform to them or to allow for special situations.

#### F. Money and Personal Belongings

1. A provider shall permit and encourage a client to possess his/her own money, either by giving an allowance and/or providing opportunities for paid work, unless otherwise indicated.

2. Money earned, received as a gift or received as allowance by a client shall be deemed to be that client's personal property.

3. Limitations may be placed on the amount of money a client may possess or have unencumbered access to when such limitations are considered to be in the client's best interests.

4. A provider should, as appropriate to the client's age and abilities, provide training in budgeting, shopping and money management.

5. A provider shall allow a client to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the client's service plan. However, the provider shall, as necessary, limit or supervise the use of these items while the client is in care. When extraordinary limitations are imposed, the client shall be informed by staff of the reasons.

6. The security of having and keeping possessions of one's own contributes to a sense of autonomy and identity. Clients should have a safe place for their belongings. Individual storage space should be provided for their collections, play equipment, and other "treasures." Clients with particularly valuable keepsakes may need staff help to keep them safe.

#### G. Work

1. Each client should be assigned daily or weekly chores that provide opportunities to learn to assume responsibility and to get satisfaction from contributing to work that must be done, according to age, health, interest, ability, and readiness.

2. The chores should be similar to those of family members in the neighboring community. Clients should not be depended upon to do work for which staff should be

employed. There should be a limit on the amount of work expected.

3. Staff should approve and supervise all chore assignments. Clients should be encouraged to complete chores, but not forced. Policy for this situation should be covered under the provider's behavior management practices.

4. Clients may be given jobs for which they receive payment, which should be clearly differentiated from duties expected of any client in the course of daily living.

5. When a client engages in off-grounds work, the provider should ensure that:

a. such work is voluntary and in accordance with the client's abilities;

b. the work has been approved by staff;

c. such work is supervised by qualified personnel;

d. the conditions and compensation of such work are in compliance with applicable State and Federal laws; and

e. such work does not conflict with the client's service plan.

#### H. Recreation and Activities

1. Recreation cannot be separated from the total living experience of the client. Play is a learning experience as important as formal education. A recreation program should offer indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs.

2. A provider should provide recreational services based on the individual needs, interests and functioning levels of the clients served.

3. A provider should utilize the recreational resources of the community whenever appropriate. The provider should arrange the transportation and supervision required for maximum usage of community resources.

4. Exercise promotes health and physical development. When clients improve in fitness, their self-concept also improves. Active group play and competitive activities can be balanced by quiet or independent pursuits.

5. A residential care provider should provide adequate recreational equipment and yard space to meet the needs and abilities of its clients. Recreational equipment should be selected in accordance with the number of clients, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. Clients should have time to be alone and to engage in solitary activities that they enjoy, such as reading, drawing, playing with dolls, puppets and other toys, working on collections, roller-skating and bicycling. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Use of television may have to be governed by rules about hours when viewing is allowed and about choice of programs.

I. Birthdays. Each client's birthday should be celebrated individually in an appropriate manner in the group living unit.

#### J. Religion

1. A provider should clearly explain its religious orientation, particular religious practices which are observed, and any religious restrictions on admission. This description shall be provided to the client; the legally

responsible person, when appropriate; and the responsible agency.

2. The nonsectarian agency has responsibility to provide opportunities for the client who wants to have an appropriate religious affiliation and religious experiences in accordance with the religious preferences of the parents.

3. The agency under religious auspices, whose religious program is an integral part of its service, should make it clear that its service is so based. Clients whose parents want them to make use of such a service should be able to do so.

4. Clients and families who do not choose to participate in religious activities should not be expected to do so in any residential center.

#### K. Clothing

1. A provider shall ensure that clients are provided with clean, well-fitting clothing appropriate to the season and to the client's age, sex and individual needs. Clothing shall be maintained in good repair.

2. All clothing provided to a client shall go with the client at discharge.

3. Clothing shall belong to the individual client and not be shared in common.

4. Clothing contributes to the client's feeling of worth and dignity. It represents being valued by adults, respect for individuality and having someone who cares for him or her. Clothing should be provided in a manner that helps the client develop self-esteem and a sense of personal responsibility.

#### L. Personal Care and Hygiene

1. A provider shall establish procedures to ensure that clients receive training in good habits of personal care, hygiene and grooming, appropriate to their age, sex, and race.

2. Each client should have the personal help that all persons need at times, regardless of age, in waking, dressing, deciding what to wear, combing hair, caring for clothing, grooming, getting ready for meals or school, keeping appointments, going to bed, etc.

#### M. Food Services

1. It is preferable to have one person in charge of food service who is familiar with nutrition, food service and management. The person responsible for food service should be aware of clients with special nutritional needs, and manage the resources of the dietary services to achieve effective food delivery.

2. A provider shall ensure that a client is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day. Meal times shall be comparable to those in a normal community home.

3. A provider should develop written menus at least one week in advance.

4. Records of foods purchased shall be maintained on file for 30 days. Menus should provide for a sufficient variety of foods and shall vary from week to week.

5. No client shall be denied a meal for any reason except according to a doctor's order.

6. No client shall be forced-fed or aggressively coerced to eat against his/her will except by order of a doctor.

7. When meals are provided to staff, a provider shall ensure that staff members eat substantially the same food

served to clients in care, unless age differences or special dietary requirements dictate differences in diet.

8. A provider shall purchase and provide to clients only food and drink of safe quality, and the storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented.

9. Milk and milk products shall be Grade A and pasteurized.

#### N. Health Care

1. A provider shall ensure the availability of a comprehensive program of preventive, routine and emergency medical and dental care, as appropriate, for all clients.

2. The provider shall show evidence of access to the following health care aspects:

a. ongoing appraisal of the general health of each client;

b. provision for health education, as appropriate;

c. establishment of an ongoing immunization program;

d. approaches that ensure that any medical treatment administered will be explained to the client in language suitable to his/her age and understanding;

e. an ongoing relationship with a licensed physician and dentist to advise the provider concerning medical and dental care;

f. availability of a physician or fully equipped clinic on a 24-hour a day, seven-day a week basis;

g. provision for a dental examination as soon as practical after acceptance of the client for care and for treatment, including necessary prophylaxis, orthodontia, repairs and extractions when indicated, and for annual reexaminations; and

h. access to psychiatric and psychological resources, on both an emergency and ongoing bases, as appropriate to the needs of clients.

#### O. Medical Care

1. A provider shall arrange a general medical examination by a physician for each client within two weeks of admission unless the client has received such an examination within 30 days before admission and results of this examination are available to the provider. This examination shall include:

a. an examination of the client for physical injury and disease;

b. vision and hearing screening; and

c. a current assessment of the client's general health.

2. Each client taken into care should be immunized against common contagious diseases, including vaccination for smallpox and immunization against diphtheria, tetanus, poliomyelitis, whooping cough, measles and rubella.

3. Whenever indicated, the client shall be referred to an appropriate medical specialist for either further assessment or treatment, i.e., if indicated, neurological examination and psychiatric evaluation, and tuberculin test, including chest x-ray.

4. A provider must ensure that a client receives competent medical care in keeping with community standards of medical practice when he/she is ill. A physical examination shall be arranged when poor health is indicated.

5. When there has been insufficient time to prepare a client for placement, and if an adequate medical history can

be obtained, the routine physical examination, as well as routine medical procedures, such as immunization, may be postponed.

#### P. Dental Services

1. A provider should have an organized system for providing comprehensive diagnostic dental services for all clients, which includes a complete extra- and intra-oral examination, utilizing all diagnostic aids necessary to properly evaluate the client's oral condition within a period of one month following admission, unless such an examination is in the client's case record.

2. A provider shall have access to comprehensive dental treatment services for all clients which include:

- a. provision for dental treatment;
- b. provision for emergency treatment on a 24-hour, seven-day-a-week basis by a qualified dentist;
- c. a recall system that will assure that each client is reexamined at specified intervals in accordance with his/her needs, but at least annually.

3. A copy of the permanent dental record shall be provided to a provider when a client is transferred.

#### Q. Mental Health Services

1. A provider shall have access to the following services in accordance with the needs of clients:

- a. psychological services;
- b. psychiatric services; and
- c. social work services.

2. A provider shall ensure that all providers of professional and special services:

- a. provide services directly through personal contact with the client;
- b. provide services indirectly through contact with staff members and others working with the client;
- c. develop and record appropriate plans, goals and objectives for the client and, as appropriate, the client's family;
- d. record all significant contacts with the client;
- e. periodically provide written summaries of the client's response to the service, the client's current status relative to the service, and the client's progress, to be maintained in the client's case record;
- f. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;
- g. provide services appropriately integrated into the overall program.

3. A provider shall ensure that any professional or special service provided by the provider has:

- a. adequately qualified and, when appropriate, appropriately licensed or certified staff according to state or federal law;
- b. adequate space and facilities;
- c. appropriate equipment;
- d. adequate supplies; and
- e. appropriate resources.

4. A provider shall ensure that any professional or special service provided by a person or agency outside the provider meets all relevant requirements contained herein.

#### R. Psychological Services

1. A provider should provide psychological services, as appropriate, to the needs of the clientele, including strategies to maximize each client's development of *Louisiana Register Vol. 27, No. 6 June 20, 2001*

perceptual skills, sensorimotor skills, self-help skills, communication skills, social skills, self-direction, emotional stability, effective use of time (including leisure time), and cognitive skills.

2. Psychologists providing services to the provider shall have at least a Master's degree from an accredited program and appropriate experience or training.

#### S. Psychiatric Services

1. The services of a psychiatrist should be available for diagnosis, consultation and treatment of clients with mental health needs.

2. Psychiatric consultation should be available to other staff members working with clients in developing a program that promotes mental health and in helping all appropriate staff members understand and use mental health concepts in working with clients and their families.

3. Use should be made of mental health services and client guidance facilities in the community, whenever they are available, for clients and parents.

#### T. Social Work Services

1. Social services as part of an interdisciplinary spectrum of services shall be provided to the clients through the use of social work methods directed toward:

- a. maximizing the social functioning of each client;
- b. enhancing the coping capacity of the client's family; and
- c. asserting and safeguarding the human and civil rights of clients and their families and fostering the human dignity and personal worth of each client.

2. During the evaluation process, which may or may not lead to admission, social workers shall help the client and family to consider alternative services and make a responsible choice as to whether and when placement is indicated.

3. During the client's admission to and residence in the provider, or while the client is receiving services from the provider, social workers shall, as appropriate, provide liaison between the client, the provider, the family and the community in order to:

- a. assist staff in understanding the needs of the client and his/her family in relation to each other;
- b. assist staff in understanding social factors in the client's day-to-day behavior, including staff-client relationships;
- c. assist staff in preparing the client for changes in his/her living situation;
- d. help the family to develop constructive and personally meaningful ways to support the client's experience in the provider through counseling concerned with problems associated with changes in family structure and functioning and referral to specific services, as appropriate; and
- e. help the family to participate in planning for the client's return to the home or other community placement.

4. After the client leaves the provider, the provider's social workers should provide systematic follow-up to assure referral to appropriate community providers, when possible.

#### U. Medications

1. A provider shall ensure that no medication is given to any client except in accordance with the written order of a physician.

2. There shall be no standing orders for prescription medications.

3. All orders for prescribed drugs shall terminate after a period not to exceed 90 days.

4. All orders for non-prescription drugs shall terminate after a period not to exceed one year.

5. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff or of any medication errors.

6. A provider supervising the self-administration of psychotropic medications shall have a written description of the use of psychotropic medications except when supervised directly by the prescribing certified clinical professional or his agent, i.e., clinical social worker.

7. A provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

8. A medication shall not be administered to any client for whom the medication has not been ordered.

9. Medications shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

10. All medications, prescription and non-prescription, should not be accessible to clients and should be administered by qualified persons according to state law.

#### V. Grievance Procedure for Clients

1. A provider should create a positive climate and opportunities for clients to make complaints without fear of retaliation.

2. The provider should make every effort to ensure that all clients and their legally responsible person are aware of and understand the grievance procedure.

W. Abuse and Neglect. A provider shall have comprehensive, written procedures concerning client abuse, including:

1. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, current reporting requirements and applicable laws;

2. a procedure ensuring immediate reporting of any suspected incident to the chief administrator or his/her designee and mandating an initial written summary on the incident to the chief administrator or his/her designee within 24 hours;

3. a procedure for ensuring that the client is protected from potential harassment during the investigation; and

4. a procedure for disciplining staff members who abuse or neglect clients.

#### X. Reports on Critical Incidents

1. A provider shall require Social Service staff to report and document deaths of clients, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients.

2. Such procedures shall ensure verbal and written reports to the chief administrator.

3. When an incident involves abuse or neglect of a client, death of a client, or entails any serious threat to the client's health, safety or well-being, a provider shall:

a. ensure immediate verbal reporting to the chief administrator or his/her designee and a preliminary written report within 24 hours of the incident;

b. ensure immediate notification of representatives of DSS and other appropriate authorities, according to state law;

c. ensure immediate, documented attempts to notify the legally responsible person of the client;

d. ensure immediate attempts to notify other involved agencies and parties, as appropriate; and, ensure follow-up written reports to all appropriate persons and agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

### §7965. Direct Service Management

#### A. Admission Policies

1. A provider shall have a written description of admission policies and criteria which shall include the following information:

a. the age and sex of clients in care;

b. the needs, problems, situations or patterns best addressed by the provider's program;

c. any other criterion for admission;

d. criteria for discharge;

e. any preplacement requirements on the client, the legally responsible person, DSS, or other involved agencies;

f. procedures for ensuring that placement within the program is the least restrictive alternative appropriate to meet the client's needs.

2. The provider shall, when applicable, have policies and procedures governing self-admission. Such policies and procedures shall include procedures for notification, as appropriate, of the legally responsible person.

3. A provider shall not refuse admission to any client on the grounds of race or ethnic origin.

4. A provider shall not admit more clients into care than the number specified on the provider's license.

5. A provider shall not accept any client for placement whose needs cannot be adequately met by the provider's program.

6. A provider shall ensure that the client; the legally responsible person, when appropriate; and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

7. When such involvement of the legally responsible person is not possible or not desirable, the reasons for their exclusion shall be recorded in the admission study.

#### B. Intake Evaluation

1. The provider shall accept a client into care only when a current comprehensive intake evaluation has been completed, including health and family history and medical, social, psychological and, as appropriate, developmental or vocational or educational assessment.

2. In emergency situations necessitating immediate placement into care, the provider shall:

a. gather as much information as possible about the client to be admitted and the circumstances requiring placement;

b. formalize this in an "emergency admission note" within two days of admission; and,



c. proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

C. Clarification of Expectations to Client. The provider shall, consistent with the client's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the client referred for placement with an explanation of the provider's criteria for successful participation in and completion of the program.

D. Placement Agreement

1. The provider shall ensure that a written placement agreement is completed. A copy of the placement agreement, signed by all parties involved in its formulation, shall be kept in client's record.

2. A provider shall not admit any client into care whose presence will be seriously damaging to the ongoing functioning of the provider or to clients already in care.

3. The placement agreement should be developed with the involvement of the client and the legally responsible person. The placement agreement shall include, by reference or attachment, at least the following:

- a. discussion of the client's and the family's expectations regarding family contact and involvement;
- b. nature and goals of care, including any specialized services to be provided;
- c. religious orientation and practices of the client;
- d. anticipated discharge date and aftercare plan;
- e. delineation of the respective roles and responsibilities of all agencies and persons involved with the client and his/her family;
- f. authorization to care for the client;
- g. authorization to obtain medical care for the client;
- h. arrangements regarding visits, vacation, mail, gifts and telephone calls;
- i. arrangements as to the nature and frequency of reports to and meetings involving the legally responsible person and referring agency;
- j. provision for notification of the legally responsible person in the event of unauthorized absence, illness, accident or any other significant event regarding the client.

4. The provider shall ensure that each client upon placement is checked for illness, fever, rashes, bruises and injury. The client shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the client's record.

5. The provider shall assign a staff member to orient the client and, where available, the family to life at the provider.

E. Discharge and After Care

1. Prior to planned discharge of a client, the provider's staff should formulate an aftercare plan discussing the supports and resources to be provided to the client and the legally responsible person.

a. Prior to discharge, the provider's staff should ensure that the client is aware of and understands his/her aftercare plan.

b. When a client is being placed in another program following discharge, representatives of the staff shall confer with representatives of that program prior to the client's discharge to share information concerning the client.

2. The provider shall have a written policy concerning unplanned discharge. This policy shall ensure that emergency discharges initiated by the provider take place only when the health and safety of a client or other clients might be endangered by the client's further placement at the agency.

a. The provider shall give immediate notice of unplanned discharge to the legally responsible person and shall promptly notify appropriate education authorities.

b. When arranging for placement following an emergency discharge, a provider shall consult with the receiving provider to ensure that the client is placed in a program that reasonably meets the client's needs, if possible.

c. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

3. Within 30 days of discharge of a client, a provider shall compile a written discharge summary to be included in the client's record. When the client is discharged to another agency, this summary should accompany the client. This summary should include:

- a. name and home address of the client and, when appropriate, the legally responsible person;
- b. name, address, telephone number of the provider;
- c. summary of services provided during care;
- d. summary of growth and accomplishments during care;
- e. assessed needs which remain to be met, and alternate service possibilities which might meet those needs; and
- f. statement of an aftercare plan and identification of who is responsible for follow-up services and aftercare.

F. Individual Service Planning

1. A provider shall ensure that a direct service staff who is an appropriately qualified professional is assigned to each client and given responsibility for and authority over:

- a. supervision of the implementation of the client's service plan;
- b. integration of the various aspects of the client's program;
- c. recording of the client's progress as measured by objective indicators;
- d. reviewing the client's service plan on a quarterly basis; and
- e. monitoring any extraordinary restriction of the client's freedom, including use of any form of restraint, any special restriction on a client's communication with others and any potentially harmful treatment or behavior management technique applied to the client.

2. Service Plan

a. A provider shall, within 30 days of admitting a client, ensure that a comprehensive written psychological, social and, as appropriate, educational assessment of the client has been completed and, on the basis of this assessment, shall develop a comprehensive, time-limited, goal-oriented individual service plan addressing the needs identified by the assessment.

b. Unless it is clearly not feasible to do so, a provider shall ensure that the service plan and any subsequent revisions are explained to the client and, where appropriate, the legally responsible person in language understandable to these persons.

c. The social service staff shall review each plan at least annually and shall evaluate the degree to which the goals have been achieved.

d. The social service worker shall prepare quarterly status reports on the progress of the client relative to the goals and objectives of the service plan. These reports shall be prepared by designated staff and reviewed and approved.

e. A social service worker shall ensure that all persons working directly with the client are appropriately informed of the service plan.

### 3. Education

a. A provider should ensure that each client has access to appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning.

b. All clients of school age must either be enrolled in a school system or a program approved by the Department of Education.

G. Arrangement of Clients into Groups. A provider should conscientiously consider the manner in which clients are arranged into groups within the provider, and document that this manner of arranging clients into groups effectively addresses the needs of clients. This statement should be in accordance with the following guidelines.

1. All clients must have privacy and a place to go for periods of relative quiet and inactivity.

2. All clients must have an opportunity to build relationships within small groups.

3. Clients must have an opportunity to form relationships with a consistent group of direct service staff.

### H. Behavior Management

1. Clients should be given opportunities to learn gradually to assume responsibilities and make decisions for phases of daily living that they are able to carry out by themselves. They should have the assistance and guidance of workers whom they trust and respect, and with whom they have a positive relationship, while learning self-control and self-direction in a widening sphere of daily life.

a. Discipline is the educational process by which professionals help a client have the experiences that enable the client to learn to live in reasonable conformity with accepted standards of social behavior and to do so by progressively acquiring and applying self-control rather than relying on external pressures.

b. Every provider should develop policies and procedures to govern all disciplinary actions. Staff should be fully aware of these policies and their implications through staff development and written materials.

c. Each client should know the basic rules that include not hurting others, not destroying things and not disrupting ongoing activities.

d. Good discipline involves being clear and specific as to limits on behavior, showing the client what is permitted and what is not, and giving feedback on actions that are right or wrong.

e. Responsibility for discipline should be given to the worker who takes care of the clients and supervises their daily activities.

### 2. Punishment

a. Punishment should be used only in situations where other means are ineffective and when clients can benefit from the experience of facing the consequences of

unacceptable behavior not as an end in itself, but as a part of a learning process.

b. Punishment is one form of intervention by the staff in situations in which the client fails to behave as expected or required, or fails to maintain self-control. The staff should have clear reasons for choosing punishment. It is usually more effective to offer an intervention activity that can be positively enforced rather than an intervention that could prove to be a negative reinforcement to a client.

c. Timing or any punishment should be related to the occurrence of the offense and should not extend over so long a period that it loses meaning for the client.

d. Group punishment for misbehavior of one or more members is not desirable. It can have the negative long-range effect of embittering the clients who are unfairly punished and may disturb group cohesiveness. The group may become hostile to the individual client who may feel alone and rejected by them. The group may also direct its hostility to the staff member. Humiliating or degrading punishment, which undermines the client's respect (including ridicule, sarcasm, shaming, scolding or punishment in the presence of the group or another staff member), should be avoided.

i. Corporal punishment, including slapping, spanking, paddling, belting, hitting or forcing the client to march, stand or kneel rigidly in one spot, or causing any kind of physical discomfort, shall not be used other than when approved by the client's parent or guardian in writing. All state laws must be followed when approved corporal punishment is administered.

ii. Physical restraint of a client by a worker is at times necessary for the protection of the client or others.

### 3. Misbehavior

a. To be effective, worker intervention should be determined by an understanding of the particular client, the immediate situation, the particular living group of the client, the client's capacity at the time to learn from the experience and the treatment plan.

b. Some situations require purposeful noninterference, i.e., nothing should be done. Others call for active intervention, such as reasoning and discussion of the incident, changing the situation, disapproval, physical restraint or punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

## §7967. Physical Environment

A. Accessibility. A provider's building, parking lots and facilities shall be accessible to and functional for clients, staff members and the public, as required by applicable federal and state laws and regulations.

### B. Exterior Space

1. A provider shall ensure that all structures on the grounds of the facility accessible to clients are maintained in good repair and are free from any excessive hazard to health or safety.

2. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

- a. Garbage and rubbish that is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis.
  - b. Trash collection receptacles and incinerators shall be stored separate from the play area, and be located as to avoid being a nuisance to neighbors.
  - c. Fences shall be in good repair.
  - d. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters or high-speed roads, shall be fenced off or have natural barriers to protect clients.
  - e. Playground equipment shall be so located, installed and maintained as to ensure the safety of clients.
3. A provider shall have access to outdoor recreational space and suitable recreational equipment.

#### C. Interior Space

- 1. Each living unit of a provider should contain a space for the free and informal use of clients. This space shall be constructed and equipped in a manner consistent with the programmatic goals of the provider.
- 2. A provider shall provide an appropriate variety of interior recreational spaces.
- 3. A provider shall ensure the immediate accessibility of appropriate first aid supplies in the living units.
- 4. Dining Areas
  - a. A provider shall provide dining areas which permit clients, staff and, as appropriate, guests to eat together in small groups.
  - b. A provider shall provide dining areas which are clean, well-lighted, ventilated and attractively furnished.
- 5. Sleeping Accommodations
  - a. A provider should ensure that each client has a safe and comfortable bedroom space appropriate to age, mental health and supervision requirements. Floor space should provide appropriate freedom of movement. In evaluating bedroom floor space, easy access to large adjoining areas should be considered.
  - b. A provider shall not use a room with a ceiling height of less than seven feet as a bedroom space, except in a room with varying ceiling height in which the portions of the room where the ceiling is at least seven feet allow a useable space.
  - c. A provider should not permit more than four clients to occupy a designated bedroom space, unless necessitated by supervision requirements.
  - d. No client over the age of five years shall occupy a bedroom with a member of the opposite sex, unless the persons occupying the bedroom are a married couple, or properly documented medical reasons require it.
  - e. A provider shall not use any room which does not have a window as a bedroom space.
  - f. Each client in care of a provider shall have his/her own bed. A client's bed shall be no shorter than the client's height and no less than thirty inches wide, and shall have a clean, comfortable, non-toxic, fire-retardant mattress.
  - g. A provider shall ensure that sheets, a pillow, a bedspread and blankets are provided for each client.
    - i. Enuretic clients shall have mattresses with moisture-resistant covers.
    - ii. Sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

- h. A provider shall provide clients with solidly constructed beds. Cots or other portable beds are not to be used on a routine basis.
  - i. A provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.
  - j. A provider shall provide each client in care with his/her own dresser or other adequate storage space for private use, and designated space for hanging clothing in proximity to the bedroom occupied by the client.
  - k. Each client in care of a provider shall have his/her own designated area for rest and sleep.
    - l. The decoration of sleeping areas for clients shall allow some scope for the personal tastes and expressions of the clients.

#### 6. Bathrooms

- a. A provider shall have an adequate number of washbasins with hot and cold water, flush toilets and bath or shower facilities with hot and cold water, according to client care needs.
  - i. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.
  - ii. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.
  - iii. Tubs and showers shall have slip-proof surfaces.
- b. A provider shall provide toilets and baths or showers which allow for individual privacy, unless clients in care require assistance.
- c. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold running water. This water shall be potable.
- d. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights, and other furnishings necessary to meet the clients' basic hygienic needs.
- e. A provider shall ensure that bathrooms are equipped to facilitate maximum self-help by clients. Bathrooms shall be large enough to permit staff assistance of children if necessary.
- f. Toilets, washbasins and other plumbing or sanitary facilities in a facility shall at all times be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

#### 7. Kitchens

- a. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and cleanup of all meals for all the clients and staff regularly served by such kitchen. All equipment shall be maintained in working order.
  - b. A provider shall not use disposable dinnerware at meals on a regular basis, unless the facility documents that such dinnerware is necessary to protect the health or safety of clients in care.
  - c. A provider shall ensure that all dishes, cups and glasses used by clients in care are free from chips, cracks or other defects.
- 8. Staff Quarters. A provider utilizing live-in staff shall provide adequate, separate living space with private bathroom for these staff.

9. Administrative and Counseling Space

a. A provider shall provide a space that is distinct from the clients' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

b. A provider shall have a designated space to allow private discussions and counseling sessions between individual clients and staff.

10. Furnishings

a. A provider shall have comfortable, customary furniture as appropriate for all living areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of these clients.

b. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the provider.

c. A provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

11. Doors and Windows

a. A provider shall ensure that any designated bedroom in which the bedroom space is not equipped with a mechanical ventilation system is provided with windows that have an openable area at least 5 percent as large as the total floor area of the bedroom space.

b. A provider shall provide insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

c. A provider shall ensure that all closets used by clients, and bedrooms and bathrooms which have doors, are provided with doors that can be readily opened from both sides.

12. Storage

a. A provider shall ensure that there are sufficient and appropriate storage facilities.

b. A provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

13. Electrical Systems

a. A provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

b. A provider shall ensure that any room, corridor or stairway within a facility is sufficiently illuminated.

c. A provider shall provide adequate lighting of exterior areas to ensure the safety of clients and staff during the night.

14. Heat

a. A provider shall take all reasonable precautions to ensure the heating elements, including exposed hot water pipes, are insulated or installed in a manner that ensures the safety of clients.

b. A provider shall maintain the spaces used by clients at reasonable temperatures.

c. A provider shall not use open flame heating equipment.

15. Water. A provider shall ensure that hot water accessible to clients is regulated to a temperature not in excess of 110 degrees F., unless a variance is granted.

16. Finishes and Surfaces

a. A provider shall not utilize any excessively rough surface or finish where this surface or finish may present a safety hazard to clients.

b. A provider shall not have walls or ceilings surfaced with materials containing asbestos.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

**§7969. Emergency and Safety**

A. Emergency and Safety Plan

1. A provider should have a plan for emergency and safety procedures.

2. The plan should provide for the evacuation of clients to safe or sheltered areas.

3. The plan should include provisions for training of staff and, as appropriate, clients in preventing, reporting and responding to fires and other emergencies.

4. The plan should provide means for an ongoing safety program including continuous inspection of the provider for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies.

B. Emergency Drills

1. A provider shall conduct emergency drills at least once every three months and at varying times of the day.

2. A provider shall make every effort to ensure that staff and clients recognize the nature and importance of such drills.

C. Access to Emergency Services

1. A provider shall have access to 24-hour telephone service.

2. The provider shall either have posted telephone numbers of emergency services, including fire department, police, medical services, poison control and ambulance, or be able to show evidence of an alternate means of immediate access to these services.

D. General Safety Practices

1. A provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. A provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of clients, staff and visitors.

3. A provider should ensure that an appropriately equipped first-aid kit is available in the provider's building.

4. Every required exit, exit access and exit discharge in a provider's building shall be continuously maintained free of all obstructions or impediments to immediate use in the case of fire or other emergency.

5. A provider shall prohibit the use of candles in sleeping areas of the clients.

6. Power-driven equipment used by a provider shall be kept in safe and good repair. Such equipment shall be used by clients only under the direct supervision of a staff member and according to State Law.

7. A provider shall have procedures to prevent insect and rodent infestation.

E. Transportation

1. The provider shall ensure that each client is provided with the transportation necessary for implementing the client's service plan.

2. The provider shall have means of transporting clients in case of emergency.

3. Any vehicle used in transporting clients in care of the provider, whether such vehicle is operated by a staff member of any other person acting on behalf of the provider, shall be properly licensed and inspected in accordance with State Law.

4. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats in the vehicle.

5. All vehicles used for the transportation of clients shall be maintained in a safe condition and be in conformity with all applicable motor vehicle laws.

6. Identification of vehicles used to transport clients in care of a provider shall not be of such nature to embarrass or in any way produce notoriety for clients.

7. The provider shall ascertain the nature of any need or problem of a client with might cause difficulties during transportation, such as seizures, a tendency towards motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting clients in care.

8. The following additional arrangements are required in all vehicles except automobiles for a provider serving handicapped, non-ambulatory clients:

a. A ramp device to permit entry and exit of a client from the vehicle must be provided for all vehicles that are normally used to transport physically handicapped clients. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency.

b. Wheelchairs used in transit shall be securely fastened to the vehicle.

c. The arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

Interested persons may submit written comments by April 24, 2001 to Felix Schmidt, Program Manager, Department of Social Services, Bureau of Licensing, Box 3078, Baton Rouge, LA 70821. He is the responding authority to inquiries regarding this proposed Rule.

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This proposed Rule to adopt minimum standards for the licensure of Class "B" child residential care facilities will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule is not anticipated to have any effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This proposed Rule is not anticipated to have any effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? The family or local government is not able to perform the function contained in this proposed Rule.

J. Renea Austin-Duffin  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Class "B" Residential Care Licensing Standards**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a minimal cost for printing the new regulations. There are no other implementation costs to state or local governmental units associated with this proposed Rule to adopt minimum licensing standards for Class "B" child residential care facilities. Currently there is only one facility in Louisiana licensed as a Class "B" child residential care facility at a licensing fee of \$600.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Department of Social Services will collect licensing fees from facilities that are licensed under this category. depending on the capacity of the facility, the fee could be as much as \$600. This amount would be collected annually from any facility requesting such a license.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated costs to directly affected persons would be the licensing fee charged to individuals, which could range from \$400 to \$600 depending upon the capacity of the facility, that choose to open a Class "B" child residential facility. There will be no costs or economic benefit to non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no impact anticipated on competition or employment.

Thalia Stevenson  
Director  
0106#035

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

#### Petition for Rulemaking to List Characteristically Hazardous Waste as Universal Waste

In accordance with LAC 33:1.909, the Louisiana Department of Environmental Quality hereby gives notice of the denial of a petition for rulemaking by Lamp Recyclers of Louisiana, Inc., to include the following items as universal wastes under the Louisiana Hazardous Waste Regulations:

Used computers, and other electronic equipment and devices containing characteristically hazardous printed circuit boards or cards.

Used computer monitors, televisions, or other such devices containing characteristically hazardous cathode ray tubes (CRTs).

The department denied the petition taking into account information from EPA that indicates that a rule to regulate CRTs, which includes computer monitors and televisions, is anticipated later this year. The EPA rule is expected to include these items under recyclable materials, not universal waste as requested in the petition. Adopting a rule that would add the wastes listed above under universal waste may conflict with Louisiana's obligation to maintain a federally equivalent program.

James H. Brent, Ph.D.  
Assistant Secretary

0106#054

## POTPOURRI

### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

#### Proposed Settlement Agreement/CPublic Comment

The Louisiana Department of Environmental Quality, the United States Environmental Protection Agency, Louisiana Environmental Action Network, North Baton Rouge Environmental Association, Save Our Lakes And Ducks, and the Southern University Environmental Law Society have agreed to a proposed settlement agreement in the matter entitled Louisiana Environmental Action Network, et al., v. the United States Environmental Protection Agency, Case # No. 99-60570 in the United States Court of Appeals For the Fifth Circuit. The case seeks judicial review of the approval by the US EPA of revisions to the Louisiana State Implementation Plan (SIP) containing an "attainment demonstration" and "Post-15 percent Rate of Progress" required by the Clean Air Act Amendments of 1990.

The Department of Environmental Quality will accept comments on the proposed settlement until 4:30 p.m.,

Friday, July 13, 2001. The public is invited and encouraged to submit written comments to the Department of Environmental Quality, Legal Division, Box 82282, Baton Rouge, Louisiana 70884-2282, Attention: Donald Trahan, Legal Division. All comments received by the department prior to the close of the comment period will be considered by the Department in reaching a decision on whether to make the settlement final.

The Proposed Settlement is available for inspection from 8 a.m. until 4:30 p.m. at the Department of Environmental Quality Main Office, 7290 Bluebonnet Boulevard, 4th Floor (Public Records Room, Room 4400), Baton Rouge, LA 70810. The proposed settlement is also available on the DEQ website at <http://www.deq.state.la.us/planning/regs/index.htm>.

For further information, you may call Donald Trahan with the Legal Division of the Department of Environmental Quality at (225) 765-0236.

James H. Brent, Ph.D.  
Assistant Secretary

0106#055

## POTPOURRI

### Office of the Governor Division of Administration Office of Community Development

#### Availability of Proposed FY 2002 Consolidated Annual Action Plan

As set forth in 24CFR Part 91, the U.S. Department of Housing and Urban Development (HUD) requires state agencies which administer certain HUD programs to incorporate their planning and application requirements into one master plan called the Consolidated Plan. In Louisiana, the four state agencies participating in this consolidated planning process and the HUD funded program administered by each agency include the Division of Administration/Office of Community Development (Small Cities Community Development Block Grant Program), the Louisiana Housing Finance Agency (HOME Investment Partnerships Program), the Department of Social Services/Office of Community Services (Emergency Shelter Grants Program), and the Department of Health and Hospitals/HIV/AIDS Program (Housing Opportunities for Persons with AIDS Program).

A consolidated plan was prepared which outlines the State's overall housing and community development needs and a strategy for meeting those needs for federal fiscal years 2000-2004 and includes a one year action plan for the distribution of FY 2000 federal funds received for the four aforementioned HUD programs. An annual update or action plan for the distribution of funds will be prepared and publicized for each of the subsequent four program years.

The proposed FY 2002 Consolidated Annual Action Plan which identifies the proposed method of distribution of FY

2002 funds under the four HUD programs, will be prepared and will be available for review beginning June 28, 2001, at the Office of Community Development, State Capitol Annex, 1051 North Third Street, Room 168, Baton Rouge, LA. Copies of the proposed annual action plan will also be available for review at the Louisiana Housing Finance Agency at 200 Lafayette Street, Suite 300 in Baton Rouge, and the Department of Social Services/Office of Community Services at 333 Laurel Street, Room 821, in Baton Rouge, and the Department of Health and Hospitals/HIV/AIDS Program at 234 Loyola Avenue, Fifth Floor, in New Orleans.

A limited number of the proposed plans will be available for distribution and may be requested in writing or by telephone from any of the four agencies participating in the consolidated planning process. The proposed plan will also be available for viewing and copying on the internet ([www.state.la.us/cdbg/cdbg.htm](http://www.state.la.us/cdbg/cdbg.htm)) on or before June 28, 2001.

The following presents a summary of the proposed FY 2002 Consolidated Annual Action Plan.

The State's anticipated federal allocation for the FY 2002 Louisiana Community Development Block Grant (LCDBG) Program is approximately \$38,571,000 (subject to federal allocation). The Office of Community Development is proposing to establish the following six program areas for the distribution of these funds.

(1) Housing - \$2.4 million will be set aside to provide safe and sanitary living conditions through housing rehabilitation or replacement housing for low/moderate income persons.

(2) Public Facilities - approximately \$26 million will be allocated for water and wastewater systems, streets, and multi-purpose community centers.

(3) Economic Development - approximately \$4.6 million will be allocated to provide loans to businesses for job creation or retention projects and/or to provide grants to local governing bodies for infrastructure improvements which will facilitate the location of a particular business.

(4) Demonstrated Needs - \$2.7 million will be set aside to alleviate critical/urgent needs involving improvements to existing water, wastewater, and gas systems.

(5) LaStep - \$750,000 will be set aside to fund one or more water and/or wastewater projects which may utilize LCDBG funds for materials, engineering, and administrative costs in conjunction with local resources (human, material, and/or financial).

(6) Technology - \$800,000 will be set aside to fund one or more project(s) which utilize the application of computer technology to enable persons living in poverty to become self-sufficient. The remainder of the LCDBG funds will be utilized for the State's cost of providing program administration and technical assistance services.

The Louisiana Housing Finance Agency, as the administrator of the State's HOME Program, expects to receive an estimated allocation of \$16,492,000 in FY 2001 funds. These funds are intended for use in support of the following affordable housing categories:

(1) \$2.4 million (or fifteen percent of the HOME project allocation) will be set aside for the exclusive use of state designated community housing development organizations in developing home ownership and rental housing;

(2) \$3 million will be reserved to provide mortgage financing, down payment and closing cost assistance for first time home buyers. These funds are to be used in combination with state mortgage revenue bonds which provide below market rate loans for mortgage financing;

(3) \$1 million will be reserved for other homeownership programs;

(4) \$3 million will be available for primary or secondary financing to for-profit developers of multi-family rental housing in HOME non-entitlement areas;

(5) \$2 million will be available for funding the SHARE Grant Program to provide monies for the rehabilitation of substandard housing owned and occupied by very low income families and;

(6) \$1 million will be available for transitional housing. The balance of the grant is to be used by the Agency in support of the administration of the various HOME supported programs.

The State's estimated federal allocation for the FY 2002 Emergency Shelter Grants Program (ESGP) is \$1,585,000. ESGP funding is dedicated for the rehabilitation, renovation, or conversion of buildings for use as emergency shelters for the homeless, for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless and for homeless prevention services. The Louisiana Department of Social Services, administrative agency for the Emergency Shelter Grants Program, proposes to distribute the State's funding allocation to eligible units of general local government which may make all or part of the grant amounts available to private non-profit organizations for use in eligible activities. Eligible applicants are defined as governmental bodies for all parish jurisdictions and those city jurisdictions with a minimum population of 10,000. The Department of Social Services shall continue use of a geographic allocation formula (based on factors for low income population) to ensure that each region of the State is allotted a specified minimum of Emergency Shelter Grant assistance. Within each region, grant distribution will be conducted through a competitive grant award process. Among other evaluation criteria, this selection process will consider the extent to which proposed activities will address local needs to "compete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living."

The Louisiana Department of Health and Hospitals (DHH), Office of Public Health (OPH), HIV/AIDS Program (HAP) proposes to allocate the FY 2002 Housing Opportunities for Persons With AIDS (HOPWA) grant funds (approximately \$854,000) through a 60/40 funding split between community based organizations providing short-term rent, mortgage and utility assistance and residential facilities providing on-site housing and housing services. Each year the State receives housing assistance funds through HOPWA to be disbursed in Regions III through IX. Funding for Regions I and II, the greater New Orleans and Baton Rouge metro areas, is administered through separate grants awarded directly to the municipalities of New Orleans and Baton Rouge.

Currently there are nine community based organizations (CBOs) throughout the State that provide short-term rent, mortgage and utility assistance to low income persons living with HIV/AIDS. These funds are specifically utilized to prevent homelessness or to provide homeless individuals with a safe transitional housing option. Eligible individuals may access HOPWA for short-term housing assistance payments a maximum of five times in a 52-week period. Approximately \$500,000 (sixty percent of the total FY 2002 HOPWA award) will be allocated to the nine agencies that score highly on applications submitted in response to the Ryan White Title II Solicitation of Proposals released by the HIV/AIDS Program in October, 2000. These grant funds will be disbursed to Regions II through IX, with a very limited allocation going to Region II for individuals living in parishes in the Region II catchment area but outside the designated Baton Rouge HOPWA municipal boundaries.

The other source of assistance available through HOPWA is the funds allocated to the regional residential facilities. The HIV/AIDS Program currently funds residential facilities in five of the seven funded regions (regions VI and IX do not have such facilities) and those five sites will receive approximately forty percent of the FY 2002 HOPWA allocation. Although these facilities are sole source providers of this service, these funds will be allocated through a competitive statewide HIV/AIDS Residential Facility Solicitation of Application process. These HOPWA funds will be designated for new construction, renovation, rehabilitation, acquisition, conversion, lease and repair of facilities, or for the purchase of capital equipment. There is no limit to the number of days an eligible individual may stay at one of these residential facilities.

Written comments on the proposed consolidated annual action plan may be submitted beginning June 28, 2001, and must be received no later than July 30, 2001. Comments may be mailed to the Office of Community Development, Post Office Box 94095, Baton Rouge, LA 70804-9095 or sent via facsimile to 225-342-1947.

Mark C. Drennen  
Commissioner

0106#031

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

**Orphaned Oilfield Sites**

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Joel B. Brown	Caddo Pine Island	S	Mathieu	002	157965
Joel B. Brown	Caddo Pine Island	S	Mathieu	001	157966
Diamond Limited Partnership	South Big Creek	M	Lord et al	001	177672
Gulf Coast Geo-Tech	Caddo Pine Island	S	M Allen	002	196110

H. A. Harper	Wildcat	M	Finlay	004	135766
LP Operating Company	Greenwood-Waskom	S	Abney SWD	002	104793
LP Operating Company	Greenwood-Waskom	S	Abney	001	103405
LP Operating Company	Greenwood-Waskom	S	Abney	003	105607
LP Operating Company	Greenwood-Waskom	S	Abney	004	105839
LP Operating Company	Greenwood-Waskom	S	Abney	005	106853
LP Operating Company	Greenwood-Waskom	S	Abney	006	107873
LP Operating Company	Greenwood-Waskom	S	Abney	007	109040
LP Operating Company	Greenwood-Waskom	S	Abney	008	110360
LP Operating Company	Greenwood-Waskom	S	Abney	009	110361
LP Operating Company	Greenwood-Waskom	S	Abney	010	113026
LP Operating Company	Greenwood-Waskom	S	Abney	021	127217
LP Operating Company	Greenwood-Waskom	S	Abney	022	127385
LP Operating Company	Greenwood-Waskom	S	Abney	018	127779
LP Operating Company	Greenwood-Waskom	S	Abney	020	128716
LP Operating Company	Greenwood-Waskom	S	Abney	012	129650
LP Operating Company	Greenwood-Waskom	S	Abney	013	130786
LP Operating Company	Greenwood-Waskom	S	Abney	017	130887
LP Operating Company	Greenwood-Waskom	S	Abney	019	131605
LP Operating Company	Greenwood-Waskom	S	Abney	016	131635
LP Operating Company	Greenwood-Waskom	S	Abney	011	131636
LP Operating Company	Greenwood-Waskom	S	Abney	014	133367
LP Operating Company	Greenwood-Waskom	S	Abney	015	133412
LP Operating Company	Greenwood-Waskom	S	Abney D	002	130119
LP Operating Company	Greenwood-Waskom	S	Abney D	003	130138
LP Operating Company	Greenwood-Waskom	S	Abney D	004	130640
LP Operating Company	Greenwood-Waskom	S	Abney D	005	130752
LP Operating Company	Greenwood-Waskom	S	Abney D	006	130923



LP Operating Company	Greenwood-Waskom	S	Abney D	007	131025
LP Operating Company	Greenwood-Waskom	S	Abney D	008	131104
LP Operating Company	Greenwood-Waskom	S	Abney D	009	133427
LP Operating Company	Greenwood-Waskom	S	Abney D	011	133466
LP Operating Company	Greenwood-Waskom	S	Abney D	010	136179
LP Operating Company	Greenwood-Waskom	S	Abney D	012	136343
LP Operating Company	Greenwood-Waskom	S	Abney D	013	136566
LP Operating Company	Greenwood-Waskom	S	Abney D	014	136702
J. T. Parks & A. T. Farr, Jr.	Bellevue	S	Lodwick Lbr Co	001	033024
Universal Producers, Inc.	Colgrade	S	T J Wells SWD	001	151583
Universal Producers, Inc.	Colgrade	S	T J Wells	002	151612
Universal Producers, Inc.	Colgrade	S	T J Wells	003	151613
Universal Producers, Inc.	Colgrade	S	T J Wells	004	151614
Universal Producers, Inc.	Colgrade	S	T J Wells	005	151615
Universal Producers, Inc.	Colgrade	S	T J Wells	006	151616
Universal Producers, Inc.	Colgrade	S	T J Wells	007	152123
Universal Producers, Inc.	Colgrade	S	Gresham	004	152249
Universal Producers, Inc.	Colgrade	S	Gresham	003	152310
Universal Producers, Inc.	Colgrade	S	Gresham	005	152311
Universal Producers, Inc.	Colgrade	S	Gresham	002	152394
Universal Producers, Inc.	Colgrade	S	Gresham	001	152455
Universal Producers, Inc.	Colgrade	S	Gresham	006	152489
Universal Producers, Inc.	Colgrade	S	T J Wells	010	165870
Universal Producers, Inc.	Colgrade	S	T J Wells	008	167118
Universal Producers, Inc.	Colgrade	S	T J Wells	009	167119
Universal Producers, Inc.	Colgrade	S	T J Wells	011	167120
Universal Producers, Inc.	Colgrade	S	T J Wells	015	167667
Universal Producers, Inc.	Colgrade	S	T J Wells	013	167688

Universal Producers, Inc.	Colgrade	S	T J Wells	014	167689
Universal Producers, Inc.	Colgrade	S	T J Wells	016	167819
Universal Producers, Inc.	Colgrade	S	T J Wells	017	167820
Universal Producers, Inc.	Colgrade	S	T J Wells	018	168175
Universal Producers, Inc.	Colgrade	S	T J Wells	019	168847
Universal Producers, Inc.	Colgrade	S	T J Wells	020	169213
Universal Producers, Inc.	Colgrade	S	T J Wells	021	169214
Universal Producers, Inc.	Colgrade	S	Gresham M80	008	169986
Universal Producers, Inc.	Colgrade	S	Gresham M80	009	169987
Universal Producers, Inc.	Colgrade	S	Gresham M80	010	169988
Universal Producers, Inc.	Colgrade	S	Gresham M80	012	169990
Universal Producers, Inc.	Colgrade	S	Gresham SWD	013	174545
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co A	002	114278
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co A	004	114442
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co A	005	114534
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co B	006	115191
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co B	007	115192
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co B	008	115468
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co C	002	115773
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co C	003	115986
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co C	004	116282
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co B	001	116651
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co B	003	117059
Universal Producers, Inc.	Tullos Urania	M	Urania Lumber Co B	005	121669
Universal Producers, Inc.	Tullos Urania	M	S Tullos	001	164588
Universal Producers, Inc.	Tullos Urania	M	Bice-Mopac	001	166837
Universal Producers, Inc.	Tullos Urania	M	S Tullos	002	170866
Universal Producers, Inc.	Tullos Urania	M	AG Oil-Mopac	002	171065

Universal Producers, Inc.	Tullos Urania	M	AG Oil-Mopac	003	171066
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Universal Producers, Inc.	Tullos Urania	M	S Tullos	005	171523
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Universal Producers, Inc.	Tullos Urania	M	S Tullos	004	176142
Universal Producers, Inc.	Tullos Urania	M	S Tullos	007	177944
Universal Producers, Inc.	Tullos Urania	M	S Tullos	008	179481
F. G. Weimer & J. R. Fitzhugh	Wildcat	L	Waterford Oil Co	001	071884
Lynn Wisenor	Richland	M	Wisenor	001	123865

Phillip N. Asprodites  
Comissioner

0106#032

**POTPOURRI**  
**Department of Natural Resources**  
**Office of Conservation**  
**Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 16 claims in the amount of \$53,470.10 were received for payment during the period May 1, 2001 - May 31, 2001. There were 13 claims paid and 3 claims denied.

Loran Coordinates of reported underwater obstructions are:

26622	46979	Cameron
26753	46980	Cameron
26854	46973	Cameron
29077	46839	Plaquemines

Latitude/Longitude Coordinates of reported underwater obstructions are:

2904.754	9045.698	Terrebonne
2907.354	9007.826	Jefferson
2929.000	8945.000	Plaquemines
2938.974	8932.826	St Bernard
2942.655	8951.145	Plaquemines
2946.628	8925.683	St Bernard
2948.500	8938.000	St Bernard
2953.121	8915.670	St Bernard
2954.448	8947.416	St Bernard
2954.587	8939.057	St Bernard
3001.361	8925.562	St Bernard
3939.333	8930.356	St Bernard

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 94396, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Jack C. Caldwell  
Secretary

0106#033

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