

# Notices of Intent

## NOTICE OF INTENT

### Department of Economic Development Office of the Secretary

#### Capital Companies Tax Credit Program (LAC 13:XV.Chapter 3)

The Department of Economic Development, Office of the Secretary, pursuant to the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following amendment to the Rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1935, to provide for the investment of certain funds, as determined by the secretary, in pre-seed, seed, and early stage business ventures, and certified disadvantaged businesses, and business ventures operating in economically distressed areas.

This proposed Rule will have no known effect on family formation, stability, and autonomy as set forth in R.S. 49:972.

#### Title 10

### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

#### Part XV. Other Regulated Entities

#### Chapter 3. Capital Companies Tax Credit Program

#### §320. Investment in approved funds

A. Any certified Louisiana capital company that has capital certified pursuant to R.S. 51:1931 for the calendar year 1999 or any year thereafter, and which qualifies for credits pursuant to R.S. 22:1068(E) shall invest an amount, as determined by the Secretary, into the following investments:

1. fifty percent of the amount determined by the secretary shall be invested in one or more capital management funds as approved by the secretary whose primary investment objectives include pre-seed, seed, and early stage business ventures, and whose investment in any such business and its affiliates is limited to one million dollars or less. Investments made by such funds must give special emphasis to the Targeted Technology Clusters identified in Vision 2020-Master Plan For Economic Development as adopted by the Louisiana Economic Development Council; and

2. fifty percent of the amount determined by the secretary shall be invested equally in any certified Louisiana capital company whose primary investment objectives include investing in the following three categories:

- a. certified disadvantaged businesses;
- b. business ventures operating in economically distressed areas; or
- c. Louisiana businesses and affiliates in an amount not exceeding \$1 million.

B. The amount to be invested by each certified Louisiana capital company pursuant to Subsection A shall be determined annually by the secretary beginning January 1, 2000. Such amount shall not exceed 10 percent of all capital

certified in the previous calendar year that are eligible for credits pursuant to R.S. 22:1068(E). The amount to be invested pursuant to subsection A shall be invested within 120 days from the end of the calendar year in which the capital is certified or 120 days from the date the secretary determines the amount to be invested, whichever is later.

C. The capital management fund referred to in Subsection A.1 shall be managed by a qualified individual and governed by a board consisting of one representative from each certified Louisiana capital company. The governing board of the capital management fund will develop policies for the administration and operation of the capital management fund.

D. Any entities receiving funds pursuant to Subsection A.1 or A.2 shall comply with all requirements of R.S. 51:1921 et seq. (Chapter 26 of Title 51 of the Louisiana Revised Statutes) and with this Chapter with respect to such funds received as if those funds were certified capital as defined in R.S. 51:1923(1) with the exception that:

1. such funds shall earn no additional tax credits; and
2. for purposes of R.S. 51:1926(A)(1), 50 percent must be invested in qualified investments and for purposes of R.S. 51:1926(A)(2), 80 percent must be invested in qualified investments.

E. Amounts invested pursuant to Subsection A.2 shall be invested directly into a certified Louisiana capital company. Investments directly into a business shall not qualify as an investment pursuant to Subsection A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1935.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 27:

Any interested person may submit written comments regarding the contents of the proposed Rule to Daryl K. Manning, General Counsel, Department of Economic Development, in person to One Maritime Plaza, 101 France Street, Baton Rouge, Louisiana 70802; or by mail to P.O. Box 94185, Baton Rouge, LA 70804-9185. All comments must be received no later than 5 p.m., February 20, 2001.

Don J. Hutchinson  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Capital Companies Tax Credit Program

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no significant implementation costs to state or local governmental units anticipated due to this Rule. All certified Louisiana capital companies are monitored and audited by the Office of Financial Institutions. Compliance with this rule will be monitored under the Office of Financial Institutions existing procedures.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that between \$5,000,000.00 and \$10,000,000.00 of additional private venture capital funds will be made available to seed, pre-seed and to economically disadvantaged companies through the Capital Companies Tax Credit Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition is anticipated. It is expected that some increase in employment in Louisiana based seed, and pre-seed businesses and in economically disadvantaged businesses will result. The exact increase in employment is not susceptible of accurate projection.

Don J. Hutchinson  
Secretary  
0101#047

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Economic Development  
Racing Commission**

Account Wagering C Source Market Commissions  
(LAC 35:XIII.12001 and 12014)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XIII.Chapter 120 "Account Wagering," because additional definitions are needed, and distribution of commissions must be provided for.

This proposed rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

The full text of this proposed rule may be viewed in the Emergency Rule section of this edition of the Louisiana Register.

The domicile office of the Louisiana State Racing Commission is open from 8am to 4pm and interested parties may contact Charles A. Gardiner III, executive director, or C. A. Rieger, assistant director, at (504) 483-4000 (Fax 483-4898), holidays and weekends exc luded, for more information. All interested persons may submit written comments relative to this proposed rule through Friday, February 9, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Account Wagering C Source Market  
Commissions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The only costs associated with these rules are those costs directly associated with the publication of these rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The amendments to this rule chapter do not have any impact.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The amendments to this rule chapter are at no cost to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action has no significant effect on competition nor employment.

Charles A. Gardiner, III  
Executive Director  
0101#007

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741 C Louisiana Handbook for School  
Administrators C High School Credit for College Courses

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 amendments 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). The proposed changes remove restrictions that prevent students from receiving dual enrollment credit while in high school.

**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**

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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:

**Bulletin 741 C Louisiana Handbook for School  
Administrators C High School Credit for College Courses  
(Applies to students attending college part time)**

**2.105.43** Repealed

**2.105.44** Repealed

**2.105.45** Repealed

**2.105.46** The principal of the high school shall approve the advanced offering to be pursued by the student in college.

**2.105.47** The student shall meet the entrance requirements established by the college.

**2.105.48** The student shall earn at least two or three college hours of credit per semester. A course consisting of at least two college hours shall be counted as no more than one unit of credit toward high school graduation.

**2.105.49** The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine- week intervals.

**2.105.50** College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

Students may participate in college courses and special programs during regular or summer sessions. High school credit for summer courses is subject to Standards 2.105.46 - 2.105.50.

**High School Credit for College Courses  
in Vocational Education (Applies to students  
attending college part time)**

**2.105.59** The student shall meet the entrance requirements established by the college.

The principal of the school shall approve the advanced offering to be taken by the student in college.

The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine-week intervals.

The awarding of the Carnegie units of credit will be in accordance with individual program requirements as stated in Bulletin 741.

Interested persons may submit written comments until 4:30 p.m., March 12, 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 741C Louisiana Handbook for  
School Administrators C High School  
Credit for College Courses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revision replaces restrictive dual enrollment policies with the entrance requirements established by individual postsecondary institutions. There will no longer be one prescribed set of policies for students seeking dual enrollment at a postsecondary institution while still enrolled in high school. Instead, students must meet the entrance requirements of the postsecondary institution in which they wish to be dually enrolled. There will be no implementation costs (savings) to state or local governmental units.

**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)**

The proposed changes are being requested as a result of the final recommendations of Governor Foster's Secondary School Redesign Commission (SSRC) Final Recommendations. Across Louisiana, many seniors need only one or two courses to complete high school graduation requirements, and they are engaged for the remainder of the school day in non-educational pursuits. The SSRC recommended the revision of state policies to ensure that all seniors are engaged in at least one-half day of studies, emphasizing dual enrollment programming.

The proposed changes are also being requested in order to comply with proposed High School Accountability requirements. Proposed Diploma Endorsements require nine hours of articulated (dual enrollment) credit. In order for a high school to attain the School Performance Score established by the ten-year accountability goal, one-quarter of all seniors would have to earn a diploma endorsement. To attain the twenty-year School Performance Score goal, one-half of all seniors would have to earn a diploma endorsement.

At this time, there are approximately 42,000 high school students dually enrolled in postsecondary institutions in Louisiana. Students receiving dual enrollment credit are afforded the opportunity to complete their postsecondary education without duplication of courses and in a more timely manner, which may also be of economic benefit to the students. The students could complete their education and enter the workforce sooner. This economic benefit is difficult to project.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

Employers could have a larger and more qualified pool from which to select employees.

Marlyn J. Langley  
Deputy Superintendent  
Management and Finance  
0101#075

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741C Louisiana Handbook for School  
Administrators C High School Graduation Requirements

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.901A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The first cohort of students to take the GEE 21 (2000-2001 first-time tenth graders, or the class of 2003) must pass the English Language Arts and Mathematics portions of GEE 21 to be eligible for a standard high school diploma. The second cohort of students to take the GEE 21 (2001-2002 first-time tenth graders, or the class of 2004) must pass the English Language Arts and Mathematics portions of GEE 21, along with either the Science or Social Studies portions to be eligible for a standard high school diploma.

**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**

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**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:

**Standard 2.099.00**

**2.099.00** In addition to completing a minimum of 23 Carnegie units of credit, the student shall also be required to pass the Graduation Exit Examination (GEE), beginning with the 1991 graduating class. This requirement shall first apply to students classified as sophomores in 1988-89 and thereafter.

The English Language Arts, Writing, and Mathematics components of the GEE shall first be administered to students in the tenth grade. Beginning in spring 2001 the English Language Arts and Mathematics components of the Graduation Exit Examination for the 21<sup>st</sup> Century (GEE 21) shall first be administered to students in the tenth grade.

The Science and Social Studies components of the graduation test shall first be administered to students in the eleventh grade. Beginning in spring 2002 the Science and Social Studies components of the Graduation Exit Examination for the 21<sup>st</sup> Century (GEE 21) shall first be administered to students in the eleventh grade.

Effective for the 2000-2001 school year, in addition to completing a minimum of 23 Carnegie units of credit, first-time tenth graders must pass the English Language Arts and Mathematics portions of the test of GEE 21 to earn a standard high school diploma. Effective for the 2001-2002 school year and thereafter, in addition to completing a minimum of 23 Carnegie units of credit, first-time tenth graders must pass the English Language Arts and Mathematics portions of the test and either the Science or Social Studies portions of GEE 21 to earn a standard high school diploma.

Remediation and retake opportunities will be provided for students that do not pass the test.

Effective for incoming freshman 2000-2001, a student may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

Effective for the 2000-2001 school year, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory* achievement level on either the English Language Arts and/or the Mathematics component(s) of the eighth grade LEAP 21 provided the student:

1. participated in a transitional program on a traditional high school campus;
2. successfully completed specially designed elective(s) for remediation;
3. scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the *Unsatisfactory* achievement level.

A student may apply a maximum of two Carnegie units of elective credit toward high school graduation by:

1. earning one elective credit through remediation for eighth grade LEAP 21 and or one elective credit through GEE 21 remediation; or
2. earning two elective credits through GEE 21 remediation.

Interested persons may submit written comments until 4:30 p.m., March 12, 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 741C Louisiana Handbook for  
School AdministratorsC High School  
Graduation Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The current rule change added no additional costs to the state or local government units; however, the cost of the LEAP 21 and GEE 21 testing program for FY00-01 is \$8.9 million.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no effect on revenue collections at the state or local level.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There should be no effect on costs or benefits to directly affected persons in nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There should be no impact on competition and employment.

Marlyn J. Langley Deputy Superintendent Management and Finance 0101#076	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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**NOTICE OF INTENT**

**Department of Education  
Board of Elementary and Secondary Education**

Bulletin 741C Louisiana Handbook for School  
AdministratorsC Policy for Louisiana's Public Education  
Accountability System

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 changes more clearly explain and refine the existing policy as it pertains to Paired/Shared status of schools during the accountability cycles and the awarding of bonus points to a school's CRT Index for fourth graders who receive a score of Approaching Basic or above on LEAP 21 for which he/she was unsuccessful the previous spring.

**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

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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 (June 2000), LR 27:

**Bulletin 741C Louisiana Handbook for School  
Administrators C The Louisiana School and District  
Accountability System**

**School Performance Scores**

**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:

1. an average of the most recent two year's test data; and
2. 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
SPS = 67.1			

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

Formula for Calculating a CRT Index for a School [K-8]	
1.	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.
2.	Divide by the total number of students eligible to be tested times the number of content area tests.
3.	Zero shall be the lowest CRT Index score reported for accountability calculations.

If, during spring testing, a fourth grade 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 retaining school shall receive 50 bonus points per subject in its CRT index. A student may earn a maximum of 100 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.)

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 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 retaining 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. (No bonus points for passing parts of tests in the summer school of the year they 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.

<i>NRT Goals and Equivalent Standard Scores</i>	
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
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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.

<i>Attendance Goals</i>		
	10-Year Goal	10-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.

<i>Dropout Goals</i>		
	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**

$$\text{Non-Dropout Rate (NDO)} = 100 - \text{Dropout Rate (DO)} \text{ (expressed as a percentage)}$$

Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = $(25 * \text{NDO}) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$
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**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. Subsequent calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used, and the graduation index score.

Transition Years [9-12]								
To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests and the graduation requirement, 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	Dropout	Graduation
1	2000-01	2002-03	✓	✓		✓*	✓*	
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	✓	✓	✓	✓*	✓*	
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	✓	✓	✓	✓*	✓*	✓*

\*Indicates use of prior year data for these indexes.

**Formula for Calculating an SPSCAccountability 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:

$$\text{SPS} = (.60 * \text{Grade 10 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 \text{ Attendance Index})$$

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

SPS		69.0	
<p>Formula for Calculating an SPSCAccountability Cycle 2 [9-12]</p> <p>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:</p> $\text{SPS} = (.30 * \text{Grade 10 CRT Index}) + (.30 * \text{Grade 11 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 \text{ Attendance Index})$ <p>In this example,</p> $[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2$			
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
SPS		67.2	
<p>Formula for Calculating an SPSCAccountability Cycle 3 and Beyond [9-12]</p> <p>During the third and succeeding accountability cycles, 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:</p> $\text{SPS} = (.25 * \text{Grade 10 CRT Index}) + (.25 * \text{Grade 11 CRT Index}) + (.20 * \text{NRT Index}) + (.20 * \text{Graduation Index}) + (.05 * \text{Dropout Index}) + (.05 \text{ Attendance Index})$ <p>In the example,</p> $[(.25 * 66.0) + (.25 * 60.0) + (.20 * 75.0) + (.20 * 110.0) + (.05 * 50.0) + (.05 * 87.5)] = 76.4$			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	25%	16.5
CRT—Grade 11	60.0	25%	16.0
NRT	75.0	20%	15.0
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
Graduation Index	110.0	20%	22.0
SPS		76.4	

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

1. 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.
2. 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.
3. 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.
4. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

Example 1 CGrade 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.

<ul style="list-style-type: none"> <li>The raw achievement index is: <math>5000/45 = 111.1</math></li> <li>The adjusted achievement index is: <math>111.1 \times (1 - .100) = 100.0</math></li> </ul> <p>Example 2 C Grade 10:</p> <ul style="list-style-type: none"> <li>Another 5 students drop before October of grade 10. The grade 10 dropout rate is: <math>5/45 = .111</math></li> <li>The 40 students remaining in the class earn 10000 points on the two CRT tests. The raw achievement index is: <math>10000/(40 * 2) = 125.0</math></li> <li>The adjusted achievement index is: <math>125.0 \times (1 - .100) \times (1 - .111) = 100.0</math></li> </ul>
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**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.

Graduation Index Calculations for Grades 9-12		
Beginning with the first baseline year (2003-04) of accountability cycle 3, a Graduation Index score for each high school shall be calculated. The Graduation Index shall be based on the prior year's data, including students who graduated in December, May, and during the summer.		
Graduation Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	25% (on average) of regular education students earning diploma enhancement	50% (on average) of regular education students earning diploma enhancement
The Graduation Index score equals the sum of the student totals based on points awarded for graduation-related results, divided by the number of students eligible to participate. The number of students eligible is calculated by adding the grade 12 enrollment reported on October 1 plus the number of students who dropped during the summer prior to their senior year. The number of points awarded for graduation-related results are:		
Diploma	Points	
Under discussion	TBD	
Recovered Dropouts (those through age 21 who had dropped out of school prior to age 18 and for more than one year and who now receive some type of diploma)	Points noted above for type of diploma plus 100 points	
Formula for Calculating the Graduation Index for a High School <ol style="list-style-type: none"> <li>1. Calculate the total number of points by multiplying the number of students at each graduation-related result times the number of points for those respective results.</li> <li>2. Divide by the total number of students eligible (the October 1 grade 12 enrollment plus students who dropped out during the summer prior to their senior year).</li> <li>3. Zero shall be the lowest Graduation Index score reported for accountability calculations.</li> </ol>		

**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 attend. 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.

Interested persons may submit written comments until 4:30 p.m., March 12, 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 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 changes more clearly explain and refine the existing policy as it pertains to the "pairing" and "sharing" of schools, and the awarding of bonus points for schools with students in grade 4.

**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.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There will be no effect on competition and employment.

Marlyn J. Langley                Robert E. Hosse  
Deputy Superintendent        General Government Section Director  
Management and Finance      Legislative Fiscal Office  
0101#077

**NOTICE OF INTENT**

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

Hazardous Waste RCRA X Package  
(LAC 33:V.105, 109, 110, 322, 529, 535, 537, 905,  
1109, 1127, 1531, 1705, 2214, 2245, 3001, 3003,  
3011, 3025, 3105, 3115, 3203, 3809, 3813, 3821,  
3823, 3843, 3845, 4513, 4901, and 4909)(HW076\*)

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 Hazardous Waste regulations, LAC 33:V.Chapters 1, 3, 5, 9, 11, 15, 17, 22, 30, 31, 32, 38, 43, and 49 (Log #HW076\*).

This proposed Rule is identical to federal regulations found in 64 FR 36465-36490, 7/6/99; 64 FR 52827-53077, 9/30/99; 64 FR 56469-56472, 10/20/99; 64 FR 63209-63213, 11/19/99; 65 FR 14472-14475, 3/17/00; 65 FR 30886-30913, 5/15/00; 65 FR 36365-36367, 6/8/00, 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).

The proposed Rule covers the adoption of rules in the RCRA X package for authorization for the portions of the RCRA C program. The specific topics include the following titles: Hazardous Waste Management System; Modification

of the Hazardous Waste Program; Hazardous Waste Lamps; NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (MACT Rule); NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Final Rule, Technical Corrections; Land Disposal Restrictions, Wood Preserving Wastes, Metal Wastes, Zinc Micronutrient Fertilizer, etc., correction; Waste Water Treatment Sludges from Metal Finishing Industry; Organobromine Production Wastes; Organobromine Production Wastes, Petroleum Refining Wastes, Identification and Listing of Hazardous Waste, Land Disposal Restrictions, Final Rule and Correcting Amendments; National Pollutant Discharge Elimination System - Program Regulations Streamlining; Address Changes for USEPA Offices in Washington D.C.; Air Emission Standards; and Formula for Administrative Cost Fee. The hazardous waste regulations for the state must be equivalent to those of the federal in order for the state to be authorized for the new portions of the RCRA program. The basis and rationale for this proposed Rule are to adopt recently promulgated regulations in order to maintain equivalency.

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 V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental**

**Quality Hazardous Waste**

**Chapter 1. General Provisions and Definitions**

**§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

\* \* \*

[See Prior Text in A – D.2.l.i]

ii. a copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460;

\* \* \*

[See Prior Text D.2.m – O.2.c.vi]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR

16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:

**§109. Definitions**

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

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[See Prior Text]

*Dioxins and Furans (D/F)* Ctetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

\*\*\*

[See Prior Text]

*TEQC* toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

\*\*\*

[See Prior Text]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:

**§110. References**

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[See Prior Text in A – A.10]

11. "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I

(July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 1200 Pennsylvania Ave, NW, Washington, DC, 20460. Copies of the Third Edition and its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC;

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[See Prior Text in A.12–B]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:814 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:656 (April 1998), LR 24:1690 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:

**Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits**  
**§322. Classification of Permit Modifications**

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications	Class
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[See Prior Text in A - B.7.b]

8. Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility).	11
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[See Prior Text in Note - N.3]

<sup>1</sup>Class 1 modifications requiring prior administrative authority approval.

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:815 (September 1996), amended by the Office of the Secretary, LR 24:2245 (December 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:

**Chapter 5. Permit Application Contents**  
**Subchapter E. Specific Information Requirements**

**§529. Specific Part II Information Requirements for Incinerators**

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B or C of this Section.

\* \* \*

[See Prior Text in A - E.3]

F. When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 and 30:2011.D.24(a).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**§535. Specific Part II Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste for Energy or Material Recovery and not for Destruction**

\* \* \*

[See Prior Text in A - F]

G. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:817 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**Subchapter F. Special Forms of Permits**

**§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)**

\* \* \*

[See Prior Text in A - C.2]

D. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR part 63,

subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818 (September 1996), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657(April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), LR 27:

**Chapter 9. Manifest System for TSD Facilities**  
**§905. Use of the Manifest System**

\* \* \*

[See Prior Text in A - C]

D. Within three working days of the receipt of a shipment subject to LAC 33:V.Chapter 11.Subchapter B, the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, and to competent authorities of all other concerned countries. A copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:660 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**Chapter 11. Generators**  
**Subchapter A. General**

**§1109. Pre-Transport Requirements**

\* \* \*

[See Prior Text in A - E.1.d]

e. the generator complies with the requirements for owners or operators in LAC 33:V.2245.E, 4319 and in Chapter 43.Subchapters B and C.

\* \* \*

[See Prior Text in E.2 - 7.d.iv.(c).(v)]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:

**Subchapter B. Transfrontier Shipments of Hazardous Waste**

**§1127. Transfrontier Shipments of Hazardous Waste for Recovery Within the OECD**

\*\*\*

[See Prior Text in A - C.2.a.]

i. Notification. At least 45 days prior to commencement of the transfrontier movement, the notifier must provide written notification in English of the proposed transfrontier movement to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, with the words "Attention: OECD Export Notification" prominently displayed on the envelope. This notification must include all of the information identified in Subsection C.5 of this Section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, and the same RCRA waste codes are to be sent periodically to the same recovery facility by the same notifier, the notifier may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.

\*\*\*

[See Prior Text in C.2.a.ii - C.2.b]

i. The notifier must provide EPA the information identified in Subsection C.5 of this Section, in English, at least 10 days in advance of commencing shipment to a preapproved facility. The notification should indicate that the recovery facility is preapproved and may apply to a single specific shipment or to multiple shipments as described in Subsection C.2.a.i of this Section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, with the words "OECD Export Notification-Preapproved Facility" prominently displayed on the envelope.

\*\*\*

[See Prior Text in C.2.b.ii - D.4]

5. Within three working days of the receipt of imports subject to this Subchapter, the owner or operator of the United States recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, and to the competent authorities of the exporting and transit countries.

\*\*\*

[See Prior Text in E - G]

1. Annual Reports. For all waste movements subject to this Subchapter, persons (e.g., notifiers, recognized traders) who meet the definition of primary exporter in LA C 33:V.109 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200

Pennsylvania Ave, NW, Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this Subchapter, he may include all export information in one report provided the information required by this Subsection on exports of waste destined for recovery within the designated OECD member countries is contained in a separate section.) Such reports shall include the following:

\*\*\*

[See Prior Text in G.1.a - I.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:

**Chapter 15. Treatment, Storage, and Disposal Facilities**

**§1531. Required Notices**

\*\*\*

[See Prior Text in A]

B. The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to LAC 33:V.Chapter 11.Subchapter B must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

\*\*\*

[See Prior Text in C - E]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000), LR 27:

**Chapter 17. Air Emission Standards**  
**Subchapter A. Process Vents**

**§1705. Applicability**

The regulations in this Subchapter apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in LAC 33:V.1501).

\*\*\*

[See Prior Text in A]

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapter 3, 5, 7, or 43;
2. a unit (including a hazardous waste recycling unit) that is not exempt from the permitting requirements under LAC 33:V.1109.E (i.e., a hazardous waste recycling unit that

is not a 90-day tank or container) and that is located on a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapter 3, 5, 7, or 43; or

\* \* \*

[See Prior Text in A.3 - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1698 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

## **Subchapter B. Equipment Leaks**

### **§1717. Applicability**

\* \* \*

[See Prior Text in A - B]

1. a unit that is subject to the permitting requirements of LAC 33:V.Chapter 3, 5, 7, or 43; or

2. a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of LAC 33:V.1109.E.1 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of LAC 33:V.Chapter 3, 5, 7, or 43; or

\* \* \*

[See Prior Text in B.3 – F.Note]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1700 (September 1998), LR 25:438 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

## **Chapter 22. Prohibitions on Land Disposal**

### **Subchapter A. Land Disposal Restrictions**

#### **§2214. Waste-Specific Prohibitions C Toxicity Characteristics**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:443 (March 1999), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

#### **§2236. Alternative Land Disposal Restriction (LDR) Treatment Standards for Contaminated Soil**

\* \* \*

[See Prior Text in A - C.1]

a. for nonmetals except carbon disulfide, cyclohexanone, and methanol, treatment must achieve 90 percent reduction in total constituent concentrations, except as provided by Subsection C.1.c of this Section;

b. for metals and carbon disulfide, cyclohexanone, and methanol, treatment must achieve 90 percent reduction in constituent concentrations as measured in leachate from the treated media (tested according to the toxicity characteristic leaching procedure, TCLP) or 90 percent reduction in total constituent concentrations (when a metal removal treatment technology is used), except as provided by Subsection C.1.c of this Section;

\* \* \*

[See Prior Text in C.1.c - E.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, LR 25:446 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 27:

#### **§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements**

\* \* \*

[See Prior Text in A - C.1]

2. for contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice must include the information in Subsection D of this Section of the Generator Paperwork Requirements Table;

3. if the waste changes, the generator must send a new notice and certification to the receiving facility, and place a copy in their files. Generators of hazardous debris excluded from the definition of hazardous waste under LAC 33:V.109.Hazardous Waste.6 are not subject to these requirements.

\* \* \*

[See Prior Text in D -K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), LR 27:

**Table 2 - Treatment Standards for Hazardous Wastes**

Waste Code	Waste Description and Treatment/Regulatory Subcategory <sup>1</sup>	Regulated Hazardous Common Name	Constituent CAS <sup>2</sup> Number	Wastewaters Concentration in mg/l <sup>3</sup> ; or Technology Code <sup>4</sup>	Nonwastewaters Concentration in mg/kg <sup>5</sup> unless noted as "mg/l TCLP" or Technology Code <sup>4</sup>
*** [See Prior Text in D001 <sup>9</sup> – K087]					
K088	Spent potliners from primary aluminum reduction.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benzo(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene	205-99-2	0.11	6.8
		Benzo(k)fluoranthene	207-08-9	0.11	6.8
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Indeno (1,2,3-c,d)pyrene	193-39-5	0.0055	3.4
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	26.1 mg/kg
		Barium	7440-39-3	1.2	21 mg/l TCLP
		Beryllium	7440-41-7	0.82	1.22 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
Nickel	7440-02-0	3.98	11 mg/l TCLP		
Selenium	7782-49-2	0.82	5.7 mg/l TCLP		
Silver	7440-22-4	0.43	0.14 mg/l TCLP		
Cyanide (Total) <sup>7</sup>	57-12-5	1.2	590		
Cyanide (Amenable) <sup>7</sup>	57-12-5	0.86	30		
Fluoride	16984-48-8	35	NA		
*** [See Prior Text in K093 – K132]					
K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.	Methyl bromide (Bromomethane)	74-83-9	0.11	15
		Chloroform	67-66-3	0.046	6.0
		Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.028	15
K141	Process residues from the recovery of coal tar, including, but not limited to, collecting sump residues from the production of coke or the recovery of coke by-products produced from coal. This listing does not include K087 (decanter tank tar sludge from coking operations).	Benzene	71-43-2	0.14	10
		Benzo(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-2-8	0.061	3.4
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Indeno(1,2,3-cd)pyrene	193-39-5	0.0055	3.4
*** [See Prior Text in K143 –U395]					
U404	Triethylamine	Triethylamine	121-44-8	0.081	1.5
U409	Thiophanate-methyl	Thiophanate-methyl	23564-05-8	0.056	1.4

\*\*\*  
[See Prior Text in U410 -U411]

[See Prior Text in Notes 1 – 11]

Note: NA means not applicable.

<b>Table 7. Universal Treatment Standards</b>			
Regulated Constituent- Common Name	CAS <sup>1</sup> Number	Wastewater Standard Concentration in mg/l <sup>2</sup>	Nonwastewater Standard Concentration in mg/kg <sup>3</sup> unless noted as "mg/l TCLP"
Organic Constituents			
***			
[See Prior Text in Acenaphthylene - Acetone]			
Acetonitrile	75-05-8	5.6	38
***			
[See Prior Text in Acetophenone – Acrylamide]			
Acrylonitrile	107-13-1	0.24	84
***			
[See Prior Text in Aldicarb sulfone <sup>6</sup> – Carbofuran phenol <sup>6</sup> ]			
Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
***			
[See Prior Text in Carbon tetrachloride – 2-Chloro-1,3-butadiene]			
Chlorodibromomethane	124-48-1	0.057	15
***			
[See Prior Text in Chloroethane - Chloroform]			
bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
***			
[See Prior Text in p-Chloro-m-cresol – 2,4-Dinitrophenol]			
2,4-Dinitrotoluene	121-14-2	0.32	140
***			
[See Prior Text in 2, 6 –Dinitrotoluene – Di-n-propylnitrosamine]			
1,4-Dioxane	123-91-1	12.0	170
***			
[See Prior Text in Diphenylamine (difficult to distinguish from diphenylnitrosamine) - Disulfoton]			
Dithiocarbamates (total) <sup>6</sup>	NA	0.028	28
***			
[See Prior Text in EPTC <sup>6</sup> ]			
Endosulfan I	959-98-8	0.023	0.066
Endosulfan II	33213-65-9	0.029	0.13
Endosulfan sulfate	1031-07-8	0.029	0.13
***			
[See Prior Text in Endrin – Formetanate hydrochloride <sup>6</sup> ]			
Heptachlor	76-44-8	0.0012	0.066
***			
[See Prior Text in Heptachlor epoxide – HxCDDs (All Hexachlorodibenzo-p-dioxins)]			
HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
***			
[See Prior Text in Hexachloroethane – Iodomethane]			
Isobutyl alcohol	78-83-1	5.6	170
***			
[See Prior Text in Isodrin - Isosafrole]			
Kepone	143-50-0	0.0011	0.13
***			
[See Prior Text in Methacrylonitrile - Naphthalene]			
2-Naphthylamine	91-59-8	0.52	NA
***			
[See Prior Text in o-Nitroaniline - Pronamide]			
Propham <sup>6</sup>	122-42-9	0.056	1.4
***			
[See Prior Text in Propoxur <sup>6</sup> – 1,2,4,5-Tetrachlorobenzene]			
TCDDs (All Tetrachlorodibenzo-p- dioxins)	NA	0.000063	0.001
***			
[See Prior Text in TCDFs (All Tetrachlorodibenzofurans)–1,1,1,2-Tetrachloroethane]			
1,1,2,2-Tetrachloroethane	79-34-5	0.057	6.0
***			
[See Prior Text in Tetrachloroethylene– Thiodicarb <sup>6</sup> ]			
Thiophanate-methyl <sup>6</sup>	23564-05-8	0.056	1.4
Toluene	108-88-3	0.080	10
***			
[See Prior Text in Toxaphene – Triallate <sup>6</sup> ]			

Bromoform (Tribromomethane)	75-25-2	0.63	15
1,2,4-Trichlorobenzene	120-82-1	0.055	19
* * *			
[See Prior Text in 1,1,1-Trichloroethane – Inorganic Constituents, Cyanides (Amenable) <sup>4</sup> ]			
Fluoride <sup>5</sup>	16984-48-8	35	NA
* * *			
[See Prior Text in Lead – Zinc <sup>5</sup> ]			

\* \* \*

[See Prior Text in Notes 1 – 7]

Note: NA means not applicable

## Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

### §3001. Applicability

\* \* \*

[See Prior Text in A]

#### B. Integration of the MACT Standards

1. Except as provided by Subsection B.2 of this Section, the standards of this Chapter no longer apply when an affected source demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of subpart EEE of 40 CFR 63. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of LAC 33:V.Chapter 30 will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

#### 2. The following standards continue to apply:

- a. the closure requirements of LAC 33:V.3005.I and 3007.L;
- b. the standards for direct transfer of LAC 33:V.3023;
- c. the standards for regulation of residues of LAC 33:V.3025; and
- d. the applicable requirements of LAC 33:V.901, 905, 907, 909 and Chapters 15, 17 (Subchapters B and C), 33, 35, 37, and 43 (Subchapters A - G R, and V) and 4301.A-C, G, I, 4306.

C. The following hazardous wastes and facilities are not subject to regulation under this Chapter:

1. used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in LAC 33:V.4903. Such used oil is subject to regulation under LAC 33:V.Chapter 40;
2. gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;
3. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and 4105.B.10-12, and hazardous wastes that are subject to the special requirements for small quantity generators under LAC 33:V.Chapter 39; and
4. coke ovens, if the only hazardous waste burned is EPA Hazardous Waste Number K087, decanter tank tar sludge from coking operations.

D. Owners or operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such

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as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation under this Section, except for LAC 33:V.3003 and 3005.

1. To be exempt from LAC 33:V.3005-3023, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must comply with the requirements of Subsection D.3 of this Section, and owners or operators of lead recovery furnaces that are subject to regulation under the Secondary Lead Smelting NESHAP must comply with the requirements of Subsection H of this Section:

- a. provide a one-time written notice to the administrative authority indicating the following:
  - i. the owner or operator claims exemption under this Paragraph;
  - ii. the hazardous waste is burned solely for metal recovery consistent with the provisions of Subsection D.2 of this Section;
  - iii. the hazardous waste contains recoverable levels of metals; and
  - iv. the owner or operator will comply with the sampling and analysis and recordkeeping requirements of this Paragraph;

b. sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this Section under procedures specified by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or alternative methods that meet or exceed the SW-846 method performance capabilities. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method; and

c. maintain at the facility for at least three years records to document compliance with the provisions of this Paragraph including limits on levels of toxic organic constituents and Btu value of the waste, and levels of recoverable metals in the hazardous waste compared to normal nonhazardous waste feedstocks.

2. A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:

- a. the hazardous waste has a total concentration of organic compounds listed in LAC 33:V.4901.G.Table 6

exceeding 500 ppm by weight, as-fired and so is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by Subsection D.1.c of this Section; or

b. the hazardous waste has a heating value of 5,000 Btu/lb or more as-fired and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by Subsection D.1.c of this Section.

3. To be exempt from LAC 33:V.3005-3023, an owner or operator of a lead or nickel-chromium or mercury recovery furnace, except for owners or operators of lead recovery furnaces subject to regulation under the Secondary Lead Smelting NESHAP, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the administrative authority identifying each hazardous waste burned, specifying whether the owner or operator claims an exemption for each waste under Subsection D.1 or D.3 of this Section. The owner or operator must comply with the requirements of Subsection D.1 of this Section for those wastes claimed to be exempt under that section and must comply with the requirements below for those wastes claimed to be exempt under this Section.

a. The hazardous wastes listed in 40 CFR 266, appendices XI, XII, and XIII, as adopted and amended at Appendices K, L, and M of this Chapter, and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of Subsection D.1 of this Section, provided that:

i. a waste listed in 40 CFR 266, Appendix IX, as adopted at Appendix I of this Chapter, must contain recoverable levels of lead, a waste listed in 40 CFR 266, Appendix XII, as adopted and amended at Appendix L of this Chapter, must contain recoverable levels of nickel or chromium, a waste listed in 40 CFR 266, Appendix XIII, as adopted and amended at Appendix M of this Chapter, must contain recoverable levels of mercury and contain less than 500 ppm of LAC 33:V.3105.Table 1 organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;

ii. the waste does not exhibit the Toxicity Characteristic of LAC 33:V.4903.E for an organic constituent;

iii. the waste is not a hazardous waste listed in LAC 33:V.4901 because it is listed for an organic constituent as identified in LAC 33:V.4901.G.Table 6; and

iv. the owner or operator certifies in the one-time notice that hazardous waste is burned under the provisions of Subsection D.3 of this Section and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis shall be

conducted according to Subsection D.1.b of this Section; records to document compliance with Subsection D.3 of this Section shall be kept for at least three years.

b. The administrative authority may decide on a case-by-case basis that the toxic organic constituents in a material listed in 40 CFR 266, Appendix XI, XII, or XIII, as adopted and amended at Appendices K, L, and M of this Chapter, that contains a total concentration of more than 500 ppm toxic organic compounds listed in LAC 33:V.3105.Table 1 may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this Chapter. In that situation, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this Chapter when burning that material. In making the hazard determination, the administrative authority will consider the following factors:

i. the concentration and toxicity of organic constituents in the material;

ii. the level of destruction of toxic organic constituents provided by the furnace; and

iii. whether the acceptable ambient levels established in 40 CFR 266, Appendix IV or V, as adopted and amended at Appendices D and E of this Chapter, may be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

E. The standards for direct transfer operations under LAC 33:V.3023 apply only to facilities subject to the permit standards of LAC 33:V.3005 or the interim status standards of LAC 33:V.3007.

F. The management standards for residues under LAC 33:V.3025 apply to any boiler or industrial furnace burning hazardous waste.

G Owners or operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, or ruthenium or any combination of these are conditionally exempt from regulation under this Section, except for LAC 33:V.3025.

1. To be exempt from LAC 33:V.3005-3023, an owner or operator must:

a. provide a one-time written notice to the administrative authority indicating the following:

i. the owner or operator claims exemption under this Paragraph;

ii. the hazardous waste is burned solely for legitimate metal recovery; and

iii. the owner or operator will comply with the sampling, analysis, and recordkeeping requirements of this Paragraph;

b. sample and analyze the hazardous waste as necessary to document that the waste is burned for recovery of economically significant amounts of precious metal using procedures as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or

alternative methods that meet or exceed the SW-846 method performance capabilities. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method; and

c. maintain at the facility for at least three years records to document that all hazardous wastes burned are for recovery of economically significant amounts of precious metal.

H. Starting June 23, 1997, owners or operators of lead recovery furnaces that process hazardous waste for recovery of lead and that are subject to regulation under the Secondary Lead Smelting NESHAP, are conditionally exempt from regulation under this Chapter, except for LAC 33:V.3003. To be exempt, an owner or operator must provide a one-time notice to the administrative authority identifying each hazardous waste burned and specifying that the owner or operator claims an exemption under this Subsection. The notice also must state that the waste burned has a total concentration of nonmetal compounds listed in LAC 33:V.3105.Table 1 of less than 500 ppm by weight, as fired and as provided in Subsection D.2.a of this Section, or is listed in Appendix K of this Chapter.

[Note: Parts of this Section were previously promulgated in LAC 33:V.4142 which has been repealed.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821(September 1996), LR 22:835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 27:

### §3003. Management Prior to Burning

\* \* \*

[See Prior Text in A - C]

1. Owners and operators of facilities that store or treat hazardous waste that is burned in a boiler or industrial furnace are subject to the applicable provision of LAC 33:V.Chapters 1, 3, 5, 9, 15, 19, 21, 23, 25, 29, 33, 35, 37 and 43, except as provided by LAC 33:V.3003.C.2. These standards apply to storage and treatment by the burner as well as to storage and treatment facilities operated by intermediaries (processors, blenders, distributors, etc.) between the generator and the burner.

\* \* \*

[See Prior Text in C.2 - Note]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

### §3011. Standards to Control Particulate Matter

\* \* \*

[See Prior Text in A - B]

#### C. Oxygen Correction

1. Measured pollutant levels must be corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \times 14 / (E - Y)$$

where:

P<sub>c</sub> = corrected concentration of the pollutant in the stack gas

P<sub>m</sub> = measured concentration of the pollutant in the stack gas  
E = oxygen concentration on a dry basis in the combustion air fed to the device

Y = measured oxygen concentration on a dry basis in the stack.

2. For devices that feed normal combustion air, E will equal 21 percent. For devices that feed oxygen-enriched air for combustion (i.e., air with an oxygen concentration exceeding 21 percent), the value of E will be the concentration of oxygen in the enriched air.

3. Compliance with all emission standards provided by this Chapter must be based on correcting to seven percent oxygen using this procedure.

D. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under LAC 33:V.3005) will be regarded as compliance with this Section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this Section may be "information" justifying modification or revocation and re-issuance of a permit under LAC 33:V.323.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 22:823 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

### §3025. Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements:

\* \* \*

[See Prior Text in A - B]

1. Comparison of Waste-Derived Residue with Normal Residue. The waste-derived residue must not contain LAC 33:V.4901.G.Table 6 constituents (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in 40 CFR 266, appendix VIII, as adopted at Appendix H of this Chapter, that may be generated as products of incomplete combustion. Sampling and analyses shall be in conformance with procedures prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110. For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed to determine specific congeners and homologues, and the results converted to 2,3,7,8-TCDD equivalent values using the procedure specified in Appendix I of this Chapter.

\* \* \*

[See Prior Text in B.1.a - B.2]

a. Nonmetal Constituents. The concentration of each nonmetal toxic constituent of concern (specified in Subsection B.1 of this Section) in the waste-derived residue must not exceed the health-based level specified in 40 CFR

266, appendix VII, as adopted and amended at Appendix G of this Chapter, or the level of detection (using analytical procedures prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110), whichever is higher. If a health-based limit for a constituent of concern is not listed in 40 CFR 266, appendix VII, as adopted and amended at Appendix G of this Chapter, then a limit of 0.002 micrograms per kilogram or the level of detection (using analytical procedures contained in SW-846 or other appropriate methods), whichever is higher, shall be used. The levels specified in 40 CFR 266, appendix VII (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in 40 CFR 266, appendix VII. Note 1, as adopted and amended at Appendix G of this Chapter) are administratively stayed under the condition, for those constituents specified in Subsection B.1 of this Section, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in LAC 33:V.Chapter 22.Table 2 for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts, as defined by applicable agency guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by LAC 33:V.Chapter 22.Table 2 for F039 nonwastewaters. In complying with the LAC 33:V.Chapter 22.Table 2 for F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorodibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans.

Note: The stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in LAC 33:V.Chapter 22.Table 2 for F039 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the *Federal Register* or the *Louisiana Register*; and

\* \* \*

[See Prior Text in B.2.b - C.2.b]

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

## Appendices

### Appendix H. Organic Compounds for Which Residues Must be Analyzed

40 CFR 266, appendix VIII, as amended by 56 FR 7235 (February 21, 1991), 56 FR 32691 (July 17, 1991), 64 FR 52827 (September 30, 1999), and 64 FR 63209 (November 19, 1999), is hereby incorporated by reference.

### Appendix I. Methods Manual for Compliance with the BIF Regulations

40 CFR 266, Appendix IX, as amended by 56 FR 32692 (July 17, 1991), 56 FR 42512,42516 (August 27, 1991), 57 FR 38566 (August 25, 1992), 57 FR 44999 (September 30, 1992), and 62 FR 32463 (June 13, 1997), is hereby incorporated by reference, except that the citations 40 CFR 261, Appendix VIII, 266.103, 266.103(b), 266.103(b)(3), 266.103(c), 266.103(c)(1), 266.103(c)(3)(ii), 266.103(c)(7), 266.103(d), 266.106, 266.112, 266.112(b)(1) and (b)(2)(i), 268.43, and 266.Subpart H shall mean LAC 33:V.3105.Table 1, 3007, 3007.B, 3007.B.3, 3007.C, 3007.C.1, 3007.C.3.b, 3007.C.7, 3007.D, 3013, 3025, 3025.B.1 and B.2.a, Chapter 22.Table 2, and Chapter 30, respectively. Terms within the incorporated Appendix shall be the terms adopted by reference except that "director," "administrator," "EPA regional office," and "EPA regional office or the appropriate enforcement agency" shall mean "administrative authority." "Environmental Protection Agency" and "EPA" shall mean "administrative authority," except when referring to an EPA method, protocol, file, performance audit sample, handbook, manual, document, program, default value, or default assumption.

Federal statutes and regulations that are cited in 40 CFR 266, Appendix IX that are not specifically adopted by reference shall be used as guidance in interpreting the federal regulations in 40 CFR 266, Appendix IX.

### Appendix M. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

40 CFR 266, Appendix XIII, as amended by 59 FR 48042 (September 19, 1994), is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

## Chapter 31. Incinerators

### §3105. Applicability

\* \* \*

[See Prior Text in A]

#### B. Integration of the MACT Standards

1. Except as provided by Subsection B.2 of this Section, the standards of this Subsection no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of subpart EEE of 40 CFR 63. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of LAC 33:V.901, 905, 907, and Chapters 15-21, 23-29 and 31-37 will continue to be in

effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2. The MACT standards do not replace the closure requirements of LAC 33:V.3121 or the applicable requirements of LAC 33:V.901, 905, 907, and Chapters 15, 17 (Subchapters B and C) 33, 35, and 37.

C. The administrative authority, in establishing permit conditions in the application, must exempt the applicant from all requirements of this Chapter except waste analyses (LAC 33:V.3107) and closure (LAC 33:V.3121) if he finds the waste to be burned is:

1. listed as a hazardous waste solely because it is ignitable or corrosive or both as defined in LAC 33:V.4903; or

2. listed as a hazardous waste because it is reactive for characteristics other than:

a. when mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

b. it is a cyanide or sulfide-bearing waste which when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity to present a danger to human health or the environment and will not be burned when other hazardous wastes are present in the combustion zone; or

3. it is a hazardous waste solely because it possesses the characteristics of ignitability, corrosivity, or both, as determined by the test for characteristics of hazardous waste under LAC 33:V.Chapter 49; or

4. a hazardous waste solely because it possesses any of the reactivity characteristics as defined below and will not be burned when other hazardous wastes are present in the combustion zone:

a. it reacts violently with water;

b. it forms potentially explosive mixtures with water;

c. it is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;

d. it is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure;

e. it is a forbidden explosive as defined in LAC 33:V.Subpart 2, Chapter 101 or a Class A explosive as defined in LAC 33:V.Subpart 2, Chapter 101, or a Class B explosive as defined in LAC 33:V.Subpart 2, Chapter 101; or

f. it is normally unstable and readily undergoes violent change without detonating; and

5. if the waste analysis shows that the waste contains none of the hazardous constituents listed in Table 1 which would reasonably be expected to be in the waste.

D. If the waste to be burned is one which is described in LAC 33:V.3105.B above and contains insignificant concentrations of the hazardous constituents listed in Table 1 then the administrative authority may, in establishing permit conditions, exempt the applicant from all requirements of this Section except waste analyses (LAC 33:V.3107) and closure (LAC 33:V.3121) unless he finds that the waste will pose a threat to human health and the environment when burned in an incinerator.

\*\*\*

[See Prior Text in E]

Table 1.Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
***			
[See Prior Text in A2213 - Toxaphene]			
Triallate	Carbamothioic acid, bis (1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester	2303-17-5	U389
1,2,4-Trichlorobenzene	Benzene, 1,2,4-trichloro-	120-82-1	
***			
[See Prior Text in 1,1,2-Trichloroethane - Ziram]			

<sup>1</sup> The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

### §3115.Incinerator Permits for New or Modified Facilities

\*\*\*

[See Prior Text in A - D]

E. When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828 (September 1996), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:683 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), LR 27:

## Chapter 32. Miscellaneous Units

### §3203. Environmental Performance Standards

A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for

responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions must include those requirements of LAC 33:V.Chapters 3, 5, 7 17, 19, 21, 23, 25, 27, 29, 31, 4301.F, H, 4302, 4303 and 4305, all other applicable requirements of LAC 33:V.Subpart 1, and of 40 CFR 63.subpart EEE and 40 CFR 146 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

\* \* \*

[See Prior Text in A - C.7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:399 (May 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1742 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**Chapter 38. Universal Wastes**

**Subchapter A. General**

**§3809. Applicability C Lamps**

\* \* \*

[See Prior Text in A - B]

1. lamps that are not yet wastes under LAC 33:V.4901 as provided in Subsection C of this Section; and

2. lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in LAC 33:V.4903.

**C. Generation of Waste Lamps**

1. A used lamp becomes a waste on the date it is discarded.

2. An unused lamp becomes a waste on the date the handler decides to discard it.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**§3813. Definitions**

\* \* \*

[See Prior Text]

*Lamp* (also referred to as *universal waste lamp*) the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

\* \* \*

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:570 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000), LR 27:

**Subchapter B. Standards for Small Quantity Handlers of Universal Waste**

**§3821. Waste Management**

\* \* \*

[See Prior Text in A - C.3.b]

D. Lamps. A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions; and

2. a small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

\* \* \*

[See Prior Text in E - E.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:571 (May 1997). amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**§3823. Labeling/Marking**

A. A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

\* \* \*

[See Prior Text in A.1 - 4]

5. each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

\* \* \*

[See Prior Text in A.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:572 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**Subchapter C. Standards for Large Quantity Handlers of Universal Waste**

**§3843. Waste Management**

\* \* \*

[See Prior Text in A - C.3.b]

D. Lamps. A large quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. a large quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions; and

2. a large quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

\*\*\*

[See Prior Text in E - E.4]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:574 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

#### §3845. Labeling/Marking

A. A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

\*\*\*

[See Prior Text in A.1 - 4]

5. each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

\*\*\*

[See Prior Text in A.6]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:575 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR

24:1761 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

### Chapter 43. Interim Status

#### Subchapter N. Incinerators

##### §4513. Applicability

\*\*\*

[See Prior Text in A]

#### B Integration of the MACT Standards

1. Except as provided by Subsection B.2 of this Section, the standards of this Chapter no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of subpart EEE of 40 CFR 63.

2. The following requirements continue to apply even where the owner or operator has demonstrated compliance with the MACT requirements of 40 CFR 63, subpart EEE, LAC 33:V.4521 (closure), and the applicable requirements of LAC 33:V.4301.A-C, G, I, 4306, and Chapter 43 (Subchapters A -G, R and V).

C. Owners or operators of incinerators burning hazardous waste are exempt from all of the requirements of this Section, except LAC 33:V.4521 (Closure), provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in LAC 33:V.3105. Table 1, and such documentation is retained at the facility, if the waste to be burned is:

1. listed as a hazardous waste in LAC 33:V.4901, solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

2. listed as a hazardous waste in LAC 33:V.4901, solely because it is reactive (Hazard Code R) for characteristics other than those listed in LAC 33:V.4903.D.4 and 5, and will not be burned when other hazardous wastes are present in the combustion zone; or

3. a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under LAC 33:V.4903; or

4. a hazardous waste solely because it possesses the reactivity characteristics described by LAC 33:V.4903.D.1-3 and 6-8, and will not be burned when other hazardous wastes are present in the combustion zone.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 16:220 (March 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**Chapter 49. Lists of Hazardous Wastes**  
**§4901. Category I Hazardous Wastes**

\*\*\*

[See Prior Text in A - B.3.c.xii]

C. Hazardous wastes from specific sources are listed in Table 2.

Table 2. Hazardous Wastes from Specific Sources		
Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
<b>Wood Preservation</b>		
*** [See Prior Text]		
<b>Organic Chemicals</b>		
*** [See Prior Text]		
K136	(T)	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.
K149	(T)	Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillation of benzyl chloride.)
*** [See Prior Text]		
<b>Iron and Steel</b>		
*** [See Prior Text]		
K062	(C,T)	Spent pickle liquor generated by steel finishing operations of iron and steel industry (SIC Codes 331 and 332).
<b>Primary Aluminum</b>		
K088	(T)	Spent potliners from primary aluminum reduction.
<b>Secondary Lead</b>		
*** [See Prior Text]		

\*\*\*

[See Prior Text in D - F.Comment]

Table 4. Toxic Wastes		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
*** [See Prior Text]		
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U227	79-00-5	1,1,2-Trichloroethane
*** [See Prior Text]		

<sup>1</sup> CAS Number given for parent compound only.

G Constituents that Serve as a Basis for Listing Hazardous Waste. Table 6 lists constituents that serve as a basis for listing hazardous waste.

**Table 6.**

Table of Constituents that Serve as a Basis for Listing Hazardous Waste

\*\*\*

[See Prior Text in EPA Hazardous Waste Number F001 – EPA Hazardous Waste Number K132. Methyl Bromide]

EPA Hazardous Waste Number K136

Ethylene dibromide

EPA Hazardous Waste Number K141

Benzene

benzo(a)anthracene

benzo(a)pyrene

benzo(b)fluoranthene

benzo(k)fluoranthene

dibenz(a,h)anthracene

indeno(1,2,3-cd)pyrene

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[See Prior Text in EPA Hazardous Waste Number K142 – EPA Hazardous Waste Number K172. Benzene, arsenic]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

**§4909. Comparable/Syngas Fuel Exclusion**

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[See Prior Text in A – C.5]

**Table 7: Detection and Detection Limit Values for Comparable Fuel Specification**

Chemical Name	CAS Number	Composite Value (mg/kg)	Heating Value (BTU/lb)	Concentration Limit (mg/kg at required 10,000 BTU/lb)	Minimum Required Detection Limit (mg/kg)
Total Nitrogen as N	NA	9000	18400	4900	
Total Halogens as Cl	NA	1000	18400	540	
Total Organic Halogens as Cl	NA			25 or individual halogenated organics listed below	
Polychlorinated biphenyls, total [Arocolors, total]	1336-36-3	Nondetect		Nondetect	1.4
Cyanide, total	57-12-5	Nondetect		Nondetect	1.0
Metals:					
Antimony, total	7440-36-0	Nondetect		12	
Arsenic, total	7440-38-2	Nondetect		0.23	
Barium, total	7440-39-3	Nondetect		23	
Beryllium, total	7440-41-7	Nondetect		1.2	
Cadmium, total	7440-43-9		Nondetect		1.2
Chromium, total	7440-47-3	Nondetect		2.3	
Cobalt	7440-48-4	Nondetect		4.6	
Lead, total	7439-92-1	57	18100	31	
Manganese	7439-96-5	Nondetect		1.2	
Mercury, total	7439-97-6	Nondetect		0.25	
Nickel, total	7440-02-0	106	18400	58	
Selenium, total	7782-49-2	Nondetect		0.23	
Silver, total	7440-22-4	Nondetect		2.3	
Thallium, total	7440-28-0	Nondetect		23	
Hydrocarbons:					
Benzo[a]anthracene	56-55-3	Nondetect		2400	
Benzene	71-43-2	8000	19600	4100	
Benzo[b]fluoranthene	205-99-2	Nondetect		2400	
Benzo[k]fluoranthene	207-08-9	Nondetect		2400	
Benzo[a]pyrene	50-32-8	Nondetect		2400	
Chrysene	218-01-9	Nondetect		2400	
Dibenzo[a,h]anthracene	53-70-3	Nondetect		2400	
7,12-Dimethylbenz[a]anthracene	57-97-6	Nondetect		2400	
Fluoranthene	206-44-0	Nondetect		2400	
Indeno(1,2,3-cd)pyrene	193-39-5	Nondetect		2400	
3-Methylcholanthrene	56-49-5	Nondetect		2400	
Naphthalene	91-20-3	6200	19400	3200	
Toluene	108-88-3	69000	19400	36000	
Oxygenates:					
Acetophenone	98-86-2	Nondetect		2400	
Acrolein	107-02-8	Nondetect		39	
Allyl alcohol	107-18-6	Nondetect		30	
Bis(2-ethylhexyl)phthalate [Di-2-ethylhexyl phthalate]	117-81-7	Nondetect		2400	
Butyl benzyl phthalate	85-68-7	Nondetect		2400	
o-Cresol [2-Methyl phenol]	95-48-7	Nondetect		2400	
m-Cresol [3-Methyl phenol]	108-39-4	Nondetect		2400	
p-Cresol [4-Methyl phenol]	106-44-5	Nondetect		2400	
Di-n-butyl phthalate	84-74-2	Nondetect		2400	
Diethyl phthalate	84-66-2	Nondetect		2400	
2,4-Dimethylphenol	105-67-9	Nondetect		2400	
Dimethyl phthalate	131-11-3	Nondetect		2400	
Di-n-octyl phthalate	117-84-0	Nondetect		2400	
Endothall	145-73-3	Nondetect		100	
Ethyl methacrylate	97-63-2	Nondetect		39	
2-Ethoxyethanol [Ethylene glycol monoethyl ether]	110-80-5	Nondetect		100	
Isobutyl alcohol	78-83-1	Nondetect		39	
Isosafrole	120-58-1	Nondetect		2400	
Methyl ethyl ketone [2-Butanone]	78-93-3	Nondetect		39	
Methyl methacrylate	80-62-6	Nondetect		39	
1,4-Naphthoquinone	130-15-4	Nondetect		2400	
Phenol	108-95-2	Nondetect		2400	
Propargyl alcohol [2-Propyn-1-ol]	107-19-7	Nondetect		30	
Safrole	94-59-7	Nondetect		2400	
Sulfonated Organics:					
Carbon disulfide	75-15-0	Nondetect		Nondetect	39
Disulfoton	298-04-4	Nondetect		Nondetect	2400

**Table 7: Detection and Detection Limit Values for Comparable Fuel Specification**

Chemical Name	CAS Number	Composite Value (mg/kg)	Heating Value (BTU/lb)	Concentration Limit (mg/kg at required 10,000 BTU/lb)	Minimum Required Detection Limit (mg/kg)
Ethyl methanesulfonate	62-50-0	Nondetect		Nondetect	2400
Methyl methanesulfonate	66-27-3	Nondetect		Nondetect	2400
Phorate	298-02-2	Nondetect		Nondetect	2400
1,3-Propane sultone	1120-71-4	Nondetect		Nondetect	100
Tetraethylthiopyrophosphate [Sulfotepp]	3689-24-5	Nondetect		Nondetect	2400
Thiophenol [Benzenethiol]	108-98-5	Nondetect		Nondetect	30
O,O,O-Triethyl phosphorothioate	126-68-1	Nondetect		Nondetect	2400
Nitrogenated Organics:					
Acetonitrile [Methyl cyanide]	75-05-8	Nondetect		Nondetect	39
2-Acetylaminofluorene [2-AAF]	53-96-3	Nondetect		Nondetect	2400
Acrylonitrile	107-13-1	Nondetect		Nondetect	39
4-Aminobiphenyl	92-67-1	Nondetect		Nondetect	2400
4-Aminopyridine	504-24-5	Nondetect		Nondetect	100
Aniline	62-53-3	Nondetect		Nondetect	2400
Benzidine	92-87-5	Nondetect		Nondetect	2400
Dibenz[a,j]acridine	224-42-0	Nondetect		Nondetect	2400
O,O-Diethyl O-pyrazinyl phosphoro-thioate [Thionazin]	297-97-2	Nondetect		Nondetect	2400
Dimethoate	60-51-5	Nondetect		Nondetect	2400
p-(Dimethylamino)azobenzene [4-Dimethylaminoazobenzene]	60-11-7	Nondetect		Nondetect	2400
3,3'-Dimethylbenzidine	119-93-7	Nondetect		Nondetect	2400
α,β-Dimethylphenethylamine	122-09-8	Nondetect		Nondetect	2400
3,3'-Dimethoxybenzidine	119-90-4	Nondetect		Nondetect	100
1,3-Dinitrobenzene [m-Dinitrobenzene]	99-65-0	Nondetect		Nondetect	2400
4,6-Dinitro-o-cresol	534-52-1	Nondetect		Nondetect	2400
2,4-Dinitrophenol	51-28-5	Nondetect		Nondetect	2400
2,4-Dinitrotoluene	121-14-2	Nondetect		Nondetect	2400
2,6-Dinitrotoluene	606-20-2	Nondetect		Nondetect	2400
Dinoseb [2-sec-Butyl-4,6-dinitrophenol]	88-85-7	Nondetect		Nondetect	2400
Diphenylamine	122-39-4	Nondetect		Nondetect	2400
Ethyl carbamate [Urethane]	51-79-6	Nondetect		Nondetect	100
Ethylenethiourea (2-Imidazolidinethione)	96-45-7	Nondetect		Nondetect	110
Famphur	52-85-7	Nondetect		Nondetect	2400
Methacrylonitrile	126-98-7	Nondetect		Nondetect	39
Methapyrilene	91-80-5	Nondetect		Nondetect	2400
Methomyl	16752-77-5	Nondetect		Nondetect	57
2-Methylactonitrile [Acetone cyanohydrin]	75-86-5	Nondetect		Nondetect	100
Methyl parathion	298-00-0	Nondetect		Nondetect	2400
MNNG (N-Methyl-N-nitroso -N'-nitroguanidine)	70-25-7	Nondetect		Nondetect	110
1-Naphthylamine, [α-Naphthylamine]	134-32-7	Nondetect		Nondetect	2400
2-Naphthylamine, [β-Naphthylamine]	91-59-8	Nondetect		Nondetect	2400
Nicotine	54-11-5	Nondetect		Nondetect	100
4-Nitroaniline, [p-Nitroaniline]	100-01-6	Nondetect		Nondetect	2400
Nitrobenzene	98-95-3	Nondetect		Nondetect	2400
p-Nitrophenol, [p-Nitrophenol]	100-02-7	Nondetect		Nondetect	2400
5-Nitro-o-toluidine	99-55-8	Nondetect		Nondetect	2400
N-Nitrosodi-n-butylamine	924-16-3	Nondetect		Nondetect	2400
N-Nitrosodiethylamine	55-18-5	Nondetect		Nondetect	2400
N-Nitrosodiphenylamine, [Diphenylnitrosamine]	86-30-6	Nondetect		Nondetect	2400
N-Nitroso -N-methylethylamine	10595-95-6	Nondetect		Nondetect	2400
N-Nitrosomorpholine	59-89-2	Nondetect		Nondetect	2400
N-Nitrosopiperidine	100-75-4	Nondetect		Nondetect	2400
N-Nitrosopyrrolidine	930-55-2	Nondetect		Nondetect	2400
2-Nitropropane	79-46-9	Nondetect		Nondetect	30
Parathion	56-38-2	Nondetect		Nondetect	2400
Phenacetin	62-44-2	Nondetect		Nondetect	2400
1,4-Phenylenediamine, [p-Phenylenediamine]	106-50-3	Nondetect		Nondetect	2400
N-Phenylthiourea	103-85-5	Nondetect		Nondetect	57
2-Picoline [alpha-Picoline]	109-06-8	Nondetect		Nondetect	2400
Propylthioracil [6-Propyl-2-thiouracil]	51-52-5	Nondetect		Nondetect	100
Pyridine	110-86-1	Nondetect		Nondetect	2400
Strychnine	57-24-9	Nondetect		Nondetect	100
Thioacetamide	62-55-5	Nondetect		Nondetect	57
Thiofanox	39196-18-4	Nondetect		Nondetect	100
Thiourea	62-56-6	Nondetect		Nondetect	57

**Table 7: Detection and Detection Limit Values for Comparable Fuel Specification**

Chemical Name	CAS Number	Composite Value (mg/kg)	Heating Value (BTU/lb)	Concentration Limit (mg/kg at required 10,000 BTU/lb)	Minimum Required Detection Limit (mg/kg)
Toluene-2,4-diamine [2,4-Diaminotoluene]	95-80-7	Nondetect		Nondetect	57
Toluene-2,6-diamine [2,6-Diaminotoluene]	823-40-5	Nondetect		Nondetect	57
o-Toluidine	95-53-4	Nondetect		Nondetect	2400
p-Toluidine	106-49-0	Nondetect		Nondetect	100
1,3,5-Trinitrobenzene, [sym-Trinitrobenzene]	99-35-4	Nondetect		Nondetect	2400
Halogenated Organics:					
Allyl chloride	107-05-1	Nondetect		Nondetect	39
Aramite	140-57-8	Nondetect		Nondetect	2400
Benzal chloride [Dichloromethyl benzene]	98-87-3	Nondetect		Nondetect	100
Benzyl chloride	100-44-77	Nondetect		Nondetect	100
Bis(2-chloroethyl)ether [Dichloroethyl ether]	111-44-4	Nondetect		Nondetect	2400
Bromoform [Tribromomethane]	75-25-2	Nondetect		Nondetect	39
Bromomethane [Methyl bromide]	74-83-9	Nondetect		Nondetect	39
4-Bromophenyl phenyl ether [p-Bromo diphenyl ether]	101-55-3	Nondetect		Nondetect	2400
Carbon tetrachloride	56-23-5	Nondetect		Nondetect	39
Chlordane	57-74-9	Nondetect		Nondetect	14
p-Chloroaniline	106-47-8	Nondetect		Nondetect	2400
Chlorobenzene	108-90-7	Nondetect		Nondetect	39
Chlorobenzilate	510-15-6	Nondetect		Nondetect	2400
p-Chloro-m-cresol	59-50-7	Nondetect		Nondetect	2400
2-Chloroethyl vinyl ether	110-75-8	Nondetect		Nondetect	39
Chloroform	67-66-3	Nondetect		Nondetect	39
Chloromethane [Methyl chloride]	74-87-3	Nondetect		Nondetect	39
2-Chloronaphthalene [beta-Chloronaphthalene]	91-58-7	Nondetect		Nondetect	2400
2-Chlorophenol [o-Chlorophenol]	95-57-8	Nondetect		Nondetect	2400
Chloroprene [2-Chloro-1,3-butadiene]	1126-99-8	Nondetect		Nondetect	39
2,4-D [2,4-Dichlorophenoxyacetic acid]	94-75-7	Nondetect		Nondetect	7.0
Diallate	2303-16-4	Nondetect		Nondetect	2400
1,2-Dibromo-3-chloropropane	96-12-8	Nondetect		Nondetect	39
1,2-Dichlorobenzene [o-Dichlorobenzene]	95-50-1	Nondetect		Nondetect	2400
1,3-Dichlorobenzene [m-Dichlorobenzene]	541-73-1	Nondetect		Nondetect	2400
1,4-Dichlorobenzene [p-Dichlorobenzene]	106-46-7	Nondetect		Nondetect	2400
3,3'-Dichlorobenzidine	91-94-1	Nondetect		Nondetect	2400
Dichlorodifluoromethane [CFC-12]	75-71-8	Nondetect		Nondetect	39
1,2-Dichloroethane [Ethylene dichloride]	107-06-2	Nondetect		Nondetect	39
1,1-Dichloroethylene [Vinylidene chloride]	75-35-4	Nondetect		Nondetect	39
Dichloromethoxy ethane [Bis(2-chloroethoxy)methane]	111-91-1	Nondetect		Nondetect	2400
2,4-Dichlorophenol	120-83-2	Nondetect		Nondetect	2400
2,6-Dichlorophenol	87-65-0	Nondetect		Nondetect	2400
1,2-Dichloropropane [Propylene dichloride]	78-87-5	Nondetect		Nondetect	39
cis-1,3-Dichloropropylene	10061-01-5	Nondetect		Nondetect	39
trans-1,3-Dichloropropylene	10061-02-6	Nondetect		Nondetect	39
1,3-Dichloro-2-propanol	96-23-1	Nondetect		Nondetect	30
Endosulfan I	959-98-8	Nondetect		Nondetect	1.4
Endosulfan II	33213-65-9	Nondetect		Nondetect	1.4
Endrin	72-20-8	Nondetect		Nondetect	1.4
Endrin aldehyde	7421-93-4	Nondetect		Nondetect	1.4
Endrin Ketone	53494-70-5	Nondetect		Nondetect	1.4
Epichlorohydrin [1-Chloro-2,3-epoxy propane]	106-89-8	Nondetect		Nondetect	30
Ethylidene dichloride [1,1-Dichloroethane]	75-34-3	Nondetect		Nondetect	39
2-Fluoroacetamide	640-19-7	Nondetect		Nondetect	100
Heptachlor	76-44-8	Nondetect		Nondetect	1.4
Heptachlor epoxide	1024-57-3	Nondetect		Nondetect	2.8
Hexachlorobenzene	118-74-1	Nondetect		Nondetect	2400
Hexachloro-1,3-butadiene [Hexachlorobutadiene]	87-68-3	Nondetect		Nondetect	2400
Hexachlorocyclopentadiene	77-47-4	Nondetect		Nondetect	2400
Hexachloroethane	67-72-1	Nondetect		Nondetect	2400
Hexachlorophene	70-30-4	Nondetect		Nondetect	59000
Hexachloropropene [Hexachloropropylene]	1888-71-7	Nondetect		Nondetect	2400
Isodrin	465-73-6	Nondetect		Nondetect	2400
Kepone [Chlordecone]	143-50-0	Nondetect		Nondetect	4700
Lindane [gamma-Hexachlorocyclohexane] [gamma-BHC]	58-89-9	Nondetect		Nondetect	1.4
Methylene chloride [Dichloromethane]	75-09-2	Nondetect		Nondetect	39
4,4'-methylene-bis(2-chloroaniline)	101-14-4	Nondetect		Nondetect	100

**Table 7: Detection and Detection Limit Values for Comparable Fuel Specification**

Chemical Name	CAS Number	Composite Value (mg/kg)	Heating Value (BTU/lb)	Concentration Limit (mg/kg at required 10,000 BTU/lb)	Minimum Required Detection Limit (mg/kg)
Methyl iodide [Iodomethane]	74-88-4	Nondetect		Nondetect	39
Pentachlorobenzene	608-93-5	Nondetect		Nondetect	2400
Pentachloroethane	76-01-7	Nondetect		Nondetect	39
Pentachloronitrobenzene [PCNB] [Quintobenzene] [Quintozene]	82-68-8	Nondetect		Nondetect	2400
Pentachlorophenol	87-86-5	Nondetect		Nondetect	2400
Pronamide	23950-58-5	Nondetect		Nondetect	2400
Silvex [2,4,5-Trichlorophenoxypropionic acid]	93-72-1	Nondetect		Nondetect	7.0
2,3,7,8-Tetrachlorodibenzo-p-dioxin [2,3,7,8-TCDD]	1746-01-6	Nondetect		Nondetect	30
1,2,4,5-Tetrachlorobenzene	95-94-3	Nondetect		Nondetect	2400
1,1,2,2-Tetrachloroethane	79-34-5	Nondetect		Nondetect	39
Tetrachloroethylene [Perchloroethylene]	127-18-4	Nondetect		Nondetect	39
2,3,4,6-Tetrachlorophenol	58-90-2	Nondetect		Nondetect	2400
1,2,4-Trichlorobenzene	120-82-1	Nondetect		Nondetect	2400
1,1,1-Trichloroethane [Methylchloroform]	71-55-6	Nondetect		Nondetect	39
1,1,2-Trichloroethane [Vinyl trichloride]	79-00-5	Nondetect		Nondetect	39
Trichloroethylene	79-01-6	Nondetect		Nondetect	39
Trichlorofluoromethane [Trichloromonofluoromethane]	75-69-4	Nondetect		Nondetect	39
2,4,5-Trichlorophenol	95-95-4	Nondetect		Nondetect	2400
2,4,6-Trichlorophenol	88-06-02	Nondetect		Nondetect	2400
1,2,3-Trichloropropane	96-18-4	Nondetect		Nondetect	39
Vinyl Chloride	75-01-4	Nondetect		Nondetect	39

Notes:

NA – Not Applicable

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[See Prior Text in D – D.13]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

A public hearing will be held on February 28, 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 HW076\*. Such comments must be received no later than February 28, 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) 765-5095. 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 HW076\*.

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

0101#046

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of the Commissioner**

Digital Signatures  
(LAC 4:I.Chapter 7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Division of Administration hereby gives notice of its intent to promulgate rules and regulations relative to the implementation of electronic signatures.

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

**Title 4  
ADMINISTRATION**

**Part I. General Provisions**

**Chapter 7. Implementation of Electronic Signatures  
in Global and National Commerce Act-  
P.L. 106-229**

**§701. Short Title**

A. These procedures are in response to the Federal "Electronic Signatures in Global and National Commerce Act" (e-sign) effective October 1, 2000. Esign applies only to the use of electronic records and signatures in interstate or foreign commerce. These rules may be referred to as the "E-Sign Rules."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

**§703. Exemptions**

A. State agency transactions that are not governed by the Electronic Signatures in Global and National Commerce Act, PL 106-229, hereinafter referred to as the e-sign, are not subject to these procedures.

B. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval and do not conflict with e-sign, shall remain in effect.

C. State agency transactions that have electronic record and signature technology procedures that have been established by statutory and/or regulatory authority approval with sections that are in conflict with e-sign, shall have all sections of these procedures remain in effect that are not in conflict with e-sign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

**§705. General**

A. This section applies to all written electronic communications which are sent to a state agency over the Internet or other electronic network or by another means that is acceptable to the state agency, for which the identity of the sender or the contents of the message must be authenticated, and for which no prior agreement between the sender and the receiving state agency regarding message authentication existed as of the effective date of this section. This section does not apply to or supersede the use and expansion of existing systems which are not in conflict with the Federal Electronic Signatures in Global and National Commerce Act:

1. for the receipt of electronically filed documents pursuant to applicable Louisiana statutory law and promulgated rules and regulations, where the purpose of the written electronic communication is to comply with statutory filing requirements and the receiving state agency or local government is not a party to the underlying transaction which is the subject of the communication; or

2. for the electronic approval of payment vouchers under rules adopted by the State Treasurer pursuant to applicable law.

B. Prior to accepting a digital signature, a state agency shall ensure that the level of security used to identify the signer of a message and to transmit the signature is sufficient for the transaction being conducted. A state agency that

accepts digital signatures may not effectively discourage the use of digital signatures by imposing unreasonable or burdensome requirements on persons wishing to use digital signatures to authenticate written electronic communications sent to the state agency.

C. A state agency that accepts digital signatures shall not be required to accept a digital signature that has been created by means of a particular acceptable technology described in Subsection D of this section if the state agency:

1. determines that the expense that would necessarily be incurred by the state agency in accepting such a digital signature is excessive and unreasonable;

2. provides reasonable notice to all interested persons of the fact that such digital signatures will not be accepted, and of the basis for the determination that the cost of acceptance is excessive and unreasonable; and

3. files an electronic copy (in html format) of the notice with the Division of Administration. The Division of Administration shall make a copy of such notice available to the general public via the World Wide Web.

D. A state agency shall ensure that all written electronic communications received by the state agency and authenticated by means of a digital signature in accordance with this section, as well as any information resources necessary to permit access to the written electronic communications, are retained by the state agency as necessary to comply with applicable law pertaining to audit and records retention requirements.

E. Guidelines Agencies Should Use in Adopting an Electronic Signature Technology

1. An agency's determination of which technology is appropriate for a given transaction must include a risk assessment, and an evaluation of targeted customer or user needs. The initial use of the risk assessment is to identify and mitigate risks in the context of available technologies and their relative total costs and effects on the program being analyzed. The assessment also should be used to develop baselines and verifiable performance measures that track the agency's mission, strategic plans, and performance objectives. Agencies must strike a balance, recognizing that achieving absolute security is likely to be in most cases highly improbable and prohibitively expensive.

2. The identity of participants to a transaction may not need to be authenticated. If authentication is required, several options are available: ID and passwords for a web-based transaction may be sufficient, however the user login session should be encrypted using either Secured Sockets Layer (SSL) or Virtual Private Networks (VPN) or an equivalent encryption technology.

3. Digital Signatures/Certificates may offer increased security (positive ID), however this will vary depending on:

a. who issues the certificates;

b. what is the identity-proofing process (e.g., are you using Social Security Number, photo IDs, biometrics); and

c. is the certificate issued remotely via software or mail, or is "in person" identification required?

4. In determining whether an electronic signature is required or is sufficiently reliable for a particular purpose, agencies should consider the relationships between the parties, the value of the transaction, and the likely need for accessible, persuasive information regarding the transaction at some later date (e.g., audit or legal evidence). The types of

transactions may require different security control measures, based on security risks and legal obligations:

- a. transactions involving the transfer of funds;
- b. transactions where the parties commit to actions or contracts that may give rise to financial or legal liability;
- c. transactions involving information protected under state or federal law or other agency-specific statutes obliging that access to the information be restricted;
- d. transactions where the party is fulfilling a legal responsibility which, if not performed, creates a legal liability (criminal or civil);

e. transactions where no funds are transferred, no financial or legal liability is involved and no privacy or confidentiality issues are involved.

5. Agency transactions fall into five general categories, each of which may be vulnerable to different security risks:

- a. intra-agency transactions;
- b. inter-agency transactions (i.e., those between state agencies);
- c. transactions between a state agency and federal or local government agencies;
- d. transactions between a state agency and a private organization-contractor, non-profit organization, or other entity;
- e. transactions between an agency and a member of the general public.

6. Agencies should follow several privacy tenets:

- a. electronic authentication should only be required where needed. Many transactions do not need, and should not require, detailed information about the individual;
- b. when electronic authentication is required for a transaction, do not collect more information from the user than is required for the application;
- c. the entity initiating a transaction with a state agency should be able to decide the scope of their electronic means of authentication.

7. When agencies evaluate the retention requirements for specific records, they should consider the following if the record was signed with an electronic signature.

- a. *Low Risk* simple electronic signature (e.g., typed name on an e-mail message).
- b. *High Risk* digitally-signed communication message that has been processed by a computer in such a manner that ties the message to the individual that signed the message. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

8. If the record contains a digital signature, the following additional documents may be required:

- a. a copy of the *Public Key*;
- b. a copy of the Certificate Revocation List (CRL) showing the validity period of the certificate or a copy of the On-line Certificate Status Protocol (OCSP) results;
- c. Certification Practice Statement (CPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

## §707 Definitions

A. The following words and terms, when used in this section, shall have the following meanings unless the context expressly indicates otherwise:

*Asymmetric Cryptosystem* Ca computer-based system that employs two different but mathematically related keys with the following characteristics:

- a. one key encrypts a given message;
- b. one key decrypts a given message; and
- c. the keys have the property that, knowing one key, it is computationally infeasible to discover the other key.

*Certificate* Ca message which:

- a. identifies the certification authority issuing it;
- b. names or identifies its subscriber;
- c. contains the subscriber's public key;
- d. identifies its operational period;
- e. is digitally signed by the certification authority issuing it; and
- f. conforms to ISO X.509 Version 3 standards.

*Certificate Manufacturer* Ca person that provides operational services for a Certification Authority or PKI Service Provider. The nature and scope of the obligations and functions of a Certificate Manufacturer depend on contractual arrangements between the Certification Authority or other PKI Service Provider and the Certificate Manufacturer.

*Certificate Policy* Ca document prepared by a Policy Authority that describes the parties, scope of business, functional operations, and obligations between and among PKI Service Providers and End Entities who engage in electronic transactions in a Public Key Infrastructure.

*Certification Authority* Ca person who issues a certificate.

*Certification Practice Statement* Cdocumentation of the practices, procedures, and controls employed by a Certification Authority.

*Digital Signature* Can electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature, and that complies with the requirements of this section.

*Digitally-Signed Communication* Ca message that has been processed by a computer in such a manner that ties the message to the individual that signed the message.

*End Entities* Csubscribers or Signers and Relying Parties.

*Escrow Agent* Ca person who holds a copy of a private key at the request of the owner of the private key in a trustworthy manner.

*Handwriting Measurements* Cthe metrics of the shapes, speeds and/or other distinguishing features of a signature as the person writes it by hand with a pen or stylus on a flat surface.

*Key Pair* Ca private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify a digital signature that the private key creates.

*Local Government* Ca parish, municipality, special district, or other political subdivision of this state, or a combination of two or more of those entities.

*Message* Ca digital representation of information.

*Person* Can individual, state agency, local government, corporation, partnership, association, organization, or any other legal entity.

*PKI* Public Key Infrastructure.

*PKI Service Provider* Ca Certification Authority, Certificate Manufacturer, Registrar, or any other person that performs services pertaining to the issuance or verification of certificates.

*Policy Authority* Ca person with final authority and responsibility for specifying a Certificate Policy.

*Private Key* Cthe key of a key pair used to create a digital signature.

*Proof of Identification* Cthe document or documents or other evidence presented to a Certification Authority to establish the identity of a subscriber.

*Public Key* Cthe key of a key pair used to verify a digital signature.

*Public Key Cryptography* Ca type of cryptographic technology that employs an asymmetric cryptosystem.

*Registrar* Ca person that gathers evidence necessary to confirm the accuracy of information to be included in a Subscriber's certificate.

*Relying Party* Ca state agency that has received an electronic message that has been signed with a digital signature and is in a position to rely on the message and signature.

*Role-Based Key* Ca key pair issued to a person to use when acting in a particular business or organizational capacity.

*Signature Digest* Cthe resulting bit-string produced when a signature is tied to a document using Signature Dynamics.

*Signer* Cthe person who signs a digitally signed communication with the use of an acceptable technology to uniquely link the message with the person sending it.

*State Agency* Ca department, commission, board, office, council, or other agency in the executive branch of state government that is created by the constitution, Executive Order, or a statute of this state. Higher education, the legislature and the judiciary are to be considered State agencies to the extent that the communication is pursuant to a state law applicable to such entities.

*Subscriber* Ca person who:

- a. is the subject listed in a certificate;
- b. accepts the certificate; and
- c. holds a private key which corresponds to a public key listed in that certificate.

*Technology* Cthe computer hardware and/or software-based method or process used to create digital signatures.

*Written Electronic Communication* Ca message that is sent by one person to another person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### **§709. Digital Signatures Must be Created by an Acceptable Technology**

A. For a digital signature to be valid for use by a state agency, it must be created by a technology that is accepted for use by the Division of Administration pursuant to guidelines listed in §711 of this document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### **§711. Acceptable Technology**

A. The technology known as Public Key Cryptography is an acceptable technology for use by state agencies, provided that the digital signature is created consistent with the following.

1. A public key-based digital signature must be unique to the person using it. Such a signature may be considered unique to the person using it if:

a. the private key used to create the signature on the message is known only to the signer or, in the case of a role-based key, known only to the signer and an escrow agent acceptable to the signer and the state agency; and

b. the digital signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetric cryptosystem and the signer's private key; and

c. although not all digitally signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and

d. it is computationally infeasible to derive the private key from knowledge of the public key.

2. A public-key based digital signature must be capable of independent verification. Such a signature may be considered capable of independent verification if:

a. the relying party can verify the message was digitally signed by using the signer's public key to decrypt the message; and

b. if a certificate is a required component of a transaction with a state agency, the issuing PKI Service Provider, either through a certification practice statement, certificate policy, or through the content of the certificate itself, has identified what, if any, proof of identification it required of the signer prior to issuing the certificate.

3. The private key of public-key based digital signature must remain under the sole control of the person using it, or in the case of a role-based key, that person and an escrow agent acceptable to that person and the state agency. Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, must exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber's digital signature.

4. The digital signature must be linked to the message of the document in such a way that it would be computationally infeasible to change the data in the message or the digital signature without invalidating the digital signature.

5. Acceptable PKI Service Providers

a. The Division of Administration shall maintain an approved list of PKI service providers authorized to issue certificates for digitally signed communications sent to state agencies or otherwise provide services in connection with the issuance of certificates. The list may include, but shall not necessarily be limited to, Certification Authorities, Certificate Manufacturers, Registrars, and/or other PKI Service Providers accepted and approved for use in

connection with electronic messages transmitted to other state or federal governmental entities. A copy of such list may be obtained directly from the Division of Administration, or may be obtained electronically via the World Wide Web.

b. State agencies shall only accept certificates from PKI service providers that appear on the approved list of PKI service providers.

c. The Division of Administration shall place a PKI Service Provider on the "Approved List of PKI Service Providers" after the PKI Service Provider provides the Division of Administration with a copy of its current certification practice statement, if any, and a copy of an unqualified performance audit performed in accordance with standards set in the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 70 (S.A.S. 70) to ensure that the PKI service provider's practices and policies are consistent with the requirements of the PKI Service Provider's certification practice statement, if any, and the requirements of this section.

d. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for one year or less shall undergo a SAS 70 type one audit report of policies and procedures placed in operation, receiving an unqualified opinion.

e. In order to be placed on the "Approved List of PKI Service Providers" a PKI Service Provider that has been in operation for longer than one year shall undergo a SAS 70 type two audit report of policies and procedures placed in operation and test of operating Effectiveness, receiving an unqualified opinion.

f. In lieu of the audit requirements of Subparagraphs d and e above, a PKI Service provider may be placed on the "Approved List of PKI Service Providers" upon providing the Division of Administration with documentation issued by a person independent of the PKI Service Provider that is indicative of the security policies and procedures actually employed by the PKI Service Provider and that is acceptable to the Division of Administration in its sole discretion. The Division of Administration may request additional documentation relating to policies and practices employed by the PKI Service Provider indicating the trustworthiness of the technology employed and compliance with applicable guidelines published by the Division of Administration.

g. To remain on the "Approved List of PKI Service Providers" a Certification Authority must provide proof of compliance with the audit requirements or other acceptable documentation to the Division of Administration every two years after initially being placed on the list. In addition, a certification authority must provide a copy of any changes to its certification practice statement to the Division of Administration promptly following the adoption by the Certification Authority of such changes.

h. If the Division of Administration is informed that a PKI service provider has received a qualified or otherwise unacceptable opinion following a required audit or if the Division of Administration obtains credible information that the technology employed by the PKI service provider can no longer reasonably be relied upon, or if the PKI service

provider's certification practice statement is substantially amended in a manner that causes the PKI service provider to become no longer in compliance with the audit requirements of this section, the PKI service provider may be removed from the approved list of PKI service providers by the Division of Administration. The effect of the removal of a PKI service provider from the approved list of PKI service providers shall be to prohibit state agencies from thereafter accepting digital signatures for which the PKI service provider issued a certificate or provided services in connection with such issuance for so long as the PKI service provider is removed from the list. The removal of a PKI service provider from the approved list of PKI service providers shall not, in and of itself, invalidate a digital signature for which a PKI service provider issued the certificate prior to its removal from the list.

B. The State may elect to enact or adopt the Federal Uniform Electronic Transactions Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

### **§713. Provisions for Adding New Technologies to the List of Acceptable Technologies**

A. Any person may, by providing a written request that includes a full explanation of a proposed technology which meets the requirements of §709 in this rule, petition the Division of Administration to review the technology. If the Division of Administration determines that the technology is acceptable for use by state agencies, the Division of Administration shall draft proposed administrative rules which would add the proposed technology to the list of acceptable technologies in §711 of this rule.

B. The Division of Administration has 90 days from the date of the request to review the petition and either accept or deny it. If the Division of Administration does not approve the request within 90 days, the petitioner's request shall be considered denied. If the Division of Administration denies the petition, it shall notify the petitioner in writing of the reasons for denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:4(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 26:

Any person may submit data, views or positions, in writing, to the Division of Administration, State of Louisiana, P. O. Box 94095, Baton Rouge, Louisiana 70804-9095. Such comments must be received no later than February 1, 2001, at 4:30 p.m.

Mark C. Drennen  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Digital Signatures**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

At this time, no attributable costs or savings are expected as a result of this rule. However, undetermined costs may occur in future years for those agencies which choose to implement electronic signatures.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
At this time, no attributable effect on revenue collections is expected as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
At this time, no attributable costs are expected as a result of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
At this time, no attributable effect is expected as a result of this rule.

Whitman J. Kling, Jr.            Robert E. Hosse  
Deputy Undersecretary        General Government Section Director  
0101#078                            Legislative Fiscal Office

**NOTICE OF INTENT**

**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)

Notice is hereby given, in accordance with R.S. 49:953, 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, intends to amend its rules governing the licensure of physicians and continuing medical education, LAC 46:XLV.301-431, 449 and 1181. The rule amendments are proposed to carry out the board's response to a rule making request respecting the acceptance of an examination of the National Board of Osteopathic Medical Examiners, the COMLEX-USA examination, in combination with other specified qualifications for medical licensure. In addition, the proposed amendments effect multiple other changes made necessary by the replacement of the formerly applicable licensing examination, the Federation Licensing Examination (FLEX) with the United States Medical Licensing Examination (USMLE). Concurrently, the amendments resolve a number of technical inconsistencies which the board has discovered to be necessary or appropriate in the operation of the rules over time. Other amendments are proposed as clarifications of certain rules, and an amendment of the continuing medical education rule (.449) is proposed to eliminate the mandatory requirement that out-of-state physicians seeking to renew their license for the first time attend a board sponsored orientation program until such time or unless they relocate to Louisiana.

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

**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:

**§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** Cthe 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** CR.S. 37:1261-1292, as hereafter amended or supplemented.

**Permit** Cthe 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**Ca 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**Cthe 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**Cany 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:

## **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:

### **§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:

### §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:

### §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:

## 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:

### §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:

### §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:

### **§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:

### **§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:

## **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:

### **§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:

### **§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:

### **§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:

### **§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:

### **§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:

## 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:

### §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:

## 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:

### §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:

### **§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:

### **§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:

### **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:

#### **§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:

#### **§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:

#### **§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:

#### **§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:

### **§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:

### **§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:

### **§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:

### **§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:

### **§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:

### **§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:

## **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:

### **§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:

**§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:

**§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:

**§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:

#### **§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:

#### **§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:

#### **§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:

#### **§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:

#### **§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 (JB1), temporary worker (H-1B) or immigrant visa, or INS 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 periods, 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:

#### **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:

**§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:

**§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:

**§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:

#### **§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:

#### **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:

##### **§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:

#### **§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:

#### **§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:

### **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:

### **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:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments until 4 p.m., February 20, 2001, to Virginia G. Benoist, Executive Director, Louisiana State Board of Medical Examiners, P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, Louisiana, 70130).

Virginia G. Benoist  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Physicians and Surgeons C Licensure and Continuing Medical Education**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the rule publication costs, which are estimated to be \$2,880 in FY 2001, it is not anticipated that the proposed rule amendments will result in costs or savings to the Board of Medical Examiners or any state or local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is not anticipated that the proposed rule amendments will have any material effect on the revenue collections of the Board of Medical Examiners or any state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is not anticipated that the proposed rule amendments will result in any costs and/or economic benefits to directly affected

persons, including applicants for medical licensure, licensed physicians, or governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendments are not anticipated to have any impact on competition and employment in either the public or private sector.

Virginia G. Benoist  
Executive Director  
0101#021

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health and Hospitals Board of Nursing

Advanced Practice Registered Nurses  
(LAC 46:XLVII.Chapter 45)

Notice is hereby given, 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 and R.S. 37:919 intends to amend the Professional and Occupational Standards pertaining to Advanced Practice Registered Nurses. The proposed amendments of the rules are set forth below.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

#### Subpart 2. Registered Nurses

#### Chapter 45. Advanced Practice Registered Nurses

#### §4503. Titles

A. A nurse licensed as an Advanced Practice Registered Nurses (APRN) shall include, but not be limited to, the following functional roles:

1. certified nurse midwife (CNM) as defined in the R.S. 37:913(1)(a);
2. certified registered nurse anesthetist (CRNA) as defined in the R.S. 37:913(1)(b);
3. clinical nurse specialist (CNS) as defined in the R.S.37:913 (1)(c);
4. nurse practitioner (NP) as defined in the R.S. 37:913(1)(d);
5. registered nurse anesthetist (RNA) as provided for in R.S.37:930.B.

B. A licensed Advanced Practice Registered Nurse must use the title RN unless the certification title includes RN, i.e. CRNA. APRN may be used. The category of certification and/or education designation may be used before or after RN as follows:

1. Certification
  - a. CNM: Certified Nurse Midwife
  - b. CRNA: Certified Registered Nurse Anesthetist
  - c. CNS: Clinical Nurse Specialist plus area of specialty, i.e. CNS, Medical/Surgical
  - d. NP: Nurse Practitioner plus area of specialty, i.e. FNP for Family Nurse Practitioner
2. Education
  - a. MSN, MN, MS or other appropriate degree at the masters level

b. DNS, EdD, PhD, or other appropriate degree at the doctorate level

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:

#### §4505. Definitions

**Advanced Practice Certification**Certification by a nationally recognized certifying body approved by the board.

**Advanced Practice Nursing Specialty**Ca designated area of advanced practice in which the registered nurse holds a graduate degree with experience in the area of practice that includes advanced nursing theory; substantial knowledge of physical and psychosocial assessment; appropriate interventions and management of health care status; i.e. family, pediatric, anesthesia, women's health.

**Functional Role**Cthe advanced practice role for which a master's in nursing program prepares its graduates. The categories of functional roles for advanced practice licensure include nurse midwives, nurse anesthetists, clinical nurse specialists, and nurse practitioners.

**Lapsed APRN License**Cinactive APRN licensure status due to failure to renew or to request inactive licensure status.

**Under the Direction of an Approved Preceptor**Cguidance by a licensed APRN, physician, dentist or person approved by the board within the same or related practice specialty or functional role must be accessible but not physically present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals. Board of Nursing, LR 27:

#### §4507. Licensure as Advanced Practice Registered Nurse

A. -A.1.a. ...

b. completion of a minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and/or functional role or completion of a post master's concentration in the respective advanced practice nursing specialty and/or functional role from an accredited college or university that meets the curriculum guidelines established by the board. Exception to the master's degree will be granted to those applicants who provide documentation as requested by the board that, prior to December 31, 1995, the applicant completed or was continuously enrolled in a formalized post-basic education program preparing for the advanced practice nursing specialty and/or functional role as approved by the board prior to December 31, 1995 as follows:

i. a program of studies offered through an institution of higher education which qualifies the graduate to take a certification examination in the advanced practice specialty and/or functional role; or

ii. ...

iii. a program, which is individually recognized by the Board of Nursing based on established criteria as stated in LAC 46:XLVII.4509.

c. ...

d. submission of evidence of current certification in the respective advanced practice nursing specialty and/or functional role by a nationally recognized certifying body approved by the board. When specialty and/or functional

role certification is not available, in addition to meeting the above requirements, the individual will be required to meet the commensurate requirements specified below in Paragraph 2.

e. ...

f. after initial licensure, applicants seeking licensure for advanced practice in an additional specialty/role shall meet the requirements stated in LAC 46:XLVII.4507.A.1.a-d.

2. Commensurate Requirements When Certification is Not Available

a. Holds the minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and/or functional role from a regionally accredited college or university or a program otherwise approved by the board and has practiced with a APRN temporary permit for a minimum of 6 months to a maximum of 24 months, and

b. Have provided a minimum of 800 hours of patient care under the direction of an approved preceptor within the past 24 months; up to 400 of these may be earned through clinical practicum in a masters program; and

c. Submit an affidavit for waiver of Certification Examination on a form provided by the board.

3. An APRN license shall be issued with an expiration date that coincides with the applicant's RN license.

B. Temporary Permit: Initial Applicants

1. An APRN applicant who possesses a current RN license or a valid RN temporary permit, may be granted a temporary permit which allows the applicant to practice under the guidance of a licensed APRN, physician, dentist or approved preceptor within the practice specialty or functional role of the applicant, except as provided for in R.S. 37:930.A.3:

a. in the process of applying for initial licensure under LAC 46:XLVII.4507.A.; and

b. has been accepted as a first-time candidate for the national professional certification examination; or

c. in the process of meeting the practice eligibility requirements for the national professional certification examination for the advanced nursing practice specialty and/or functional role as recognized by the board; or

d. in the process of meeting the practice requirements for licensure by commensurate requirements; or

e. is awaiting certification results based upon initial application; and

f. ...

2. ...

3. Upon receipt of initial certification examination results:

a. the temporary permit shall expire;

b. applicant shall submit or cause to be submitted, a copy of the results to the board;

c. unsuccessful candidates shall:

i. cease to practice as an APRN applicant (does not prohibit practice as a registered nurse);

ii. return the temporary permit to the board;

iii. notify the employer of the results.

4. Upon completion of the commensurate requirements or at the end of two years, the temporary permit shall expire.

5. An advanced practice registered nurse seeking licensure in either an additional advanced practice nursing category or area of specialization, may seek a temporary permit as stated in LAC.46.XLVII.4507.B and D.

C.1.a. - e. ...

f. verification of educational requirements as stated in LAC 46:XLVII.4507.A.1.b;

g. verification of current national certification in the respective specialty and/or functional role area as recognized by the board; or meets commensurate requirements as specified in LAC 46:XLVII.4507.A.2;

h. documentation of meeting the requirements in LAC 46:XLVII.4515.

2. ...

a. ...

b. information regarding the applicant's qualifications for advanced practice directly from the board in the state where the applicant was last employed in the APRN category.

3. If the applicant is applying from a jurisdiction that does not verify advanced practice or does not meet the endorsement requirements, the applicant shall qualify by meeting the requirements for initial APRN licensure, LAC 46:XLVII.4507.A and B.

D. ...

1. A nurse seeking APRN licensure by endorsement, and has been issued a RN temporary permit, may be issued a temporary permit to practice as an APRN for a maximum of 90 days if the applicant submits:

a. ...

b. the required nonrefundable fee as set forth in LAC 46:XLVII.3361.A.2;

c. evidence of meeting the educational and certification requirements specified in LAC 46:XLVII.4507.A.1.b and d; or

d. documentation of registration for the certifying examination within 90 days.

2. The APRN temporary permit may be extended until receipt of initial certification results.

E. Renewal of Licenses by Certification, Commensurate Requirements, or Grandfathering

1. The date for renewal of licensure to practice as an APRN shall coincide with renewal of the applicant's RN license. Renewal of the APRN license is contingent upon renewal of the RN license and verification that there are no grounds for disciplinary proceedings as stated in R.S. 37:921. An applicant for renewal of an APRN license shall submit to the board:

a. ...

b. evidence of current certification/recertification, unless the APRN has been licensed by the board in accordance with R.S. 37:912.B.(3)(4); or in accordance with commensurate requirements when certification is not available (R.S. 37:920.A.2). Effective January 1, 2002, and required for relicensure in 2003, APRNs licensed by the board in accordance with commensurate requirements when certification is not available (R.S. 37:920.A.2.) shall comply with the requirements specified in §4507.E.2. below;

c. the licensure renewal fee as specified in LAC 46:XLVII. 3361.A.2.

2. APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) (grand-fathered) and are not certified, or R.S. 37:920.A.(2) and LAC 46:XLVII.4507.A.2 whose category and area of specialization does not provide for certification/re-certification (commensurate requirements) shall submit the following documentation for renewal, in addition to meeting the requirements specified above in E.1.a.-c:

a. a minimum of 300 hours of practice in advanced practice registered nursing (R.S. 37:913.3.a) within a 12-month period; and

b. a minimum of 2 college credit hours per year of relevance to the advanced practice role; or

c. a minimum of 30 continuing education (C.E.) contact hours approved by the board each year. Of the 30 contact hours, a maximum of 10 C.E. contact hours may be approved Continuing Medical Education (CME's);

d. the above Subparagraphs b or c will meet the C.E. Requirements for the registered nurse and the advanced practice registered nurse licensure renewal.

#### F. Reinstatement of an APRN License

1. Reinstatement of an APRN license, which has lapsed or been inactive for less than four years. An APRN who has failed to renew their license, or has had an inactive licensure status less than four years, may apply for reinstatement by submitting to the board:

a. evidence of current RN licensure;

b. completed application on a form furnished by the board;

c. evidence of current certification/recertification by a national certifying body accepted by the board; or APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) or 920.A(2) and 4507.A.2 whose functional role and area of specialty does not provide for certification/recertification shall submit the following documentation with the application for reinstatement as specified in E.2.b. or c. for each year of inactive or lapsed status;

d. the required fee as specified in LAC 46:LVII.3361.A.2.

2. Reinstatement of an APRN license, which has lapsed or been inactive four years or more. If the applicant's APRN license has been lapsed or inactive for four or more years, in addition to meeting the above requirements in §4507.F.1.a.-d., the applicant shall:

a. apply for a six-month temporary permit; and

b. practice under the temporary permit and current practice standards set forth by the respective advanced practice nursing functional role and specialty; and

c. successfully complete the number of clinical practice hours required by the national certifying body approved by the board, under the guidance of a preceptor approved by the board;

d. cause to have submitted a final evaluation by the approved preceptor verifying successful completion of six months of full time practice or the equivalent hours in the area of specialization; and

e. submit evidence of current certification by a national certifying body approved by the board; or

f. have a minimum of 300 hours of clinical practice in the area of clinical specialization when specialty certification is not available; and

g. submit evidence of compliance with §4507.E.2.b. or c. for each year of inactive or lapsed status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended LR 27:

#### §4509. Educational Requirements

A. An advanced practice registered nurse student means any licensed registered nurse enrolled as a student in an educational program, which prepares the individual for APRN licensure. The program must meet the board's criteria for advanced practice educational programs. All Nursing education programs and courses in the state of Louisiana preparing persons for licensure and registration to practice shall be approved by the Louisiana State Board of Nursing. The Authority of the board is contained in Section 918 Duties of the board, 1, 2, 3, 12, of the Louisiana Revised Statutes, Title 37, Chapter 11, Nurses, Part 1, Registered Nurses, Section 911-933, 1995, as amended through 1996. R.S. 37:911 et seq. as re-enacted and amended.

1. Approval of Advanced Practice Registered Nurse Programs. An educational program accredited by a regional accrediting body and/or a national professional accrediting body recognized by the U.S. Department of Education and whose standards comply with the following requirements shall be approved by the board. The board has the authority to delegate to the board's staff the approval of advanced practice registered nurse programs which meet the following criteria.

a. The educational program shall be an academic unit of a regionally accredited college or university which offers a graduate degree with a major in nursing or a graduate degree with a concentration in the advanced practice registered nurse category as defined in R.S. 37:913.(1).

b. Advanced practice registered nurse program shall meet the educational requirements of the nationally recognized certifying body whose certification program graduates are prepared to pursue as accepted by the board R.S. 37:920.A.(2).

c. The program shall have a clearly written mission, curriculum, and outcome objectives relevant to the respective advance practice specialty and/or functional role preparation.

d. The program has a systematic plan for program evaluation and assessment and documents the use of data in decision making for program development, maintenance, and revision.

e. The program evaluation plan shall document that the curriculum prepares graduates to meet the standards for the advanced practice registered nurse as specified in IAC 6:XLVII.4513.B.1-8.

f. Nurse faculty shall:

i. hold a current license to practice as a registered nurse in Louisiana.

ii. hold the minimum of a master's degree in nursing; may include other credentialed providers who provide content relevant to the specialty and/or functional role of the APRN being prepared;

iii. include APRN's licensed in the specialty being taught;

iv. be qualified through academic preparation and experience to teach the subject assigned and shall meet the standards for faculty appointment by the controlling institution; and

v. clinical preceptors must be licensed in Louisiana as an APRN, physician, dentist or as approved by the Board.

## 2. Guidelines for Advanced Practice Registered Nurse Students' Clinical Practicum

a. Advanced practice registered nursing students may perform advanced practice nursing functions under the guidance of a qualified instructor or preceptor, (as defined in LAC 46:XLVII.4505.2), as a part of their program of study.

b. Out-of-state schools shall request in writing to the board and have approved, any request to initiate a clinical practicum in Louisiana. The following information relative to advanced practice registered nurse student(s) shall be submitted:

- i. student(s) name;
- ii. the clinical practice setting;
- iii. the credentials of the instructor/preceptor;
- iv. evidence of RN licensure in Louisiana.

## B. Types of Approval

1. Initial Approval. Initial approval shall be granted to an advanced practice nurse program, which upon application to the board, documents that it meets all standards established by the board.

2. Full Approval. Full approval shall be granted to an advanced practice nurse education program once the program provides documentation that members of the first class of advanced practice students have graduated, become certified, and licensed as a APRNs in accordance with the standards established by the board.

## 3. Continued Approval

a. The education program shall notify the board of any recommendations and/or changes in accreditation by the appropriate regional and/or national accrediting body and/or any changes in the eligibility of its graduates to take the national certifying examination of a nationally recognized certifying body. The educational program will be reviewed by the board at any time the board determines a review is necessary to maintain the program's approval status.

b. After due process of review, if the board determines that a program is not in compliance with the standards set forth in these rules, the board shall notify the program in writing of identified deficiencies within 60 days.

c. The program shall submit evidence of progress, which addresses correction of the identified deficiencies within six months of the board's date of citation of non-compliance. If the program fails to comply, the board shall allow for a hearing in accordance with the administrative rules; based on evidence provided, the board may withdraw approval of the program.

## C. Procedure for Submitting Required Forms and Reports

1. Annual Report. The educational program shall submit a designated number of copies of an annual report on forms provided by the board, on the designated date, accompanied by a copy of the current school catalog.

2. Interim Report. The educational program shall submit a report if requested in reference to B.3.c above.

3. On-site surveys may be made at the discretion of the board, or upon request of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 27:

## §4513. Authorized Practice

A. Scope of Practice. An advanced practice registered nurse shall practice as set forth in R.S. 37:913(3)(a) and the standards set forth in these administrative rules. The patient services provided by an APRN shall be in accord with the educational preparation of that APRN. APRNs practicing in accord with R.S. 37:913(3)(a) are not required to have a collaborative practice agreement. The APRN who engages in medical diagnosis and management shall have a collaborative practice agreement that includes, but is not limited to, the following provisions: (R.S. 37:913.8 and 9)

1. availability of the collaborating physician or dentist for consultation or referral, or both;

2. methods of management of the collaborative practice which shall include clinical practice guidelines;

3. coverage of the health care needs of a patient during any absence of the APRN, physician, or both parties.

B. Standards of Nursing Practice for the Advanced Practice Registered Nurse. Standards of practice are essential for safe practice by the APRN and shall be in accordance with the published professional standards for each recognized specialty and functional role. The core standards for all categories of advanced practice registered nurses include, but are not limited to:

1. - 3. ...

4. an APRN shall use critical thinking and independent decision-making at an advanced level, commensurate with the autonomy, authority, and responsibility of the practice role and/or specialty while working with patients and their families in meeting health care needs;

5. an APRN shall demonstrate knowledge of the statutes and rules governing advanced registered nursing practice and function within the legal boundaries of the appropriate advanced registered nursing practice role;

6. an APRN shall demonstrate knowledge of and apply current nursing research findings relevant to the advanced nursing practice role and specialty;

7. an APRN shall make decisions to solve patient care problems and select medical treatment regimens in collaboration with a licensed physician or dentist;

8. an APRN shall retain professional accountability for their actions and/or interventions.

C. - C.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, and Louisiana State Board of Nursing, LR 22:981 (October 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 23:1245 (June 1999), amended, LR 27:

## §4515. Continued Competence of Advanced Practice Registered Nurses

A. Continued competence requirements shall apply as follows.

1. Maintains recertification in accordance with the nationally recognized certifying body's criteria as approved by the board.

2. When certification/recertification is not available, or APRNs who are licensed by grandfathering, the APRN shall meet the requirements for renewal as specified in the LAC 46:XLVII.4507.E.2.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996), amended LR 27:

**§4517. Additional Standards For Each Advanced Practice Nurse Category**

A. The APRN is responsible and accountable for knowing the specific standards of practice for their functional role and area of specialization and for other state and federal rules and regulations that effect their patient population(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996), amended LR 27:

**Family Impact Statement**

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed rule related to the Board's appointing authority 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 on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on February 9, 2001.

Barbara L. Morvant  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE:**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The only implementation cost is the estimated \$45 cost of publishing the rules in the *Louisiana Register*.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There may be a decrease in revenues of approximately \$2500 in fiscal year 2002-2003, based on an estimated 50 advanced practice registered nurses who may choose not to seek re-licensure in 2002 due to the proposed action.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Educational programs and courses for registered nurses preparing for advanced practice in nursing are required to be approved by the board. These programs in nursing will not incur additional costs. Individual advanced practice registered nurses may experience increases expenditures due to continuing education requirements if not previously attained. (Most already obtain continuing education.)

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated impact on competition and employment in the public and private sectors.

Barbara L. Morvant  
Executive Director  
0101#038

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Nursing**

Continuing Education/Nursing Practice  
(LAC 46:XLVII.3335)

Notice is hereby given, 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 and R.S. 37:919 intends to adopt rules amending the Professional and Occupational Standards pertaining to Continuing Education/Nursing Practice. The proposed amendments of the rules are set forth below.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLVII. Nurses**

**Subpart 2. Registered Nurses**

**§3335. Continuing Education/Nursing Practice**

- A. ...
- B. Definitions for the Purposes of §3335.

\* \* \*

*Full-Time Nursing Practice*Ca minimum of 1,600 hours, per year, of employment as a registered nurse or full-time equivalency requirements set forth by the employer. For self-employed, home health, and contract nurses, a minimum of 1,600 documented nursing practice hours, exclusive of travel, per calendar year, is accepted as full-time employment. Documentation of practice hours shall include paycheck stubs and a log record of actual hours worked.

\* \* \*

- C. - G.10.a. ...

b. submit applications for three proposed continuing education activities; if approved, a provider number will be issued for the first three programs as a condition of the process to become approved to be a continuing education provider;

c. fees payable upon submission of an application for total initial provider unit review are \$800 for two years, with \$100 being non-refundable. The fees for individual continuing education activity approval for the first three programs in preparation to be a provider are \$75 (non-refundable) plus \$10 for each contact hour of instruction, up to a maximum of \$700. A fee of 25 percent of the original fee, with a minimum of \$30, is payable for an extension of the approved status.

- 11 - 11.b. ...

c. fees payable upon submission of an application for total provider unit review for re-approval are \$800 for two years or \$1,600 for four years, with \$100 being non-refundable.

- H - H.1.b.iv. ...  
 (a). a philosophy and/or mission of continuing education;  
 (b). - 2. ...  
 a. Individual offerings, as a pre-requisite for provider status, shall be submitted to the board at least 90 calendar days prior to implementation of the continuing education activity.

H.2.b. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4)(12) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 25:514 (March 1999), LR 27:

#### Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed rule related to the Board's appointing authority 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 on the proposed rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA, 70002. The deadline for receipt of all written comments is 4:30 p.m. on February 9, 2001.

Barbara L. Morvant  
 Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education/Nursing Practice

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
 The only implementation cost is the estimated \$45 of publishing the rule in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
 There is no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
 Applicants for re-approval as a continuing education provider will have the option of paying the current fee of \$800 for two years or \$1,600 for four years. The cost of re-approval will remain \$400 per year. Providers will have the option of paying for four years at a time instead of two.  
 Estimated economic benefit is a savings for the licensees now needing 5 hours of continuing education rather than 10 hours of continuing education and is estimated at \$100 per year.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
 There is no anticipated effect on competition and employment as 1,600 is normally considered the equivalent of full-time employment for registered nurses.

Barbara L. Morvant  
 Executive Director  
 0101#037

Robert E. Hosse  
 General Government Section Director  
 Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Home and Community Based Services Waiver  
 Program  
 Mentally Retarded/Developmentally Disabled Waiver Request for Services Registry

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, Bureau of Health Services Financing adopted a Rule governing the allocation of waiver slots, admission criteria and discharge criteria for the Mentally Retarded/Developmentally Disabled (MR/DD) Home and Community Based Services Waiver in June, 1997 (*Louisiana Register*, Volume 23, Number 6). The Rule was amended in March, 1998, to allow some slots allocated for the deinstitutionalization of Pinecrest and Hammond Developmental Centers residents to be alternatively used for the benefit of residents of private ICF/MR facilities (*Louisiana Register*, Volume 24, Number 3). The provisions governing the allocation of waiver slots contained in the March 20, 1998 Rule were subsequently amended by a Rule adopted to allow any slots vacated during the waiver year to be made available to residents leaving any publicly operated ICF-MR facility (*Louisiana Register*, Volume 25, Number 9). Certain slots for foster children in the custody of the Office of Community Services (OCS), and for the deinstitutionalization of residents of designated developmental centers or private ICF-MR facilities continued to be reserved under the September, 1999 Rule.

The department adopted a Rule transferring responsibility for the MR/DD Waiver waiting list to the Bureau of Community Supports and Services and establishing provisions for the orderly transition from regional waiting lists to a single statewide request for services registry to be maintained in the state office (*Louisiana Register*, Volume 26, Number 11). The department also adopted policy specifying the point of entry for the MR/DD waiver request for services registry and the criteria for inclusion on and removal from the registry. Provisions contained in the previously cited Rules that are not related to the MR/DD waiver waiting list are not affected by adoption of this proposed Rule. The bureau now proposes to adopt a Rule to continue the provisions contained in the October 27, 2000 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 transfers responsibility for the waiting list for the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver to the

Bureau of Community Supports and Services (BCSS). Regional MR/DD Waiver waiting lists shall be consolidated into a single statewide request for services registry arranged in order of the date and time of the initial request. Those persons on regional waiting lists prior to the date of the transfer of responsibility to BCSS shall be placed on the request for services registry in the order of the date and time on record when the candidate initially requested a slot in the waiver, subject to a subsequent determination that he/she meets the criteria for inclusion on the registry. When a candidate is listed on more than one regional waiting list, the earliest date and time on record shall be considered the initial request. Persons who wish to be added to the request for services registry shall contact a toll-free telephone number maintained by BCSS. In addition, the department adopts the following regulations governing the request for services registry for the MR/DD Waiver.

#### A. Inclusion Criteria

1. Persons currently on the waiting list. Persons on the waiting list prior to October 27, 2000, shall be screened to determine whether they are legitimate candidates for waiver eligibility. Only persons found to meet the criteria for candidacy shall be placed on the request for services registry. However, if a waiver slot becomes available before the next person on the waiting list has been screened, that person shall be allowed to make application for the slot.

2. Entry to the request for services registry. On or after October 27, 2000, persons who wish to be entered on the request for services registry shall be screened to determine whether they are legitimate candidates for waiver eligibility prior to their name being placed on the registry. Only persons who meet the criteria for candidacy shall be added to the registry for waiver services.

3. Waiver candidacy. The candidate must provide documentation that there is a reasonable expectation that he/she meets the state's definition of being mentally retarded or developmentally disabled. In addition, the candidate must appear to meet the financial, disability, nonfinancial and ICF-MR level of care criteria for Medicaid eligibility, according to his/her own statement or the statement of a responsible party.

#### B. Exclusion Criteria

1. Failure to Cooperate. Potential candidates who fail to provide requested documentation or otherwise fail to cooperate within a reasonable length of time shall be excluded from the registry. The potential candidate shall be informed of the time limits involved when the information is requested.

2. Insufficient Documentation of Disability. Documentation of the type and degree of disability must support the contention that the potential candidate meets the state's definition of mentally retarded or developmentally disabled.

3. Ineligibility Determined during Pre-screening. Persons who do not meet the eligibility criteria for an ICF-MR level of care according to their own statement on a pre-screening tool devised by BCSS shall be eliminated from the MR/DD waiver request for services registry.

4. Subsequent Determination of Ineligibility. BCSS may exercise its authority to eliminate a potential candidate from the registry when information provided about the potential candidate's situation indicates that he/she would not be eligible if he/she were to apply at the present point in time. For example, a candidate could not become eligible for a waiver slot if the candidate moved out of state with the intent to become a resident of that state, or was incarcerated and placed under the jurisdiction of the penal authorities, courts, or state juvenile authorities.

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is the person responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for February 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: Home and Community Based Services Waiver ProgramC Mentally Retarded/Developmentally Disabled Waiver Request for Services Registry**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2000-01, 2001-02, and 2002-03. It is anticipated that \$240 (\$120 SGF and \$120 FED) will be expended in SFY 2000-01 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 not impact federal revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0101#061

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**

**CommunityCARE ProgramC Changing  
Primary Care Providers**

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, Bureau of Health Services Financing implemented a Primary Care Case Management (PCCM) program called CommunityCARE in designated parishes of the state to provide access to health care for eligible Medicaid recipients, particularly those residing in rural communities (*Louisiana Register*, Volume 19, Number 5). The CommunityCare Program provides Medicaid recipients in the designated parishes with a primary care physician (PCP), osteopath, or family doctor to serve as their primary care provider. Recipients are given the opportunity to select a participating doctor, federally qualified health center (FQHC), or rural health clinic in their parish of residence or in a contiguous parish to be their primary care provider. Recipients were assigned to a participating provider if they did not select one. In addition, recipients were required to remain with the same PCP for at least six months before they could change to another PCP.

Section 4701 of the Balanced Budget Act of 1997 amended the provisions governing enrollment, termination and change of enrollment for managed care. Section 4701 states that "the state, enrollment broker (if any), and managed care entity shall permit an individual eligible for medical assistance under the state plan under this title who is enrolled with the entity under this title to terminate (or change) such enrollmentB(i)for cause at any time (consistent with section 1903(m)(2)(A)(vi)), and (ii) without causeB(I) during the 90-day period beginning on the date the individual receives notice of such enrollment, and (II) at least every 12 months thereafter." The bureau now proposes to amend the May 20, 1993 Rule to revise the criteria for changing primary care physicians in compliance with the federal law as enacted in Section 4701 of the Balanced Budget Act of 1997.

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. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by granting CommunityCARE recipients greater flexibility in changing their primary care physician.

## Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the provisions of Section 4701 of the Balanced Budget Act of 1997 governing when a CommunityCARE recipient may change primary care providers. CommunityCARE recipients may request to change primary care providers for cause at any time. They may change primary care providers without cause at any time during the first 90 days of enrollment with a primary care provider and at least every 12 months thereafter.

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 the person responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for February 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: CommunityCARE

### ProgramC Changing Primary Care Providers

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact for SFY 2000-01, 2001-02, and 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-01 for the states 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 not impact federal revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will not have estimable costs and/or economic benefits for directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0101#059

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

#### Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT)C Hearing Aids

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, Bureau of Health Services Financing provides coverage for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) hearing aid services under the Medicaid Program. The criteria for prior authorization of hearing aids was promulgated by reference in a rule that adopted the state and federal requirements and procedures governing the determination of Medicaid eligibility as contained in the Medicaid Eligibility Manual (*Louisiana Register*, Volume 22, Number 5). As a result of a change in the policy of the Office of Public Health on providing hearing aid services, the bureau adopted an Emergency Rule amending the prior authorization criteria for hearing aids contained in the May 20, 1996 Rule. In addition, the prior authorization criteria for hearing aids was removed from the Medicaid Eligibility Manual and placed under the EPSDT Program. The bureau now proposes to adopt a rule to continue the provisions contained in the November 20, 2000 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 amends the May 20, 1996 Rule to establish the following prior authorization criteria for hearing aids. In addition, the bureau removes the prior authorization criteria for hearing aids from the Medicaid Eligibility Manual and places it under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

#### Prior Authorization Criteria

Hearing aids and related services are only covered for EPSDT recipients up to the age of 21. Approval is granted only when there is a significant hearing loss as documented by audiometric or electrophysiologic data from a licensed audiologist and medical clearance and prescription from an ear specialist (otologist).

The audiologist must furnish a report, including an audiogram (if applicable) and all test results, indicating the degree and type of hearing loss. A hearing loss greater than 20 decibels with an average hearing level in the range 250-2000 Hz is considered significant. Additional required medical and social information shall include:

1. the recipient's age;
2. expected benefit of the hearing aid;

3. previous and current use of a hearing aid;
4. additional disabilities expected to influence the use of a hearing aid; and
5. referrals made on the recipient's behalf to early intervention programs, special education programs or other rehabilitative services.

Hearing aid repairs, batteries, and ear molds shall not require prior authorization. Limitations on the purchase of ear molds are established as follows:

1. one ear mold will be allowed every 90 days for EPSDT recipients from birth to age four; and
2. one ear mold per year will be allowed for EPSDT recipients from age 5 up to 21.

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 the person responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for February 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: Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT)C Hearing Aids

#### 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 \$49,362 for SFY 2000-01, \$50,967 for SFY 2001-02, and \$52,496 for SFY 2002-03. It is anticipated that \$160 (\$80 SGF and \$80 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 \$117,742 for SFY 2000-01, \$120,985 for SFY 2001-02, and \$124,615 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 Medicaid payments to providers of EPSDT DME services by approximately \$166,944 for SFY 2000-01, \$171,952 for SFY 2001-02, and \$177,111 for SFY 2002-03.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden  
Director  
0101#060

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation

Statewide Order No. 29-BC Disposal  
of E&P Wastes by Slurry Fracture  
(LAC 43:XIX.101 et seq)

The Louisiana Office of Conservation proposes to amend LAC 43:XIX.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, Sections 30:4 C (1), (2), (3), (6), (8), (9), (10), (14), (16) and I. These proposed rules amend the requirements for annular disposal of reserve pit fluids (drilling fluids and cuttings, LAC 43:XIX.315) and add new requirements for slurry fracture injection wells (LAC 43:XIX.433).

#### Title 43

#### NATURAL RESOURCES

#### Part XIX. Office of Conservation C General Operations

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

#### Chapter 3. Pollution Control C Onsite Storage, Treatment and Disposal of Nonhazardous Oilfield Waste (NOW) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)

#### §315. Disposal of Reserve Pit Fluids and Other E&P Wastes by Slurry Fracture

##### A. General Provisions

1. The onsite subsurface injection (disposal) of exploration and production wastes, including drilling and workover waste fluids and reserve pit fluids into:

a. a newly drilled well which is to be plugged and abandoned; or

b. into the casing annulus of a well being drilled, a recently completed well, or a well which has been worked over is prohibited, except when such injection is conducted in accordance with the requirements of this Section.

2. Injection of drilling and workover waste fluids shall not commence until approval has been granted by the Office of Conservation, Injection and Mining Division, or its successor. Operators may apply for approval when applying for a drilling permit. Approval for injection after subsequent workovers will require the submission of a new permit application.

3. Injection of drilling and workover waste fluids (including reserve pit fluids) shall be limited to injection of only those fluids generated in the drilling, stimulation or workover of the specific well for which authorization is requested. Reserve pit fluids may not be transported from one well location to another for injection purposes.

4. Injection of drilling and workover waste pit fluids into zones that have been tested for hydrocarbons or are capable of hydrocarbon production is prohibited, except as otherwise provided by the commissioner.

5. Pump pressure and injection rate shall be limited so that vertical fractures will not extend to the base of the USDW and/or groundwater aquifer.

6. A drilling and workover waste fluids injection site may be inspected by a duly authorized representative of the commissioner prior to approval.

7. Drilling and workover waste fluids to be injected pursuant to the provisions of this Section are exempt from the testing requirements of §311.C.

8. The disposal zone shall be defined as that interval extending from the top of the first sand zone open to the annulus, immediately below the base of the surface casing to the cement top of the next cemented casing string or cement plug.

9. Approval of an application for annular disposal shall be limited to the specific disposal operation indicated (permitted waste batch). Approval shall be valid for a period not to exceed six calendar months from the approval date. Subsurface disposal beyond the expiration date shall be a violation of the permit and regulations. Any subsequent injection after the expiration date of an approved application will require submission and review of a new application.

##### B. Application Requirements

1. Prior to the onsite injection of reserve pit fluids, an application shall be filed by the well operator on Form UIC-14 (Application for Annular Disposal of Reserve Pit Fluids) or the latest revision. The original application (with attachments) shall be submitted to the Office of Conservation for review and approval.

2. An application for approval of reserve pit fluid injection shall include, but not be limited to the following:

a. schematic diagram of well showing:

i. total depth of well;

ii. drilled hole diameters;

iii. casing set points;

iv. tops of cement;

v. interval targeted for injection; and

vi. depth of the base of the lowermost USDW;

b. certified well location plot;

c. an induction/spontaneous potential/gamma ray log of the surface section of hole showing the base of the lowermost USDW. A log of an offset well which is located within one mile (5,280 feet) of the well for which the permit is requested may be substituted provided the top of the disposal zone and base of the lowermost USDW were logged;

d. a copy of the electric log run on the lower section of the well;

e. a cement bond log or a cement evaluation log showing adequate bonding between the shoe of the surface casing and the base of the lowermost USDW. A temperature or other type of log may be substituted provided prior approval is obtained from the commissioner;

f. documentation of the results of an initial pressure test after setting the surface casing and a second pressure test of the surface casing after drilling has been completed, but before the production or intermediate string is run. Both tests must indicate that the casing has mechanical integrity. A radioactive tracer survey (RTS) with a time-drive supplement that proves well mechanical integrity may be run instead of the second pressure test if approval has been granted by the Injection and Mining Division;

g. the results of a pump in test which are interpretable and conform to the requirements established by the commissioner; and

h. any additional information as the commissioner may require.

#### C. Criteria for Approval

1. Casing string injection may be authorized if the following conditions are met and injection will not endanger underground sources of drinking water:

a. surface casing annular injection may be authorized provided the surface casing is set at least 500 feet below the base of the lowermost USDW and cemented to surface, except as otherwise provided by the commissioner; or

b. injection through perforations in the intermediate or production casing may be authorized provided that intermediate or production casing is set and cemented at least 200 feet below the base of the lowermost USDW and cemented to surface. The top of the perforated interval shall be located a minimum of 500 feet below the base of the lowermost USDW, with perforations through the surface casing being strictly prohibited. In the event the base of the lowermost USDW is not protected by at least 500 feet of surface casing, sufficient cement isolation above the perforations is required to prevent fracturing vertically into the USDW.

2. Surface casing open hole injection may be approved provided the surface casing is set at least 500 feet below the lowermost USDW and cemented to the surface and a cement plug of at least 100 feet has been placed across the uppermost potential hydrocarbon bearing zone.

3. Surface casing annular injection/surface casing open hole injection shall not be permitted through any string of surface casing which has failed a pressure test. An exception may be granted for surface casing open hole injection in which disposal is through drill pipe or injection tubing and a mud packer set within 50 feet of the casing shoe.

4. At no time shall injection be permitted at a pressure in excess of the pressure at which the second surface casing test is performed.

#### D. Operational Requirements

1. The disposal pump discharge line shall at all times be equipped with instruments to continuously record the surface pressure, injection rate of the pump, and cumulative volume pumped. Dual pressure recorders may be required at the discretion of the commissioner. Readings are to be recorded to a hard copy print-out and are to be synchronized in time so that the actual pressure, rate, and volume pumped at a given instant can be determined from the print-outs.

2. A maximum allowed surface injection pressure and a minimum allowed surface injection pressure at a permitted injection rate will be assigned to the disposal operation by the Office of Conservation based on the results of the pump-in test required in §315.B.2.g above.

3. Density measurements and frictional pressure loss measurements in the casings and tubulars are to be gathered throughout the disposal operation in order to adjust the maximum and minimum surface injection pressures for changes in fluid properties and frictional pressure losses during the course of the disposal operation. These measurements are to be recorded on Form UIC-14-A, Waste Disposal Operations Log, or the latest revision. Adjustments to the maximum and minimum surface injection pressures are to be made by the procedure prescribed on Form UIC-14-A.

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4. Injection may be performed provided the stabilized pressure (at rates not exceeding the maximum allowed rate) stays between the maximum and minimum allowed surface injection pressures ( $P_{smax}$  and  $P_{smin}$ ). During fracture initiation or fracture re-opening after shut-in, the injection pressure is temporarily allowed to exceed the maximum allowed surface injection pressures ( $P_{smax}$ ) while pumping the first 100 barrels of the current batch, provided that the pressure does not exceed value of the second casing test.

5. If the surface pressure increases to more than the maximum allowed surface injection pressure ( $P_{smax}$ ), displace the wellbore with clean water and cease injection. Immediately notify Office of Conservation of this situation. If the operator so desires, remedial actions may be taken to clean out the wellbore. If injection cannot later be resumed within the allotted range of pressures, discontinue disposal operations and notify Office of Conservation.

6. If the surface injection pressure decreases to less than the minimum allowed surface injection pressure ( $P_{smin}$ ) calculated on Form UIC-14-A, displace the wellbore with clean water and cease injection. Notify Office of Conservation immediately of the situation. Do not resume disposal until authorization has been granted by Office of Conservation. Meanwhile, monitor and record surface pressure readings to ensure that the fracture is closed. The fracture will be required to heal for a minimum of 12 hours before authorization to resume disposal operations will be granted. If, after receiving approval to resume disposal operations, injection cannot later be resumed within the allotted range of pressures, discontinue operations permanently and notify Office of Conservation.

7. If, at any time during the disposal operation, there is any indication that the injected E&P waste is not being confined in the approved disposal zone, the disposal operation is to be immediately discontinued and the Office of Conservation notified.

8. Within 20 days of completion of disposal operations, return to Office of Conservation the completed Form UIC-14-A. All other documentation of the disposal operation, including the print-outs of the injection pressures, pump rates and total volumes pumped, are to be maintained in the operator's files for a minimum of three years. Copies of the documentation are to be submitted to Office of Conservation only upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 12:26 (January 1986), LR 16:855 (October 1990), LR 27:

### Chapter 4. Pollution Control (Class II Injection Well Regulations)

#### §433. Disposal of E&P Wastes by Slurry Fracture Injection

A. Applicability. The regulations in this Section shall apply to all onsite or offsite Class II injection wells which inject RCRA exempt exploration and production waste at pressures which exceed the fracture pressure of the Injection Interval.

#### B. Definitions

**Confining Zone**—the impermeable geologic formation that is located below the base of the USDW and which directly overlies and is contiguous with the Injection Zone.

**Containment Zone**—the geologic formation or formations intended to serve as a barrier to fracture height growth, but allowed to be partially penetrated by fractures created during authorized injection. The Containment Zone directly overlies and is contiguous with the Injection Interval.

**Injection Interval**—the geological formation targeted to receive the injected fluids. This interval is contained within the Injection Zone.

**Injection Zone**—that group of geologic formations which extend from the bottom of the lowermost Injection Interval to the top of the Containment Zone.

**Slurry Fracture Injection**—a process by which solid waste is ground, if necessary, and mixed with water or another liquid. The resulting slurry is then deposited into fractures created in the receiving formation by the hydraulic force of injection.

**Source Water Protection Area**—the surface and subsurface area surrounding a source of drinking water (a water well, a well field, or a surface intake), supplying a public water system, through which contaminants are reasonably likely to move toward and reach the source of drinking water. The Source Water Protection Program is under the jurisdiction of the Louisiana Department of Health and Hospitals and the Louisiana Department of Environmental Quality.

**Zone of Endangering Influence**—a defined area around an injection well, the radius of which is the lateral distance for which the pressures in the Injection Interval(s) may cause the vertical migration of injection and/or formation fluid out of the Injection Zone.

#### C. Application Requirements for Slurry Fracture Injection Wells

1. Each application for approval of a new slurry fracture injection well shall be filed on Form UIC-2 SFI (or latest revision) and shall be developed under the supervision of knowledgeable person(s) in all phases of slurry fracture injection permit application preparation. The original, signed by the operator, and one copy of the application with two complete sets of attachments shall be furnished to the commissioner.

2. The application for approval of a slurry fracture injection well shall be accompanied by:

- a. a completed Form UIC-2 SFI;
- b. a completed Form MD-10-R (or latest revision);
- c. a map showing the disposal well for which a permit is sought, the Area of Review (AOR), and the following information:
  - i. the number or name and location of all existing producing wells, injection wells, abandoned wells, and dry holes within the AOR;
  - ii. identification of the surface owner of the land on which disposal is to be located within the AOR;
  - iii. identification of each operator producing a leasehold within the AOR;
  - iv. surface bodies of water, mines (surface and subsurface), quarries, water wells (public and private), public water systems, and other pertinent surface features including residences and roads;
  - d. a schematic of the well showing:
    - i. the total depth, drilled out depth or plugged back depth of the well;

- ii. the depth of the top and bottom of the perforated interval;
- iii. the size of the casing, borehole and tubing, and the depth of the packer;
- iv. the depths of the tops and bottoms of the casings and the amounts, formulation, and yields of the cement slurries used to cement each string of casing;
- v. the depth of the base of the USDW;
- vi. the depths of the tops and bottoms of the Injection Interval, the Containment Zone, the Injection Zone, and Confining Zone.

e. If the well has been drilled, a copy of the Well History and Work Resume Report (WH-1) and an electric log of the well. In the case of undrilled wells, a descriptive statement of the proposed Injection Interval giving its approximate depth, along with an electric log or radioactivity log of a nearby well, if available.

f. Maps and cross sections that detail the local geology and hydrology. All maps shall be constructed on a 1:2000 scale and contain a legend and a north arrow. All control points and fault cuts shall be shown on all cross sections. At a minimum, the following maps and cross sections shall be submitted:

- i. isopach maps of the Injection Interval or Intervals, the Containment Zones, and the Confining Zone;
- ii. a structure map of the top of the Injection Zone and Confining Zone;
- iii. two structural cross sections transecting the AOR and extending from below the base of the injection zone to above the base of the USDW. The cross sections shall be at approximate right angles and extend beyond the limits of the AOR;
- iv. a regional map contoured on the base of the USDW;
- v. a map of all fault planes within the AOR that could serve as a path of migration out of the injection zone;
- vi. any other information required by the commissioner.

g. A tabulation of data on all wells that penetrate the proposed Confining Zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the commissioner may require.

h. A tabulation of all freshwater wells within the AOR.

- i. The following proposed operating data shall be submitted as part of the operator's application:
- i. the average and maximum daily rate and volume of slurry to be injected;
  - ii. the average and maximum injection pressure;
  - iii. the proposed injection procedures (including storage and pre-injection treatment of the waste stream, and the well use schedule).

j. Schematic or other appropriate drawings of the surface (well head and related appurtenances) and subsurface construction details of the system.

k. Construction procedures including cementing and casing program, logging procedures, deviation checks, and a drilling testing and coring program.

l. Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of fluids out of the Injection Zone.

m. For wells within the AOR which penetrate the proposed Confining Zone, but are not properly completed or plugged, the proposed corrective action to be taken under §433.F.

n. Any additional information necessary to demonstrate that injection into the proposed Injection Interval or Intervals will not initiate fractures in the Confining Zone that could enable fluid movement out of the Injection Zone.

o. Any other information required by the commissioner to evaluate the proposed well.

D. Area of Review (AOR). The AOR for each slurry fracture injection well shall be the greater of the two following methods:

1. calculation of the Zone of Endangering Influence, which is that area the radius of which is the lateral distance for which the pressures in the Injection Interval(s) may cause vertical migration of the injection and/or formation fluid out of the Injection Zone. The zone of endangering influence shall be calculated using an acceptable model designed for this purpose; or

2. a fixed radius of two miles from the injection well.

E. Geologic Criteria of the Injection and Confining Zones

1. A Confining Zone which is impermeable and laterally continuous throughout the injection well's AOR shall immediately overlie the Containment Zone. The Confining Zone is to have a minimum thickness of 50 feet and be capable of preventing any upward fluid movement from the Injection Zone. Fracturing of the Confining Zone or causing the extension of existing fractures into the Confining Zone is prohibited.

2. A Containment Zone may consist of either a single impermeable layer with a minimum thickness of 500 feet, or be comprised of alternating impermeable and permeable layers with a net thickness of impermeable strata of at least 500 feet.

3. The Injection Zone and Confining Zone shall be free of any fault planes or other geological discontinuities which could serve to transmit the injected waste out of the Injection Zone. The area is to be adequately mapped with sufficient controls and resolution to identify these geologic discontinuities.

4. If the AOR lacks adequate well control points to map the geologic features of the Injection, Containment, and Confining Zones, seismic surveys with acceptable interpretation shall be required encompassing an area inclusive of the AOR plus an additional one mile radius from the proposed well site in order to acquire the necessary information needed to verify that injected waste will not migrate out of the Injection Zone. If seismic data is inadequate for this purpose, the commissioner shall require the operator to implement a suitable monitoring program capable of tracking the lateral and vertical extension of fractures caused by injection and to detect possible movement of fluids out of the Containment Zone. Such monitoring programs may incorporate the use of monitor wells, surface and subsurface tiltmeters, microseismic monitoring techniques, logging programs, or other technologies suitable for this purpose and which are acceptable to the commissioner.

F. Corrective Action. Applicants shall identify all known wells within the injection well's AOR which penetrate the *Louisiana Register Vol. 27, No. 01 January 20, 2001*

Confining Zone. For wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent the movement of fluid out of the Injection Zone ("corrective action"). Where the plan is adequate, the commissioner shall incorporate it into the permit as a condition. Where the commissioner's review of an application indicates that the applicant's plan is inadequate, the commissioner shall require the applicant to revise the plan, prescribe a plan for corrective action as part of the permit, or deny the application. No owner or operator of a well may begin injection until all required corrective action has been taken.

#### G Construction Requirements

1. Siting. All slurry fracture injection wells shall be sited in such a fashion that they inject into a formation which is beneath the lower most formation containing a USDW within one quarter mile radius of the well bore and meets the geologic criteria of the Injection Zone prescribed in §433.E above. Location of a slurry fracture injection well so that its AOR extends into a Source Water Protection Area is prohibited.

2. Casing and Cementing. All slurry fracture injection wells shall be cased and cemented in accordance with the following criteria.

a. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses and shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well. New pipe or used pipe reconditioned and tested to assure that it will meet or exceed American Petroleum Institute (API) standards for new pipe shall be used in all casing strings.

b. Surface casing and long string casing strings shall be centralized by means of a sufficient number of centralizers spaced in a manner as to provide proper centralization of the casing string in the borehole prior to cementing.

c. Surface casing shall be set a minimum of one hundred feet below the base of the USDW and cemented to surface. Cemented to surface shall be considered in this section as having actual cement returns noted at the surface. If cement returns are not observed, the operator shall contact the Injection and Mining Division and obtain approval for the procedures to be used to perform any required additional cementing operations.

d. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating pressure test or drilling plug. Under pressure is complied with if one float valve is used or if pressure is held otherwise.

e. A minimum of 12 hours prior notification shall be given to the appropriate Injection and Mining Division Conservation Enforcement Agent for the purpose of witnessing all required casing pressure tests. If the Conservation Enforcement Agent fails to appear within the 12 hour notification period, the operator may proceed with the pressure test and file an affidavit of casing test (Form Csg-T) with the Injection and Mining Division within 20 days of reaching total depth.

f. Surface casing shall be tested a surface pressure of not less than 300 psi. If at the end of 30 minutes the

pressure gauge shows a drop in excess of 5 percent of test pressure, the operator shall be required to take such corrective measures as will ensure that such surface casing will hold said pressure for 30 minutes without a drop of more than 5 percent of the test pressure.

g. Long string casing shall be set through the Injection Interval and cemented at least to the top of the Confining Zone.

3. All slurry fracture injection wells shall be equipped with injection tubing and a packer. The packer shall be set in the long string casing no higher than 150 feet above the perforated interval.

4. The well shall be equipped with a down-hole sensor that directly measures the fluid pressure at depth no higher than the packer setting depth. The pressure sensor must be connected to a device at the surface which will enable a continuous recording of the well's bottom hole pressure.

H. Logging and Testing Requirements. In addition to conformance with the logging and testing criteria contained in LAC 43:XIX.419.A, slurry fracture injection wells shall meet the following logging and testing requirements.

1. Open Hole Logging Requirements. A neutron/density porosity log of the injection and confining zone is required. An induction log shall be run to determine salinity levels. A spectral gamma ray log shall be run to determine baseline lithology of the subsurface prior to injection. All logs are to be run from surface to at least 50 feet below the injection zone.

2. Acoustic Logging Requirements. On a well that is to be completed with the intent for it to be used for slurry fracture injection, acoustic logs shall be required. An open hole acoustic log showing acoustic porosity and formation travel time shall be run from the surface to at least 50 feet below the injection zone. A synthetic seismogram is required to be submitted in order to predict fracture parameters and as a link to subsequent seismic interpretation (time based or four dimensional) shall it be required. VSP (Vertical Seismic Profiling) shall be run for lateral effect. Acoustic data may be run in various formats to identify reservoir and fracture parameters and to show containment of the waste stream within the containment and injection zones. The various formats may be surface-to-surface, well to surface, cross well, 2-dimensional, 3-dimensional and 4-dimensional data. All monitor wells shall be used for lateral offset of the VSP and the depth of investigation must match the dimensions of the disposal domain. Acoustic data must be obtained pre-injection, during injection and post-injection (after the well is plugged and abandoned) in order to show long term containment.

3. Cement Bond Logging Requirements

a. At the time of the initial completion, after long-string casing (to below the injection zone) has been set and cemented, a suitable, interpretable cement quality (bond) log shall be run. If the well has already been in service, the tubing must be pulled and a suitable cement quality log run prior to permit approval. The log is to be run from surface to 50 feet below the base of the injection zone. The log must define both vertical and lateral cement quality.

b. The log is to have sufficient vertical, horizontal and radial resolution to identify the location of cement channels, micro-channels, bonding index, gas cut cement, voids or any other cement/bond problem that may exist. The

log must show transit time, amplitude, variable density and radial bond quality (from interpretation). Log quality control must show cement type, additives, setting time and compressive strength (used in variable density log generation), proper tool centering, proper casing centering and sufficient cement sheath thickness, borehole fluids type, density, viscosity, pressure and temperature. In deviated wellbores, for adequate interpretation, effective tool centering must be seen. Matching casing size and weight must be correct on all interpretations. Where possible, the log must be correlated to shape and rugosity of the borehole (from open hole caliper and porosity/lithology logs). The log must also show line weight, line speed, casing collar locator and gamma ray for depth correlation.

c. A repeat section, showing good repeatability, must be run from the base of the injection zone to the base of the confining zone. Wellsite and shop tool calibrations are to be included on all logs.

4. A temperature and gamma ray base log shall be run prior to the initiation of any fractures. The radioactive tracer or temperature log is to be run using a method approved by the Injection and Mining Division.

5. The operator shall conduct a step rate/pressure falloff test on the injection well prior to the initiation of injection operations in order to establish the initial fracture closure and extension pressures of the Injection Interval.

6. A pressure falloff test shall be performed on the well prior to the initiation of any fracturing in order to establish the reservoir transmissivity. The Injection and Mining Division shall be consulted on the procedure for running this test.

7. An extended falloff shall be conducted at least once every seven-day cyclic injection period. The falloff period shall be maintained until the measured pressure has essentially stabilized.

8. The logging requirements for existing wells converted to slurry fracture injection are the same as those required for newly drilled wells.

9. Any other well logs or tests required by the commissioner.

I. Monitoring Requirements

1. A monitoring program that ensures that the injection activity does not cause the migration of fluids above the Confining Zone shall be approved by the commissioner. This monitoring program may be inclusive of or in addition to the monitoring program required in §433.G.4.

2. All approved monitoring programs shall include the continuous monitoring and recording of bottom hole pressures, injection rates, the tubing and casing annulus pressure, injected fluid density and the cumulative volume of waste injected using a method approved by the commissioner. The origination, type and components of all injected waste streams are to be recorded and made available when requested.

3. The operator shall analyze the bottom hole pressure data daily to ensure that the pressure in the Injection Interval is not becoming abnormally pressurized as a result of injection. Also, abnormal extrapolated pressures (net losses) that cannot be associated with the injection volumes must be investigated immediately to ensure that fluids are not migrating out of the Injection Zone. Depending on the

injected volumes, the formation pressure log must be history matched to predicted pressures.

4. Fracture height and length shall be evaluated by the operator on a minimum three month rotation, or as directed by the commissioner, utilizing a method approved by the commissioner.

5. The operator shall conduct periodic step-rate tests at least every three months. The commissioner may require more frequent step-rate tests in order to evaluate changes in formation parting pressures and in-situ stress conditions.

6. A cement bond log having the same presentation as the initial cement bond log shall be run annually to evaluate the effects of the previous years injection on the cement column. If it is evident that the cement bonding is losing integrity, injection will be prohibited until such time the integrity of the cement column is restored.

#### J. Operational Requirements

1. Based on the results of the step rate/pressure falloff test outlined in §433.H.5 above, the maximum and minimum injection pressures and corresponding injection rates will be determined. Using the fracture extension pressure derived from the step rate test, the minimum allowed bottom hole injection pressure shall be assigned a value of 150 psi below the extension pressure. The maximum allowed bottom hole injection pressure shall be no greater than 75 percent of the burst pressure of the casing.

2. The initial maximum authorized injection rate (at the start up of operations) shall be limited to no more than 20 percent over the rate required to maintain fracture extension pressure. However, if the operator can demonstrate conclusively that a higher injection rate will not cause excessive fracture growth, a higher injection rate may be authorized by the commissioner. If an increase in injection rate is authorized, the maximum and minimum bottom hole injection pressures shall be adjusted accordingly.

3. If at any time the bottom hole injection pressure or injection rate varies from the authorized range, the operator shall immediately cease injection and notify the Injection and Mining Division.

4. Should any of the periodic step rate/pressure fall off tests indicate a change in parting pressures or fracture extension pressures has occurred, the commissioner shall have to option to amend the well's minimum and maximum bottom hole injection pressures and maximum allowed injection rate or to require that the well cease injection until such time that the operator has proven that fluids are not migrating above the containment zone.

5. Injection will be prohibited if at any time the bottom hole injection pressure cannot be maintained at a pressure above that pressure exerted by a hydrostatic column of injected waste.

6. If monitoring indicates possible communication between the tubing and the tubing and casing annulus, the operator shall immediately cease injection and notify the Injection and Mining Division. Injection may not commence until the mechanical integrity of the well is restored and verified by the Injection and Mining Division.

7. Injection is to be conducted on a cyclic basis with the injection occurring only during daylight hours.

8. If in the commissioner's determination, over-pressurization of the reservoir may cause the movement of fluid out of the Injection Zone, the commissioner shall suspend or revoke the well's permit to inject. Also, if the

average reservoir pressure is subjected to any net decrease in pressure, the commissioner may suspend the well's permit until such threat is resolved.

#### K. Reporting Requirements

1. The operator shall maintain daily records for the following:

a. the bottom hole pressure at the start of injection;  
b. the minimum and maximum pressures during injection;

c. the injection rates at one-hour intervals;  
d. the composition of injected waste stream (random sampling) on a daily or batch basis;

e. the densities and viscosities of the waste stream at 1 hour intervals of injection;

f. the minimum and maximum pressures on the casing and tubing annulus.

g. In addition, the operator shall provide an explanation for any discrepancies in the bottomhole or surface pressures, densities, viscosities and injection rates in a comments column. If an acceptable explanation for any discrepancy in this data is not provided, the commissioner may suspend the well's permit to inject until the operator provides this information.

h. This information, in addition to that required under §433.I.2 above, shall be maintained as a permanent record in the operator's files and shall be provided to the Injection and Mining Division upon request.

2. The operator shall provide to the Injection Mining Division weekly summary reports of:

a. the minimum and maximum pressures recorded during injection;

b. the minimum and maximum pressures recorded during falloffs;

c. the minimum and maximum pressures on the casing and tubing annulus;

d. the daily and weekly injected volumes;

e. the average density and viscosity of injected waste stream.

3. The operator shall provide the Injection and Mining Division each by no later than the third working day of each week the results of an analysis of all extended falloff periods occurring during the previous week's reporting period. Each analysis report shall include a log-log derivative plot of the falloff period with the different flow regimes identified thereon. A comprehensive analysis of the linear and radial flow regimes is required if present. A summary of the properties of the injected fluids used in the analysis and the injection rates observed during each injection period must be included in the report, in addition to any other information which may be pertinent to the results of the falloff analysis.

4. A diskette or compact disk of the well's continuous bottom hole pressure and rate data for the reporting period in a format specified by the commissioner.

5. In addition, the operator shall provide an explanation for any discrepancies in the bottomhole or surface pressures, densities, viscosities and injection rates in a comments column of the report. If an acceptable explanation for any discrepancy in this data is not provided, the commissioner may suspend the well's permit to inject until the operator provides this information.

6. All records required in this section shall be maintained by the operator for the life of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 27:

Interested persons may contact Carroll Wascom, Director, Injection and Mining Division, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by calling (225) 342-5515.

James H. Welsh  
Assistant Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Amendment to Statewide Order No. 29-BC Disposal of E&P Wastes by Slurry Fracture

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the Department of Natural Resources, Office of Conservation will entertain 0 to 1 slurry fracture injection well applications annually. The result will be an increase of application, hearing and regulatory fees of up to \$6,932 each year. If one additional well/facility is permitted each following year, the revenues collected would be \$12,582.00 (2<sup>nd</sup> year), and \$18,232.00 (3<sup>rd</sup> year). Local governmental units will not be affected.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

*Annular Disposal of Reserve Pit Fluids by Slurry Fracture Injection (one-time disposal)*

Companies who apply for applications to dispose of reserve pit fluids in the annulus of a well will incur an average additional cost of \$17,000 per well to comply with the new requirements. Hauling such waste to a commercial disposer would cost approximately \$50,000 to \$200,000 per well. Annular disposal would save operators an average cost of \$33,000 to \$183,000 per well.

*Slurry Fracture Injection Wells*

Companies who apply for a commercial slurry fracture injection well and facility must pay an application fee of \$582.00, a public hearing fee of \$700.00 and an annual regulatory fee of \$5,650.00. Companies who apply for a noncommercial slurry fracture injection well and facility must pay an application fee of \$233.00, a public hearing fee of \$700.00 (if conducted), and an annual regulatory fee of \$550.00. The costs to acquire additional geologic information for a slurry fracture injection (SFI) well would be in the range of \$20,000 to \$300,000 per application (site), depending upon availability of existing data. Additional logging and construction costs to comply with the rule would add approximately \$136,000 to the cost of constructing a SFI well. Annual operating costs would approach \$32,000.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

James H. Welsh  
Assistant Commissioner  
0101#041

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Board of Private Investigator Examiners

Duties of Executive Secretary; Meetings; Licensure; Registration Card; Continuing Education; Complaint Procedure; Motion for Continuance; Subpoena for Hearing (LAC 46:LVII.103, 105, 509, 515, 518, 721, 915)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Department of Public Safety and Corrections, Board of Private Investigator Examiners, hereby gives notice of its intent to amend Part LVII of Title 46, amending Chapter 1, Section 103.A, B and C; Section 105.B; Chapter 5, Section 509.A.9, Section 515.A, Section 518.C; Chapter 7, Section 721.A.4 and 5; Chapter 9, Section 913.C and Section 915.A to change the title "executive secretary" to "executive director"; and to amend Chapter 5, Section 515.A to delete the social security number from the list of items required to be placed on a registration card.

These rules and regulations are amendments to the initial rules and regulations promulgated by the Board of Private Investigator Examiners.

### Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LVII. Private Investigator Examiners Chapter 1. Organizational and General Provisions §103. Duties of Executive Director

A. The executive director shall be the chief administrative officer and shall serve at the pleasure of the board.

B. Subject to the supervision of and direction of the board, the executive director shall:

1. - 8. ...

C. The executive director may spend up to \$500 for board purchases without prior approval by the board or the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993), amended LR 27:

#### § 105. Meetings of the Board

A. ...

B. The executive director shall give a written notice to all interested members of the public who make a timely request for notice of any board meeting.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993), amended LR 27:

#### Chapter 5. Application, Licensure, Training, Registration and Fees

#### §509. Form and Term of License

A. Licenses, when issued, shall be in the form of a wall certificate no larger than 82 inches in size. The certificate shall contain the following information:

1. - 8. ...

9. Signature of executive director;

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993), amended LR 27:

#### **§515. Registration Card**

A. The registration card shall be no larger than 23 inches by four inches in size. The registration card shall contain the following information:

1. name of investigator;
2. name of agency under whose authority license is issued;
3. date of expiration;
4. current two inches by two inches color photograph;
5. drivers license number;
6. company name;
7. company address (city and state);
8. license number;
9. signature of executive director;
10. signature of license holder;
11. state insignia; and
12. board seal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1334 (October 1993), amended LR 27:

#### **§518. Continuing Education**

A. - B. ...

C. Any licensee who wishes to apply for an extension of time to complete educational instruction requirements must submit a letter request setting forth reasons for the extension request to the Executive Director of the LSBPIE 30 days prior to license renewal. The Training Committee shall rule on each request. If an extension is granted, the investigator shall be granted 30 days to complete the required hours. Hours completed during a 30-day extension shall only apply to the previous year.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 22:371 (May 1996), amended LR 27:

### **Chapter 7. Client-Investigator Relationship**

#### **§721. Complaint Procedure**

A. A request for a hearing on a complaint before the Board of Private Investigator Examiners shall contain the following:

1. - 3. ...

4. a receipt showing a copy of the complaint has been sent to the person, or to a statement from the executive director stating that a copy of said complaint had been delivered to the person named in the complaint;

5. all complaints or requests for a hearing before the Private Investigator Examiners Board, must be made by certified or registered mail to the executive director or the PI Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1336 (October 1993), amended LR 27:

### **Chapter 9. Rules of Adjudication for Board of Private Investigator Examiners**

#### **§913. Motion For Continuance**

A. - B. ...

C. If an initial motion for continuance is not opposed, it may be granted by the executive director. Any motion for continuance of hearing which is opposed shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding, who shall rule upon such motion on the papers filed, without hearing. The presiding officer, in his discretion, may refer any motion for continuance to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a motion for continuance may request that the motion be reconsidered by the entire panel. In any such case, the panel shall rule on such motion on the papers filed, without hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993), amended LR 27:

#### **§915. Subpoenas for Hearing**

A. Upon request of the respondent or complaint counsel and compliance with the requirements of §915, the executive director shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by a witness and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1338 (October 1993), amended LR 27:

Comments should be forwarded to Charlene Mora, Chairman of the board, State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808. Written comments will be accepted through the close of business on February 9, 2001.

A copy of these rules may be obtained from the Louisiana State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808, or by contacting the Louisiana State Board of Private Investigator Examiners at (225) 763-3556.

Charlene Mora  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Duties of Executive Secretary; Meetings; Licensure; Registration Card; Continuing Education; Complaint Procedure; Motion for Continuance; Subpoena for Hearing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation cost for these rules.

The proposed amendment to §515 deletes "social security number" as information required to be on the registration card. There will be no costs to implement this decision.

The amendments to the other rules simply change the title executive "secretary" to executive "director." No cost is associated with this change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be no direct effect 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 should be no significant cost or economic benefits to any persons or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Celia Cangelosi  
Attorney  
0101#031

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Office of State Police

Hazardous Material Information Development,  
Preparedness and Response Act  
(LAC 33: V Subpart 2, 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. gives notice of its intent to amend 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:

#### §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:

#### §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 which could reasonably be expected to escape the confinement of the facility or to which the general public may have access.

**Extremely Hazardous Substance (EHS)** means 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 or transport vehicle used by the owner or operator in which the hazardous materials are manufactured, used, handled, or stored. For the purposes of release reporting, facility includes all transportation pipelines, vehicles, and packages. 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 or any material deemed a physical or health hazard in the Occupational Safety and Health Act (OSHA) regulations as found in 29 CFR Part 1910.1200 et seq.

**Immediate** a reasonably brief period of time, following the start of an incident, once allowances have been made for the time required to identify the nature, estimated quantity, and potential off-site impact of the incident considering the exigency of the circumstances.

**Incident** any release, threatened release, fire, explosion, event or threatened event which is other than any normal operational activity, and which results or could result 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. In relationship to any fire or explosion, a release is any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, or dumping of any regulated hazardous material or substance. However, the term release as used in this paragraph shall not include federal or state permitted releases.

**Reportable Release** a release of a regulated hazardous material or substance which directly or indirectly causes any injury requiring hospitalization or any fatality, or 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 24-hour period.

**Retail Gas Station** a retail facility engaged in selling gasoline or diesel fuel to the general public for use in land based motor vehicles.

**Small Business** a single business establishment employing not more than nine full time employees and having not more than \$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 \$2,000,000 shall not be considered a small business regardless of the number of employees.

**State Repository** the 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, and which has been accepted and designated as having trade secret status by the United States Environmental Protection Agency.

**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:

### **§10107. Alternate Means of ComplianceC Inventory 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:

### **§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.

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:

### **§10111. Release and Incident Reporting**

#### **A. Hazardous Materials Designation**

1. The lists and categories of materials identified in 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 R.S. 30:2361 et seq.

2. The above mentioned listings and categories apply to all inventory and release reporting and handling requirements mandated by R.S. 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, operator, or one of their representatives who have knowledge of such release, 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 fatality; or

3. the release 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 500 pound RQ.

Reportable Quantity Table	
Hazardous Material Group	Reportable Quantity (RQ)
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*	500 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 transmission operations in which operational pressures exceed 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 and water vapor are not reportable and have no RQs.

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 30 days after the department's receipt of such certification unless the department notifies the owner or operator otherwise, in writing, within such 30-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 supplied as part of

the certification 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 immediately 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 E of this section, should be used by all those involved in incident or release notifications. The success of this uniform process is dependent on its application on a statewide basis at all levels of the 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 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;
- 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 immediate 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 must be used.

a. Unusual Event. This is an incident that is out of the ordinary and 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 affects the near-site population or it is 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, 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 or 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:

#### **§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, 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 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 27:

#### **§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 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:

#### **§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:

#### **§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. Any person who handles, stores, or otherwise maintains a hazardous material regulated by this Chapter 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. For any person, owner, operator, or facility that violates this Section, the department may levy a civil penalty not to exceed \$25,000 per violation.

#### **E. Reckless Handling of a Hazardous Material**

1. No person shall intentionally handle, store, or otherwise maintain any hazardous material regulated by this Chapter in a manner which endangers human life.

2. Any person, owner, operator, or facility that willfully violates this Section may be assessed a civil penalty by the department not to exceed \$25,000 per violation per day or upon first conviction shall be fined not more than \$500 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 \$500 nor more than \$10,000 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. For owners and operators who knowingly fail to report a reportable release or incident involving a hazardous material regulated by this Chapter, the department may assess a civil penalty not to exceed \$25,000 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:

#### **§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 LEPCs 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:

#### **§10121. Fees**

A. An annual fee shall be submitted with the inventory form by each owner or operator required to report under this Chapter. 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 this Section shall not be required to pay an additional fee to local emergency planning committee other than the fees already imposed by the local emergency planning committee for the collections of information required by this Chapter 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 \$2,000.

4. The fee per facility for small businesses as defined in the Chapter shall not exceed \$25.

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 inventory form(s). 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. Liquefied Petroleum Gas facilities having only liquefied petroleum gas which are in full compliance with Liquefied Petroleum Gas Commission regulations.

2. Explosives facilities having only explosives which are in full compliance with the Louisiana State Police Explosives Code.

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:

**§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:

**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 the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

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 submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through February 15, 2001.

Jerry W. Jones  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hazardous Material Information Development, Preparedness and Response Act**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no additional costs nor savings regarding the adoption of these rules as these rules serve mostly to clarify areas that were previously unclear and to incorporate legislative changes.

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.

Jerry W. Jones  
Undersecretary  
0101#023

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office