

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding the restrictions on applications of certain pesticides and their exemption to waiver of restrictions.

The commercial applications of certain herbicides, in certain parishes, in accordance with the current regulations and labels has not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops, particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of central Louisiana and to Louisiana agricultural producers.

This Rule complies with and are enabled by R.S. 3:3203 and R.S. 3:3223.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Advisory Commission on Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Applications of Pesticides.

§143. Restrictions on Application of Certain Pesticides

A. - B.17. ...

C. The pesticides listed in 143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes or wards:

- | | |
|----------------------------------|---|
| 1. Avoyelles | 16. Morehouse |
| 2. Bossier | 17. Natchitoches |
| 3. Caddo | 18. Ouachita |
| 4. Caldwell | 19. Pointe Coupee |
| 5. Catahoula | 20. Rapides |
| 6. Claiborne, Ward 4 | 21. Red River |
| 7. Concordia | 22. Richland |
| 8. DeSoto, Ward 7 | 23. St. Landry |
| 9. East Carroll | 24. St. Martin, Ward 5 |
| 10. Evangeline, Wards 1, 3 and 5 | 25. Tensas |
| 11. Franklin | 26. Union |
| 12. Grant | 27. West Carroll |
| 13. Iberville Ward 9 | 28. West Baton Rouge, Wards 5, 6, and 7 |
| 14. LaSalle | 29. Winn, Ward 7 |
| 15. Madison | |

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of

Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 27:

Family Impact Statement

The proposed amendments to Rules 7:XXIII.Chapter 1 regarding the restrictions on applications of certain pesticides and their exemption to waiver of restrictions should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Bobby Simoneaux through the close of business on June 28, 2001, at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding this Rule is necessary.

Bob Odom

Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pesticide Restrictions

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

There are no estimated implementation cost or savings to the state or local governmental units. The Department of Agriculture and Forestry, Advisory Commission is amending these Rules and regulations for the purpose of adding Wards in Pointe Coupee, St. Landry, St. Martin, Iberville, and West Baton Rouge parishes through the emergency process due to the planting of cotton in these wards.

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

There is no estimated effect on revenue collections of the state or local governmental units.

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

There are no estimated costs to effected persons or non-governmental groups.

Cotton farmers could realize economic benefits because certain pesticides will be prohibited from application without a waiver in certain parishes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No estimated effect on competition or employment.

Skip Rhorer
Assistant Commissioner
0106#030

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of the Commissioner

Meat Labeling
(LAC 7:XXXV.135)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Weights and Measures Commission, hereby proposes to amend regulations regarding meat labeling requirements set out in R.S. 51:614.

The Department of Agriculture and Forestry, Weights and Measures Commission is amending regulations in order to implement the meat labeling law set forth in R.S. 51:614. This Rule requires all meat to be labeled "American," "imported," and "blend of imported and American meats" on the wrapping or on a card for display.

This Rule complies with and is enabled by R.S. 3:4608, 3:4607, and R.S. 51:614.

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons should submit written comments on the proposed Rules to Ronnie Harrell through July 25, 2001, at 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested parties may submit data, views or arguments in writing by 4:30 p.m. on July 25, 2001. No preamble regarding this Rule is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Meat Labeling

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

There is no estimated implementation cost to state or local governmental units. These regulations implement the meat labeling Rules and regulations set out in R.S. 51:614. This law requires all meat to be labeled "American," "imported," or "blend of imported and American meats" on the meat, the wrapping, or a card with the display. The department is currently utilizing current employees to implement these Rules and regulations.

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

There is estimated to be no effect on revenue collections for state or local governmental units.

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

The estimated cost to retailers for the labeling of their meat will be very minimal. In order to comply with R.S. 51:614 all the distributors and retailers need do is place a placard above any meat that doesn't state its origin on the label. The placard for display should be labeled "American," "imported," or "blend of imported and American meats."

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Skip Rhorer
Assistant Commissioner
0106#029

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Changes to Layoff and Layoff-Related Rules

The State Civil Service Commission will hold a public hearing on Wednesday, July 11, 2001 to consider the following layoff and layoff-related Rule changes. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana. Chapter 17, which covers layoff avoidance measures and layoffs, is proposed to be repealed in its entirety. A new Chapter 17 is proposed. It is organized into three sections: 1. layoff avoidance measures, 2. layoffs and 3. post layoff. Both major and minor changes have been made throughout the chapter. Related Rule changes are also proposed. Explanations for the major changes in Chapter 17 follow the proposed Rule amendments.

The following will be considered at the meeting:

Amend Rule 1.13

1.13

Department Preferred Reemployment List means a list of permanent employees who have been laid off or demoted in lieu of layoff. Employees on such a list are given preferential hiring rights in the department or agency affected by a layoff.

Explanation

This amendment clarifies that only permanent status employees go on this list. This proposed amendment removes from eligibility employees who displace laterally in lieu of layoff.

Amend Rule 1.19.1

1.19.1

Layoff Avoidance Measures mean actions taken by an appointing authority and approved by the Director and/or the Commission to help prevent a layoff. These include: withholding of merit increases, reductions in work hours and furloughs. Another measure, one not needing Civil Service approval, is the required use of leave during agency closures as stated in Rule 17.1(b).

Explanation

This amendment removes reductions in pay as an avoidance measure, and adds the measure of required leave during closures.

Amend Rule 1.21.1

1.21.1

Organizational Unit for the purposes of layoff and layoff avoidance measures means the area subject to a layoff or layoff avoidance measure, as approved by the Director. It shall normally be one of the following:

(a) - (d) ...

Explanation

This amendment adds the words "and layoff avoidance measures" to make it clear that this definition applies to layoff avoidance measures as well as layoffs.

Amend Rule 1.33.02
1.33.02

Reduction in Pay means an action taken for disciplinary reasons whereby an employee's individual pay rate is reduced but the employee remains in the same job.

Explanation

This amendment removes any reference to reduction in pay as a layoff avoidance measure as this measure is proposed to be repealed.

Amend Rule 1.39.2(b)
1.39.2

State Service for the purposes of layoff and layoff avoidance measures, means the total length of Classified State Service in the equivalent full-time years, months and days as an employee of a state agency or agencies subject to the following:

- (a) ...
- (b) ...
- 1. - 3. ...

4. Any military service that interrupts Classified employment, including military service consisting of active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service, subject to the provisions of Rule 17.17.

- 5. ...
- 6. ...

7. Periods of time that the layoff avoidance measures stated in Rule 17.1(a) are in effect for full-time employees shall count as full-time employment.

- 8 - 9 ...
- (c) ...

Explanation

This amendment reflects the new Chapter 17 Rule numbers which apply here.

Amend Rule 5.6(c)
5.6 Status of Incumbent When Position is Reallocated

- (a) - (b) ...

(c) If the duties which caused the reallocation are returned or removed, the incumbent shall be entitled to remain in the position. Subject to the provisions of Rule 17.9(c), if the position is declared a new position, the former shall be deemed abolished and the incumbent shall be removed therefrom by layoff.

Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

Amend Rule 6.4(b)
6.4 Rates of Pay in the Pay Plan Plus Base Supplement

- (a) ...

Subject to the provisions of Rules 6.11, 6.15, 6.16 and 17.11(a) and (b)2, each employee shall be paid at a rate within the range for the grade to which his position is allocated, or at a rate within the base supplement approved for his position in accordance with the provisions of Rule 6.16(f).

Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

Amend Rule 6.10
6.10 Rate of Pay Upon Demotion.

Subject to the provisions of Civil Service Rules 6.15 and 17.11(a) and (b)2, when an employee is demoted for any reason under any circumstances, his pay shall be reduced as follows:

- (a) - (d) ...

Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

Amend Rule 6.15(f)
6.15 Red Circle Rates

- ...
- (a) - (e) ...
- (f) When an employee is subject to a demotion in a layoff, including a layoff as provided for in Rule 17.9(c), . . .
 - 1. ...
 - 2. ...
- (g) - (h) ...

Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

Amend Rule 8.10(a)
8.10 Restricted Appointment.

- (a) ...
 - 1. It is used only for the following reasons: a) for work of a temporary nature; b) to substitute for another employee; c) pending filling the position in a regular manner, or, d) to address an emergency or work overload situation. An agency shall maintain written justification stating the reason for the temporary appointment. This Rule is subject to Rules 17.16(b)4 and 17.26 concerning layoff-related restricted appointments.
 - 2. - 7. ...
- (b) - (e) ...

Explanation

This amendment reflects the new Chapter 17 Rule numbers which apply here.

Amend Rule 8.14(a)
8.14 Job Appointment

- (a) ... This Rule is subject to Rules 17.16(b)4 and 17.26 concerning layoff-related job appointments.
- (b)-(g) ...

Explanation

This amendment reflects the new Chapter 17 Rule numbers which apply here.

Amend Rule 8.16(d)
8.16

- (a) - (c) ...
- (d) Detail to Special Duty.
 - ... This Rule is subject to Rules 17.16(b)4 and 17.26 concerning layoff-related details.
 - 3 - 5 ...

Explanation

This amendment reflects the new Chapter 17 Rule numbers which apply here.

Amend Rule 8.27(a)6

8.27 Status of Nonclassified Employees Whose Positions are Declared to be in the State Classified Service or are Acquired by a State Agency

(a) ...

1. ...
2. ...
3. ...
4. ...
5. ...

6. Subject to Rule 17.14, when an agency acquires employees under Rule 8.27 and a layoff results, it shall neither exempt the acquired employees from a layoff, nor shall the acquisition of these employees prevent the appointment of classified employees from a Department Preferred Reemployment List.

(b) - (k) ...

Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

Amend Rule 9.1(a)3

9.1 Probationary Period

(a)...

1. - 2. ...

3. Non-competitive re-employments based on prior service, except as provided in Rules 17.25(a) and 9.3.

...

(b) - (g) ...

Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

Amend Rule 11.9(b)

11.9 Enforced Annual Leave

(a)...

(b) No employee shall be required to reduce his accrued annual leave to less than 240 hours except:

1. ...
2. ...

3. if the leave is required during closures in accordance with Rule 17.1(b) as a layoff avoidance measure.

Explanation

This amendment makes clear that annual leave can be enforced for layoff avoidance purposes as stated in Rule 17.1(b), even if it reduces an employee's accrued annual leave below 240 hours.

Amend Rule 12.6(c)

12.6 Non-Disciplinary Removals

(a) ...

(b) ...

(c) When an employee is removed under this Rule, the adverse consequences of Rules 6.5(c); 7.5(a)7; 8.9(c); 8.13(a)7; 8.15(d); 8.18(d); and (e); 11.18(b) and 17.25(e)4 shall not apply.

Explanation

This amendment reflects the new Chapter 17 Rule number which applies here.

Chapter 17. Layoff Avoidance Measures, Layoffs, and Post Layoff

Section 1 – Layoff Avoidance Measures

17.1 Types of Layoff Avoidance Measures

(a) Layoff Avoidance Measures Needing Civil Service Approval. These measures consist of the following:

- (1) withholding of merit increases;
- (2) reduction in work hours; and
- (3) furloughs without pay.

(b) Layoff Avoidance Measure Not Needing Civil Service Approval - Required Annual Leave During Closures. A department or agency, when the efficiency of operations dictates a temporary closure, may require employees to use up to a maximum of 10 days of annual leave per calendar year. Employees who have less than 30 days of annual leave may be required to take annual leave under this provision. Employees who have exhausted annual leave shall be placed on leave without pay, but not for more than 10 days per calendar year.

17.2 Approval of Layoff Avoidance Measures

(a) A written plan for layoff avoidance measures listed in Rule 17.1(a) shall be submitted to the Director prior to the effective date of the measures. The Director may:

1. approve the plan;
2. disapprove the plan;
3. refer the plan directly to the Commission for consideration at its next regularly scheduled meeting.

(b) Exceptions, if any, to layoff avoidance Rules must be requested in the written plan, with justification. For exceptions, the Director may:

1. grant interim approval subject to ratification by the Commission at its next regularly scheduled meeting;
2. refer the exceptions directly to the Commission for consideration at its next regularly scheduled meeting.

17.3 Uniform Measures

These measures shall apply uniformly to all employees in the affected organizational unit, as defined by Rule 1.21.1. This includes employees on leave, on temporary appointments and those who are hired while the measures are in effect. Exceptions or deviations from uniform measures must be requested according to the provisions of Rule 17.5 and require the Director's approval.

17.4 Notification to Employees

(a) The appointing authority shall, as soon as it is reasonably determined that a layoff avoidance measure is necessary, make a reasonable attempt to notify all employees who could be affected.

(b) Once a layoff avoidance plan is approved by the Director or Commission, it shall be made generally available to the employees who would be affected.

§17.5 Exceptions to Regular Measures

For rational business reasons, the appointing authority may request exceptions to these Rules. Exceptions that may be requested with justification include the following:

(a) exclusion of employees who possess particular qualifications needed to complete an essential program or to maintain essential services necessary to preserve the life, health or welfare of the public;

(b) other exceptions that are based on rational business reasons.

17.6 Withholding of Merit Increases

When an appointing authority determines that it is necessary to withhold merit increases of employees in order to avoid or reduce layoffs, his request is subject to the following.

(a) He shall certify that his department does not have sufficient funds to give such increases to all employees. The request shall include the reasons for this action, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the proposed effective dates and periods of time involved, the organizational unit and geographic area(s) affected.

(b) Such withholding of merit increases shall not exceed one period of 12 consecutive months.

(c) Employees whose merit increases are withheld shall retain their eligibility for such increases for a three-year period.

17.7 Reduction in Work Hours

When an appointing authority determines it is necessary to reduce the work hours of employees in order to avoid or reduce layoffs, his request is subject to the following.

(a) He shall include the reasons for the reduction, the names and jobs of any employees to be excluded and reasons for their exclusion, the number of work hours reduced for each employee, the proposed effective dates and periods of time involved, the organizational unit and geographic area(s) affected.

(b) Such reductions shall not exceed one period of 12 consecutive months.

(c) The number of work hours reduced for an employee shall not exceed 16 hours per biweekly payroll period.

(d) An affected employee shall be subject to the same leave and overtime rule provisions as apply to employees on regular, part-time status. Any hours worked over the employee's reduced workweek shall be compensated with compensatory leave earned at the hour for hour rate. Hours which exceed a 40-hour workweek shall be compensated at the time and one-half rate if required by the Fair Labor Standards Act.

17.8 Furlough without Pay

When an appointing authority determines that it is necessary to furlough employees without pay to avoid or reduce layoffs, his request is subject to the following.

(a) He shall include reasons for the furlough, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the total work hours or days for each employee, the dates and period of time involved, the organizational unit and the geographic area(s) affected. He shall also specify if employees will be recalled from furlough at the same time. If employees will be recalled at different times, the recall schedule must be specified and justified.

(b) An employee shall not be furloughed for more than a total of 240 work hours in any 12 consecutive-month period without approval of the Commission.

(c) With approval of the Commission, an employee may be furloughed up to a total of 450 work hours in a 12 consecutive-month period.

Section 2 – Layoffs

17.9 Types of Layoffs; Notice to Director and Approval Required for Each

(a) Layoffs involving permanent employees.

1. A written plan shall be submitted to the Director at least two calendar weeks prior to the effective date of the layoff. The Director may:

- a. approve the plan;
- b. disapprove the plan;

c. refer the plan directly to the Commission for consideration at its next regularly scheduled meeting.

2. Exceptions, if any, to layoff rules shall be requested in the written plan, with justification. For exceptions, the Director may:

a. grant interim approval subject to ratification by the Commission at its next regularly scheduled meeting;

b. refer the exceptions directly to the Commission for consideration at its next regularly scheduled meeting.

(b) Layoffs Involving Probational Employees Only. In layoffs involving probational employees only, the appointing authority shall provide written notice to the Director of such layoffs prior to the effective date.

(c) Layoffs Caused by Establishment of a New, Lower Position for an Encumbered Position. Layoffs that result when a new, lower position is established for an encumbered position, resulting in the abolishment of the old encumbered position, require prior approval of the Director. A written explanation of the circumstances of this action shall be submitted to the Director. At the Director's discretion, the agency may be required to conduct a regular layoff or the Director may permit the affected employee to be demoted in lieu of layoff to the new position.

17.10 Required Notices to Employees in the Different Types of Layoffs

(a) For layoffs involving permanent employees, the following notices are required.

1. The appointing authority shall, as soon as it is reasonably determined that a layoff will be necessary, make a reasonable attempt to notify all employees who could be affected.

2. Once a layoff plan is approved by the Director, it shall be made generally available to the employees who could be affected.

3. Employees in positions proposed for abolishment shall be so notified at least five calendar days prior to approval of the plan by the Director.

4. Employees shall be notified of displacement offers, or layoff notification if there is no offer to make. There shall be at least five calendar days between the last such notice and the effective date of layoff.

(b) For layoffs of probational employees only, the affected employees shall be given notice of their layoff prior to the effective date of layoff.

(c) When it is determined that a new lower position exists and the old encumbered position must be abolished, the appointing authority shall notify the affected employee in a manner consistent with the Director's approval of his layoff. Notification for a regular layoff shall be in compliance with subsection (a) of this Rule, or, if the employee is demoted in lieu of layoff to the new position, he shall be notified of his eligibility for the department preferred reemployment list.

17.11 Pay Upon Demotion (Downward Displacement) for Different Types of Layoffs

(a) Non-Budgetary Layoffs. For primarily non-budgetary layoffs, no pay reductions shall occur when employees are

displaced to lower jobs. This is subject to those situations involving base supplement addressed in Rule 6.15(f).

(b) **Budgetary Layoffs.** For layoffs caused primarily by budgetary reasons, the appointing authority may choose one option as follows.

1. He may reduce pay upon displacement to lower jobs. Pay reductions shall be uniform in their percentage for all affected employees. Such pay cuts shall not result in an employee's being paid above the range maximum or base supplement maximum of the lower job or below the range minimum; or

2. if the pay is not reduced, the provisions of subsection (a) of this Rule shall apply.

(c) **Layoff Resulting When a New, Lower Position for an Encumbered Position Is Established.** When a new lower position for an encumbered position is established in accordance with Rule 17.9(c), the employee's pay shall not be reduced in the resulting demotion in lieu of layoff, subject to those situations involving base supplement addressed in Rule 6.15(f).

17.12 Changes in Allocations and Effect This Has on Layoff

So that displacement offers will not have to be redone, a layoff shall not be affected by any changes in allocations for affected positions after the layoff plan is received at Civil Service, regardless of the effective date of the allocation.

17.13 Responsibilities of Employees Affected in a Layoff

The following shall be responsibilities of any employee affected in a layoff. This includes employees who are on leave, on detail to special duty, and on temporary interdepartmental assignment.

(a) He shall read or otherwise make himself aware of agency-distributed information concerning the layoff.

(b) He shall supply all information required by the agency to determine adjusted state service date in the format and by the deadline set by the agency.

(c) If he is absent from work, he shall leave with the personnel specified in his agency, correct and current information as required by the agency on how he may be reached at all times when his agency will be making job offers during the layoff.

(d) He shall comply with the deadline for responding to a job offer in a manner determined by the agency. Failure to do so in the proper manner and by the deadline shall be considered a declination of the job offer.

(e) If meeting the job qualifications of the offered job requires a grade from Civil Service, he must have had the grade effective no later than the date the layoff plan is submitted to Civil Service to be eligible for that position. The grade need not be active; it may be expired. However, it must have the same series number as the test currently in use and must be verifiable, either in the automated applicant record at Civil Service or by the employee producing the original grade notice.

(f) Once he gives his acceptance or declination of a job offer, his decision is final and the agency is not required to re-work any job offers already made.

17.14 Exemptions and Exceptions to Layoff Rules

(a) In a layoff, the agency may exempt from displacement a number of employees, the total of which does not exceed 20 percent of the number of positions

selected for abolishment. These exemptions must be made for rational business reasons which may include employees who have exceptional performance and/or who possess particular qualifications needed to complete an essential program or to maintain essential services necessary to preserve the life, health or welfare of the public. Exemptions and their reasons must be stated in the layoff plan.

(b) For rational business reasons, the appointing authority may request exceptions to these Rules.

(c) The Director may, on his own initiative, expand career fields.

17.15 Written Layoff Plan for a Layoff Involving Permanent Employees

The layoff plan shall include, but not necessarily be limited to, the following:

1. the affected organizational unit. (Refer to Rule 1.21.1);

2. reasons why the layoff is being proposed;

3. any budgetary measures which may have been taken to help avoid the layoff;

4. proposed effective date of the layoff;

5. the definition of commuting area used for this layoff. (Refer to Rule 1.9.01);

6. the displacement method to be used for this layoff. (Refer to Rule 17.22);

7. percentage of pay reductions, if any, that will be applied in a budgetary layoff;

8. the parishes where the abolished positions are domiciled;

9. List the following for the abolished positions:

a) Job titles and number of positions for each; and

b) their career fields;

10. if any employees are in Career Field 9999, propose an appropriate expansion of their career field, with justification. If no expansion is proposed, explain why;

11. exemptions made, if any, under Rule 17.14(a) and reasons for these;

12. exceptions requested, if any, under Rule 17.14 (b), and reasons for these;

13. names and pay of employees with unclassified authority under Rule 4.1(d)1 or 4.1(d)2;

14. contracts either currently in effect or anticipated that may be causative or related to the layoff.

17.16 Freeze on Appointments to Layoff-Affected Jobs;

(a) **Period of Freeze; Positions Affected.** Beginning the date the Director approves the layoff plan, no appointments shall be made in the affected department to job titles abolished in the layoff or to equivalent or lower jobs in those career fields and commuting areas, except that job offers made prior to this approval date may be honored. This freeze on appointments shall end upon the establishment of the Department Preferred Reemployment List.

(b) **Exceptions to the Freeze Not Requiring Director's Approval.** Exceptions to the appointment freeze not needing Director's approval include the following:

1. reinstatement of an employee as the result of an appeal decision;

2. internal demotion;

3. restoration of a former employee returning from military duty in accordance with Rule 8.19;

4. restricted appointments, job appointments, details to special duty, and use of temporary staffing service employees, none of which shall extend beyond three months after the effective date of layoff.

17.17 Special Provisions for Veterans in Layoffs

(a) A veteran who has been restored to duty under the provisions of Rule 8.19 and who thereafter competes in a layoff shall be granted prior service credit for the period of time served as a member of the armed forces of the United States on which the restoration was based.

(b) An employee being restored to duty under the provisions of Rule 8.19 shall not be required to compete with other employees in a layoff conducted to permit his restoration.

17.18 Domicile for Displacement Purposes

(a) The domicile for an employee shall be the parish in which he reports to work.

(b) Employees whose official domicile is "Statewide" shall, for the purpose of displacement offers, be considered domiciled in the parish in which they officially reside.

(c) Employees who live and work outside of Louisiana shall, for the purpose of displacement offers, be considered domiciled in the parish in which they have an official residence. If they have none, their domicile shall be at their department's central headquarters.

(d) Agencies may request a different domicile assignment in situations not addressed in this Rule through the exception procedure in Rule 17.14(b).

17.19 Displacement Rights

(a) Employees with No Displacement Rights. The following employees have no displacement rights, and may be displaced in any order (neither group has any preference over the other);

1. non-permanent employees;
2. permanent employees whose two most recent official performance evaluation ratings were "Needs Improvement" and/or "Poor" (a re-rating counts as one of the two most recent ratings). If displaced or laid off, these employees shall retain their review and appeal rights stated in Rules 10.13 and 10.14. If the review or appeal results in a rating change to "Meets Requirements" or higher after displacement offers have begun, the agency shall give the employee the offer, if any, he would have been given.

(b) Employees Who Have Displacement Rights. Displacement rights shall be granted to permanent employees whose two most recent official performance evaluation ratings include at least one rating of "Meets Requirements" or higher. A re-rating is counted as one of the two most recent ratings.

1. For purposes of this Rule, a permanent employee with a rating of "Un-rated" shall be considered as having a rating of "Meets Requirements" for that rating period.

2. For purposes of this Rule, an employee serving a probational period under the circumstances defined in Rule 8.10.1 shall be considered as having permanent status for layoff purposes [Rule 8.10.1(b)1], and shall have the displacement rights granted to permanent employees in this Rule.

(c) Limitations on Displacement Rights. An employee shall not have the right to displace:

1. into a job with a higher pay range;

2. into a job for which he does not meet the Civil Service minimum qualification requirements;

3. outside of his organizational unit (defined in Rule 1.21.1);

4. outside of his career field, (defined in Rule 1.5.2), unless the appointing authority has chosen the option of offering vacancies and/or non-permanently filled positions outside the career field;

5. outside of his commuting area (defined in Rule 1.9.01);

6. under circumstances described in Rule 17.22(c)3, if the agency has chosen to use performance ratings in displacement offers.

(d) Effect of Displacement on Employee Status. Employees who displace into another position shall retain permanent status, even if they displace a non-permanent employee who occupies an ongoing position such as one allocated in the department's Table of Organization. Exceptions to this are as follows.

1. If an employee with permanent status displaces into a position subject to Rule 8.10.1, he shall revert to probational status.

2. If an employee displaces out of a position subject to Rule 8.10.1, he shall revert to permanent status in the new position.

3. If an employee displaces laterally or downwardly into a position subject to Rule 8.10.1 from another such position, he shall be eligible for permanent status in the new position between the sixth and twenty-fourth month of the probational period which began prior to the change in position.

17.20 Factors Affecting Displacement Offers

(a) Vacancies are not required to be offered. Vacancies either in the employee's career field or outside the career field may be offered in lieu of filled positions as long as they are not lower than the highest offer to a filled position in the career field.

(b) Positions filled by non-permanent appointments outside the affected career field(s) are not required to be offered. Such positions may be offered in lieu of filled positions as long as they are not lower than the highest offer in the employee's career field.

(c) If a training series position is offered, it shall be offered at the highest level for which the employee meets the Civil Service minimum qualification requirements, as long as it is not higher than his current job.

(d) All offers shall be made with a minimum reduction in pay range.

(e) A part-time position shall be offered only if there is not a full-time position to offer. The appointing authority may request an exception to this provision.

(f) If the employee declines the offer or if there are no offers to make to him, he is subject to layoff.

17.21 Accommodation for Permanent Employees When No Displacement Offer Exists

When there is no ongoing position, such as one within the department's Table of Organization which can be offered, the agency may end job and/or restricted appointments of employees who occupy temporary positions which are not ongoing, and may use the position(s) to re-hire, without a break in service, a permanent employee who was laid off. The rehired employee may be rehired in job or restricted

appointment status. If used, this accommodation must be granted first to the most senior employee who is being laid off within the affected job.

17.22 Displacement Offers

(a) Employees whose performance ratings make them eligible for displacement offers shall be given offers according to length of service, with employees having the most state service being given first preference, regardless of the method chosen for displacement.

(b) An employee shall be given a job offer, if one is available, in accordance with subsection (c) of this Rule. Within this offer, an employee(s) who has no displacement rights shall be displaced before a permanent employee with the least state service.

(c) The appointing authority shall choose from the following options for displacement. Any agency may use option 1 or 2 below. Only those agencies having 10% or less incidence of "Un-rated" ratings for the previous year ending June 30 may use option 3.

1. Offers When Layoff is Limited to Career Field. Subject to Rules 17.19 and 17.20, affected eligible employees shall be given the first available job offer of an ongoing position, such as one in the agency's Table of Organization, as listed below:

- a. a position with the same job title;
- b. an equivalent position in the career field;
- c. the next lower position available in the career field;

2. Offers When Layoff is NOT Limited to Career Field. If the appointing authority has chosen to offer vacancies and/or positions occupied by non-permanent employees outside the career field, then the employee shall have the choice of:

1. the first available offer in the career field as defined in subsection (c)1 of this Rule; or
2. the highest available non-career field offer, as long as this offer is higher than the first available career-field offer.

3. Offers Incorporating Performance Ratings. When using this method of making displacement offers, the appointing authority shall use the method stated in either subsection (c)1 or (c)2 of this Rule, subject to the following.

a. Employees with a current rating of "Meets Requirements" shall not be eligible to displace employees with a current rating of "Outstanding" or "Exceeds Requirements," regardless of length of state service.

b. Employees whose most recent rating is "Poor" or "Needs Improvement," and whose previous rating was "Meets Requirements" or better, shall displace only those employees who have no displacement rights as stated in Rule 17.19(a).

17.23 Methods of Breaking Ties

In case of ties in displacement ranking, the following shall apply:

(a) Permanent employees who have veterans' preference as referred to in Rule 7.11 and whose length of state service and performance ratings are at least equal to those of other competing employees shall be retained in preference to all other competing employees.

(b) If subsection (a) of this Rule does not apply, the remaining methods of breaking ties shall be:

- 1) based on the most recent performance ratings;

2) by length of service in the position; or

3) by length of service in the department. If none of these breaks the tie, the appointing authority may use any non-discriminatory method he chooses.

Section 3 - Post Layoff

17.24 Reporting Requirement after Layoff

The appointing authority shall report to the Director in writing within 15 calendar days from the effective date of the layoff, all personnel actions taken relative to the layoff. This report shall indicate employees who were non-permanent status at the time of layoff as well as those whose two most recent official performance ratings (includes a re-rating) were "Needs Improvement" and/or "Poor." The report shall include information for each affected employee as required in the State Personnel Manual.

17.25 Department Preferred Reemployment List

(a) The Department Preferred Reemployment List is a list of names of permanent employees who have been laid off or demoted in lieu of layoff. Employees on such a list shall be given preferential hiring rights for their department or agency subject only to the exceptions stated in Rule 17.26. Such employees shall be appointed with permanent status, except for reemployment into a position which must be filled with a probational appointment under Rule 8.10.1. Upon appointment from this list, the employee's pay shall be set in accordance with Rule 6.5.1.

(b) Only employees who have displacement rights (and those in probational status as a result of Rule 8.10.1) who have been laid off or demoted in lieu of layoff shall be eligible for this list. Eligibility shall be limited to:

1. the agency or department where the layoff action occurred;
2. the employee's parish of domicile at the time of layoff and any other parishes he may list for availability;
3. the same job title the employee held at the time of the layoff action and equivalent or lower level jobs for which the employee qualifies in his career field. However, an employee who demoted in lieu of layoff shall be eligible only for jobs down to but not including those in the pay range to which he demoted.

(c) Employees not eligible for this list include the following:

1. those who displaced to a lateral position;
2. those whose two most recent official performance ratings at the time of layoff were "Needs Improvement" and/or "Poor" (includes a re-rating);
3. non-permanent employees. This does not include those employees in probational status as the result of Rule 8.10.1;
4. those who have retired from state service.

(d) Employees shall be ranked in the order of length of state service they had at the time of the layoff. The employee with the most state service for a given job and parish shall be given the first offer. Those tied shall be considered as having the same ranking.

(e) An employee's name will be removed from the applicable list(s) when:

1. he is offered reemployment to a permanent position from this list. His name shall then be removed for that job as well as for all others to equivalent or lower jobs, but shall remain on the list for higher jobs;

2. he declines or fails to respond to an offer. He shall then be removed for that job, equivalent jobs, and all lower jobs;

3. he attains permanent classified status in any position in any department. His name shall then be removed from all such lists for equivalent and lower jobs.

4. those who were dismissed or resigned to avoid dismissal (except those who are reinstated) after the layoff action;

5. it is removed by the Director when he determines that a person is not qualified, is not available, or, upon investigation, is not found suitable for appointment to the position;

6. his name has been on the list for two years from the effective date of the layoff.

(f) If the employee's job has undergone a change in the minimum qualification requirements or title or pay range (including one that has changed upward) since the layoff, at the request of the employee, he may have his name placed on the list for the newly revised job title and equivalent and lower level jobs in his career field. He shall not be required to meet the new qualifications if sufficient evidence is presented to the Director to show, as determined by the Director, that he is returning to a job having essentially the same duties he was performing when affected by the layoff. The exception to this is if the lacking qualification is one required by law or under a recognized accreditation program.

17.26 Exceptions to Hiring from the List

If there is a department preferred reemployment list, the employee who is first on the list shall be hired first, except when a position is filled by:

- 1) reinstatement;
- 2) internal demotion;
- 3) restoration of an employee returning from military service under Rule 8.19; or
- 4) restricted or job appointment, use of a temporary staffing services employee, and details to special duty, none of which shall exceed three months beyond the effective date of layoff.

17.27 Employees Offered Temporary Appointments from List Remain on List

Restricted or job appointments which exceed three months past the effective date of layoff shall first be offered to the first person on the list. If the person accepts or declines such a temporary appointment, his name shall remain on the list for permanent appointments.

17.28 Layoff Referral List of Those Actually Laid Off

The Department of Civil Service shall establish a Layoff Referral List of permanent employees actually laid off, i.e., separated from state service. Agencies shall not be required to hire from this list, but may use the list as an aid for recruiting. Employees shall be placed on this list only for those job titles for which they are also on the Department Preferred Reemployment List and shall remain on this list for one year past the effective date of their layoff. Placement on this list gives laid off employees no special rights or eligibilities beyond the regular noncompetitive reemployment eligibility stated in Rule 8.18. The Department of Civil Service shall establish procedures to administer this list.

17.29 Movement of Employees after Layoff

For rational business reasons, after a layoff an appointing authority may move an employee from one position to another position for which he qualifies in the same pay grade, as long as such movement does not circumvent the Department Preferred Reemployment List.

Explanations For Rule Changes

Section 1 - Layoff Avoidance Measures:

1. Prior approval for layoff avoidance measures in Rule 17.1(a) will be needed. There is no minimum notice required, but the agency must notify the Director prior to the effective date the measure begins.

2. The avoidance measure of reduction in pay without a reduction in work hours (current Rule 17.11) has been omitted as a layoff avoidance measure because it was never used and was the least desirable measure.

3. Employees whose merit increases are withheld as a layoff avoidance measure will retain eligibility for the increases for three years.

4. These proposals remove the requirement that agencies separate temporary employees prior to implementation of a layoff avoidance measure. Temporary employees are frequently cost-effective and help reduce the need for layoffs.

5. The provision allowing an agency to request volunteers for layoff avoidance measures has been omitted. This was not used frequently and was not effective in saving money.

6. The prohibition against optional pay increases while an avoidance measure was in effect has been omitted, as it was confusing and unnecessary.

Section 2 - Layoffs

1. For layoffs of probational employees only, the agency must submit prior written notice to the Director.

2. For permanent employees, there will be a 5-day period, rather than a 10-day period, between the last displacement offer or notice of layoff if there is no offer to make, and the effective date of layoff.

3. It would no longer be required that pay reductions be effected for demotions in budgetary layoffs. This decision would be at the option of the appointing authority.

4. Current Rules allow an agency to exempt from displacement a number of employees, the total of which does not exceed 15% of the number of positions selected for abolishment. This percentage has been changed to 20%.

5. The layoff plan will require additional information, since an agency will now have some options and will need to state which options it will be using.

6. Current Rules require a freeze on appointments beginning the date the Director approves the layoff plan. This will change to the extent that the agency may now honor any job offers which were made prior to the date the Director approved the layoff, even if the employment start date is after the approval date.

7. Proposed changes to displacement Rules include the following.

a. Agencies will be able to choose from among three displacement methods:

1. length of service limited to career field;
2. length of service not limited to career field (can displace into vacancies and positions filled by non-permanent employees outside the career field); and

3. the incorporation of PPR ratings, which can only be used by those agencies whose incidence of "Unrated" ratings is 10% or less (see "f" below).

b. Displacement of non-permanent employees outside the career field is now optional at the discretion of the appointing authority.

c. The commuting area may be only the parish of the abolished position, or one or more adjoining parishes, as determined by the agency.

d. Multiple displacement offers are eliminated, unless the agency chooses to offer vacancies and/or positions filled by non-permanent employees outside the career field.

e. Permanent employees whose two most recent official ratings (including re-ratings) are "Needs Improvement" and/or "Poor" will have no displacement rights. Under the current Rules, such employees have limited preference over employees who are probational and who have no displacement rights. Under the new Rules, these employees will be considered the same as probational employees, that is, they will have no displacement rights.

f. If the agency chooses to use the displacement method which incorporates PPR ratings, then an employee whose current rating is "Meets Requirements" shall not be eligible to displace employees with ratings of "Exceeds Requirements" or "Outstanding", regardless of length of service. Employees with the two higher ratings are not similarly limited, in that they may displace an employee with less service in an equivalent or lower level job in an affected job, regardless of the person's rating.

g. What job offer must be offered in displacement has been simplified.

h. An employee serving a probational period due to having been promoted into a position which requires a probational appointment (Rule 8.10.1) shall be considered as having permanent status for layoff purposes. Employees who displace into such a position shall become probational, but an agency may request an exception to this. An employee who displaces out of one of these positions into a position not required to be filled by probation, shall immediately be granted permanent status.

i. If a training series position is offered, it will be offered at the highest level for which the employee qualifies, as long as it is not higher than the employee's current job.

j. Part-time employees may displace full-time employees (but must be willing to accept the full-time work). A part-time position shall be offered only if there is no full-time job to offer.

8. There is a new optional accommodation for permanent employees for whom no displacement offers exist to ongoing positions. The agency may re-hire the employees, based on seniority, without a break in service, into positions occupied by job or restricted (temporary) appointments. These will continue to be temporary appointments, and the employees will remain on the department preferred list.

9. The list of employee responsibilities in a layoff has been rewritten and includes the fact that an employee may need a Civil Service test grade to displace into certain jobs.

Section 3 – Post Layoff

1. The hiring freeze for jobs affected by the layoff will now end upon establishment of the department preferred reemployment list, rather than end either 30 days after the layoff or establishment of such list, whichever came first.

2. New data will be required on the post-layoff report to Civil Service to expedite the establishment of the department preferred reemployment list.

3. Changes to eligibility for the department preferred reemployment list include:

a. An employee is not eligible to be on the list if his two most recent ratings were "Poor" and/or "Needs Improvement." This includes a re-rating.

b. Employees who displace laterally will not be eligible for the list. The list will be limited only to those laid off or demoted.

4. The Open Preferred Reemployment List will no longer exist. Instead, a Layoff Referral List would be established and would include names of laid off employees to help agencies recruit, but hiring from this list would not be mandatory.

5. After the layoff, prior Director's approval would no longer be needed to move an employee within the same pay grade, as long as the position move does not circumvent the department preferred reemployment list.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the Director of Civil Service at Post Office Box 94111, Baton Rouge, Louisiana 70804-9111. If any accommodations are needed, please notify us prior to the meeting.

Allen H. Reynolds
Director

0106#011

NOTICE OF INTENT

Department of Economic Development Board of Architectural Examiners

Registration Information (LAC 46:I.901)

Under the authority of R.S. 37:144, and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rule making procedures have been initiated for the amendment of IAC 46:I.901, 46:I.903 and 46:I.1101 pertaining to fees charged to both in-state and out-of-state architects for initial licensure and registration, license renewal, and delinquent license renewal. Conditioned upon the legislature amending R.S. 37:149 and 150 in the current legislative session in a bill presently being considered, the board proposes to increase fees for the initial licensure and registration, license renewal fees, and delinquent license renewal fees for both in-state and out-of-state architects.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 9. Registration Procedure

§901. Registration Information

A. To obtain information regarding registration to practice architecture in Louisiana an individual, a corporation which satisfies the requirements of the Professional Architectural Corporations Law, an architectural-engineering corporation which satisfies the requirements of the Architectural-Engineering Corporation Law, and a limited liability company which satisfies the

requirements of the Limited Liability Company Law shall write the board indicating whether the applicant seeks to be registered as an architect, a professional architectural corporation, an architectural-engineering corporation, or a limited liability company. The applicant will then receive instructions on the procedure to follow. Upon passing all divisions of the examination, an in-state candidate shall be charged a fee of \$75 for the issuance of his or her initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:738 (October 1994), and amended by Department of Economic Development, Board of Architectural Examiners, LR 15:6 (January 1989), LR 20:995 (September 1994), and LR 27:

§903. Individuals Registered in Other States

A. The exclusive means for an individual registered in another state(s) seeking to be registered in Louisiana is the submission to the board of an NCARB (Blue Cover) certificate.

B. Upon finding the NCARB (Blue Cover) certificate in order and upon payment of the registration fee of \$300, the board will register said individual and issue a license to said individual to practice architecture in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:148-149.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:738 (October 1984), and amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:6 (January 1989) and LR 27:

Chapter 11. Administration

§1101. Renewal Procedure

A. A license for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations, architectural-engineering corporations, and limited liability companies shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, architectural-engineering corporation, and limited liability company to obtain, complete, and timely return a renewal form and fee to the board office, which forms are available upon request from said office.

C. Prior to December 1 of each year the board shall mail to all individual architects currently licensed a renewal form. An individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$75, the license renewal fee for an individual domiciled

outside Louisiana shall be \$150. Upon payment of the renewal fee the executive director shall issue a renewal license or registration.

D. Prior to June 1 of each year the board shall mail to all professional architectural corporations, architectural-engineering corporations, and limited liability companies currently licensed a renewal form. A professional architectural corporation, an architectural-engineering corporation, and a limited liability company which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The fee shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$75. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$150. The delinquent fee shall be in addition to the renewal fee set forth in the 1101.C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation, an architectural-engineering corporation, or a limited liability company of the right to renew thereafter. A professional architectural corporation, an architectural-engineering corporation, or a limited liability company who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in 1101.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, amended and promulgated LR 4:334 (September 1978), amended LR 10:739 (October 1984), amended by the Department of Economic Development, Board of Architectural Examiners, LR 15:732 (September 1989), LR 20:995 (September 1994), repromulgated LR 20:1259 (November 1994), amended LR 23:402 (April 1997), amended LR 27

Interested persons may submit written comments on this proposed Rule to Ms. Mary "Teeny" Simmons, Executive director, Board of Architectural Examiners, 8017 Jefferson Highway, Suite B2, Baton Rouge, Louisiana 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Registration Information

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

There are no estimated implementation costs (savings) to state or local governmental units associated with these proposed Rules.

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

The proposed Rules will increase the revenue collections of the Louisiana State Board of Architectural Examiners by approximately \$65,300 per year.

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

The proposed Rules will increase fees for the initial licensure and registration, license renewal, and delinquent license renewal for both in-state and out-of-state architects. Specifically, the fee for initial licensure and registration for an in-state candidate will increase by \$25.00, and the fee for initial licensure and registration for an out-of-state architect will increase by \$50.00. The renewal fees and delinquent license renewal fees for both in-state and out-of-state architects will increase by \$25.00.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment associated with these proposed Rules.

Mary "Teeny" Simmons
Executive Director
0106#012

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
Policy for Louisiana's Public Education
Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The proposed change more clearly explains and refines existing policy as follows: 1) clarification of the transfer/school choice policy.

**Title 28
EDUCATION**

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

§ 901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

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

**The Louisiana School and District
Accountability SystemC Transfer Policy**

Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Corrective Actions Level II or any other school begins Corrective Actions Level III.

Transfers shall not be made to Academically Unacceptable Schools or any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

An LEA must develop a policy for student transfers (School Choice Policy) for Academically Unacceptable schools in Corrective Actions II and III. An LEA shall state its capacity for offering student transfers. SBESE shall approve or disapprove an LEA's School Choice Policy.

An LEA shall declare *Lack of Capacity* when all of the attendance zones under its jurisdiction are unable to provide school choice to eligible students (i.e., desegregation order).

An LEA shall declare *Limited Capacity* when some students in some or all of the attendance zones under its jurisdiction may be provided school choice in an attendance zone (i.e., limited seating capacity in receiving schools).

An LEA declaring *Lack or Limited Capacity* shall request a waiver from SBESE and shall submit the following with its waiver request:

- a description of the general transfer policy or desegregation order (See State's *Guidance on LEAs' Development of School Choice Policies for Public Schools in Louisiana*. Transfer policies must include:
 - 1) a method for determining transfer capacity or evidence of lack of capacity to transfer;
 - 2) transfer options for as many eligible students as possible in the Academically Unacceptable schools in Corrective Actions II or III to other Academically Acceptable schools;
 - 3) equal educational opportunities for all students eligible to transfer, including students with disabilities and Limited English Proficiency (LEP) and in compliance with all civil rights laws pertaining to eligible students;
 - 4) a method for selecting transfer students from the entire eligible student population in cases of *Limited Capacity* (i.e., lottery);
 - 5) a method for communicating to parents the option and withdrawal of School Choice;
 - 6) a method for maintaining a file for all communication involving all interested parties in School Choice;
 - 7) A method for providing transportation for transfer students; and
 - 8) A method for transferring student records, including assessment results and their interpretations.

If SBESE determines that an LEA has demonstrated sufficient evidence of lack of or limited capacity to transfer, then the requesting LEA must submit the following information for SBESE approval:

- a description of the School/District Plan for those schools having to offer School Choice that addresses the following:
 - 1) Educator Quality
 - Principal Certification/Qualifications
 - Principal Leadership and Effectiveness
 - Teacher Qualifications/Certification
 - 2) Professional Development
 - To address teacher professional learning based on student data
 - To address uncertified/inexperienced teacher professional learning if certified/experienced teachers are unavailable for placement in the school
 - 3) Alignment of Curriculum, Instruction and Assessment with State Content Standards;
 - 4) Teacher/Pupil Ratio;
 - 5) Early Intervention/Remediation Programs;
 - 6) Time on Task/Extended Learning Opportunities;
 - 7) Parental Involvement; and
 - 8) Discipline/Safety/Health Issues;
 - 9) Renovation/Capital Improvement.

If SBESE fails to approve an LEA's School Choice Plan, the implicated schools will lose their School Approval status.

Interested persons may submit written comments until 4:30 p.m., August 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 9064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741C Louisiana Handbook for
School Administrators Policy for Louisiana's Public
Education Accountability System**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs to state governmental units. The proposed change more clearly explains and refines the existing policy as it pertains to clarification of the transfer/school choice policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by state/local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to persons or non-governmental groups directly affected.
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0106#009

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Board of Elementary and Secondary Education**

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

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The new Louisiana Alternative Certification Program includes three paths to teacher certification for individuals with non-education degrees: (1) The Practitioner Teacher Program, (2) the

Masters Degree Program, and (3) the Non-Masters/Certification-Only Program. These three programs will more effectively standardize the semester hours required for alternate certification throughout the state, regardless of university or private provider.

The Practitioner Teacher Program is a streamlined approach to certification that combines coursework and full-time teaching with demonstrated content knowledge, instructional expertise, and classroom management skills. As a hands-on approach delivered in a fast-track format, the Practitioner Teacher Program is unlike any previously offered alternative route to certification in Louisiana. Coursework will be at minimum 18 hours and at maximum 30 hours.

The other two paths to alternate certification allow candidates to schedule and take coursework on a part-time, rather than a full-time, basis. One path offers a masters degree, whereas the other does not.

**Title 28
EDUCATION**

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

§903. Teacher Certification Standards and Regulations

Bulletin 746

* * *

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

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

**Bulletin 746, Louisiana Standards for State
Certification of School PersonnelC Louisiana
Alternative Certification Program**

Providing Alternative Paths to Teacher Certification

The Louisiana Alternative Certification Program provides opportunities for individuals with non-education degrees to become certified public school teachers. Individuals seeking teacher certification under the alternative certification program will follow one of three alternative certification paths: the *Practitioner Teacher Program*, the *Masters Degree Program*, or the *Non-Masters/Certification-Only Program*.

Candidates for admission to any one of the programs must possess a baccalaureate degree from a regionally accredited university and must pass the Pre-Professional Skills Test on the PRAXIS and the content specific examinations for the PRAXIS. More detailed explanations relative to program admission requirements are explained within the description of each alternate certification path.

Individuals seeking certification under the *Practitioner Teacher Program* must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program or to a state-approved private practitioner program provider. Individuals seeking certification under the *Masters Degree Program* or the *Non-Masters/Certification-Only Program* must submit an official transcript for evaluation to a Louisiana college or university with an approved teacher education program. [A list of Louisiana colleges and universities offering the *Practitioner*

Teacher Program, the *Masters Degree Program*, and/ or the *Non-Masters/Certification-Only Program* is available from the Louisiana Department of Education, Division of Teacher Standards, Assessment, and Certification and on the Louisiana Department of Education's web site, www.doe.state.la.us. A list of private program providers offering the *Practitioner Teacher Program* is also available from these same sources.]

Universities offering alternative certification are required to begin implementation of the newly adopted paths on or before July 2002.

No students should be accepted into the "old" post-baccalaureate alternate certification program after January 2002. Candidates already in the "old" alternative certification program would be given until January 2005 to complete their programs.

*Practitioner Teacher Program
Alternative Path to Certification*

State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a Practitioner Teacher Program. Practitioner Teacher Programs may offer certification in Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education). The Practitioner Teacher Program is a streamlined certification path that combines intensive coursework and full-time teaching.

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.
2. Have a 2.5 GPA on undergraduate work. Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider. However, in no case may the GPA be less than 2.0. (Note: State law requires that upon completion of the program the teacher candidate has a 2.5 GPA for certification.)
3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.
4. Pass the content specific examinations for the PRAXIS
 - a. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;
 - b. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;
 - c. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.
5. Meet other non-course requirements established by the college or university.

Program Requirements

1. Teaching Preparation (Summer) 9 credit hours (or equivalent 135 contact hours)

Grades 1-6, 4-8 and 7-12 practitioner teachers will complete courses (or equivalent contact hours) pertaining to

child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching positions.

Mild/moderate special education teachers will take courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.

2. Teaching Internship & First Year Teaching 9 credit hours (or equivalent 135 contact hours)

Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.

3. Teaching Performance Review (end of first year)

Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment portion of the Louisiana Teacher and Assessment Program during the next fall.

If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from 1 to 12 credit hours (or 15 -180 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine if the practitioner teachers should participate in the new teacher assessment during the fall or if the practitioner teachers should receive additional mentor support and be assessed after the fall.

4. Prescriptive Plan Implementation 1-12 credit hours (15-180 contact hours)

Practitioner teachers who demonstrate areas of need will complete prescriptive plans.

5. Louisiana Assessment Program

Practitioner teachers will be assessed during the fall or spring of the second year of teaching depending upon their teaching proficiencies.

6. PRAXIS Review

Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.

Certification Requirements

Private Providers and colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Practitioner Teacher Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS. (Note: This test was required for admission.)

2. Completed the program with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

a. Grades 1-6: Elementary Education: Content Knowledge specialty examination (Note: This test was required for admission.)

b. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

c. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)

d. Mild/Moderate Special Education 1-12: *Special Education*

4. Passed the Principles of Learning and Teaching examination (PRAXIS)

a. Grades 1-6: Principles of Learning and Teaching

b. Grades 4-8: Principles of Learning and Teaching

c. Grades 7-12: Principles of Learning and Teaching

Masters Degree Program

Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program. The college or university may choose to offer the masters degree program as either a Master of Education or a Master of Arts in Teaching. Masters Degree Programs may offer certification in Grades PK-3, Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education).

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.

2. Have a 2.5 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.

4. Pass the content specific examinations for the PRAXIS

a. Candidates for PK-3 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty exam;

b. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;

c. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;

d. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.

5. Meet other non-course requirements established by the college or university.

Program Requirements

1. Knowledge of Learner and the Learning Environment 15 credit hours

Grades PK-3, 1-6, 4-8, and 7-12: Child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies

Mild/Moderate Special Education 1-12: Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

2. Methodology and Teaching 12-15 credit hours
Methods courses and field experiences

3. Student Teaching or Internship 6-9 credit hours
Total: 33-39 credit hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Masters Degree Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS.
(Note: This test was required for admission.)

2. Completed all coursework (undergraduate and masters program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

- a. Grades PK-3: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

- b. Grades 1-6: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

- c. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

- d. Grades 7-12: Specialty content test in area to be certified (Note this test was required for admission.)

- e. Mild/Moderate Special Education 1-12: *Special Education*

4. Passed the Principles of Learning and Teaching examination (PRAXIS)

- a. Grades PK-3: Principles of Learning and Teaching K-6

- b. Grades 1-6: Principles of Learning and Teaching K-6

- c. Grades 4-8: Principles of Learning and Teaching 5-9

- d. Grades 7-12: Principles of Learning and Teaching 7-12

Non-Masters/Certification-Only Program

Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer a post-baccalaureate alternative certification program that does not lead to a degree. Alternative certification programs may be offered by a college or university only in those certification areas in which that institution has an approved teacher education program. Non-Masters/Certification-Only Programs may offer certification in Grades PK-3, Grades 1-6, Grades 4-8, or Grades 7-12 (regular or special education).

Admission to the Program

To be admitted, individuals should:

1. Possess a baccalaureate degree from a regionally accredited university.

2. Have a 2.5 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS.

4. Pass the content specific examinations for the PRAXIS

- a. Candidates for PK-3 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty exam;

- b. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge* specialty examination;

- c. Candidates for Grades 4-8 (regular and special education): pass the *Middle School Education: Content Knowledge* specialty examination;

- d. Candidates for Grades 7-12 (regular and special education): pass the *content specialty examination(s)* (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.

Program Requirements

1. Knowledge of Learner and the Learning Environment 9 credit hours

Grades PK-3, 1-6, 4-8, and 7-12: Child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies

Mild/Moderate Special Education 1-12: Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

Methodology and Teaching 6 credit hours

Methods courses and field experience

3. Student Teaching or Internship 6-12 credit hours

Total: 21-27 credit hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education which indicate that the student completing the *Non-Degree/Certification-Only Program* alternative certification path met the following requirements:

1. Passed the PPST components of the PRAXIS.
(Note: This test was required for admission.)

2. Completed all coursework (undergraduate and certification program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for their area(s) of certification.

- a. Grades PK-3: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

- b. Grades 1-6: Elementary Education: Content Knowledge specialty examination (Note: This test was required for admission.)

- c. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

- d. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel
Denial of Certification for Criminal Offenses (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. The proposed policy includes language relative to specific criminal offenses, which is consistent with the laws requiring background checks. In addition, the change outlines specific procedures for issuance of certificates, the required evidence of rehabilitation, and graduated time lines for convictions rendered at various times in the past.

Title 28

EDUCATION

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

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

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

Bulletin 746, Louisiana Standards for State Certification of School Personnel
Denial of Certificates for Criminal Offenses

One of the three new alternate certification routes in Louisiana, the Practitioner Teacher Program was approved by the State Board of Elementary and Secondary Education for implementation by selected providers as early as summer 2001.

I. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever. (See Attachment 1)

II. For the purposes of this policy:

The term offense or crime shall include those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

The term teaching certificate or certificate shall include any license, permit, or certificate issued by the Certification and Higher Education section of the Department of Education.

The term individual shall include any person applying for any permanent, ancillary, provisional or temporary certificate.

The term convicted or conviction shall include any proceedings in which the accused pleads guilty or no contest and those proceedings that are tried and result in a judgment of guilty.

- Mild/Moderate Special Education 1-12: *Special Education*
- 4. Passed the *Principles of Learning and Teaching* examination (PRAXIS)
 - a. Grades PK-3: Principles of Learning and Teaching K-6
 - b. Grades 1-6: Principles of Learning and Teaching K-6
 - c. Grades 4-8: Principles of Learning and Teaching 5-9
 - d. Grades 7-12: Principles of Learning and Teaching 7-12

Universities offering alternative certification options are required to begin implementation of the newly adopted paths on or before July 2002.

No students should be accepted into the "old" post-baccalaureate alternate certification program after January 2002. Candidates already in the "old" alternative certification program would be given until January 2005 to complete their programs.

Interested persons may submit comments until 4:30 p.m., August 9, 2001 to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School Personnel Alternative Certification Program

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

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

Persons who seek entrance into an alternate post-baccalaureate certification program will be directly affected by the proposed action. The new programs will be shorter in duration for most candidates than the old alternate certification programs. This will mean fewer dollars spent on tuition/supplies and fewer years spent seeking certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0106#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The term department refers to the Louisiana Department of Education.

The term board refers to the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

III. Any conviction that results in a suspended sentence pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, shall be treated as a conviction for the purpose of denial.

Gubernatorial pardons, first offender pardons, and expungement may be used as evidence of rehabilitation, but shall not preclude the denial of a teaching certificate.

IV. When the department is notified that any teacher has been convicted of a specific crime:

A. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied and that a hearing will be conducted by a board committee to consider issuance of Louisiana certification.

B. If the teacher cannot be reached and/or if his/her employment status cannot be determined, denial of the certificate shall proceed, as will all other steps in the process outlined in this policy.

C. A teacher may contact the office of the board and request a hearing prior to the date set for the denial consideration by the board. Such hearing will be limited to a determination of the individual's true identity and true conviction status. The teacher shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Upon official action by the board, any teacher whose certificate has been denied shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for issuance of his/her certificate.

VI. If the conviction upon which a teacher's certificate has been denied is reversed, vacated, or set aside such action may be communicated to the board through documentation from the court in which the conviction occurred.

VII. A teacher whose certification has been denied under the provisions of this part may apply for issuance only after the time restriction has been completed.

VIII. Time Restrictions on Applications for Reinstatement

A. Certificate issuance will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286. (See Attachment 1)

B. Issuance of certificates shall not be considered for any final felony conviction until at least 3 years have elapsed from the date of the final conviction.

IX. Procedures for Issuance

A. An individual may apply to the Board for issuance of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no other arrests or convictions (the applicant must provide a current background check that is clean and clear).

2. There has been successful completion of all conditions and/or requirements of parole and/or probation

(the applicant must provide copies of court records, sentencing recommendations, probation release forms, etc., and written verification that all requirements have been completed and/or met).

3. There is documented evidence of rehabilitation (the applicant is responsible for providing copies of every requested document).

B. The applicant must:

1. contact the office of the Board of Elementary and Secondary Education;

2. provide each item identified above (IX.A.1, and 2) and below (IX.C.1, 2, and 3 *required*, IX.C.4, 5, and 6 *recommended*);

3. request a hearing for issuance of certificate.

C. Evidence of rehabilitation is not limited to, but shall include 1, 2, and 3 (below) and should include 4, 5, and 6 (below):

1. letter of support from a local district attorney;

2. letter of support from a local judge;

3. letter of support from the applicant's parole/probation officer, local police chief, or local sheriff;

4. letter of support from a local school superintendent;

5. letter of support from a local community person (business owner, minister, priest, rabbi, city council person, etc.);

6. other letters of support or written reports that verify the applicant's rehabilitation.

D. The Board is not required to conduct an issuance hearing and may summarily deny a request for issuance.

E. If the Board or its designees decide to conduct an issuance hearing, Board staff shall notify the applicant of a date, time, and place when a committee of the Board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. Testimony will not be allowed as to the circumstances surrounding the conviction. The written documentation provided prior to the hearing will also be considered.

F. The committee of the Board shall make a recommendation to the full Board regarding whether the teaching certificate should be granted, or denied. Board staff shall notify the applicant of the Board's action.

X. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation.

The Board of Elementary and Secondary Education reserves the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate.

Attachment 1

The following crimes are reported under R.S.15:587.1: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or

convictions for attempt or conspiracy to commit any of those offenses; those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.)

Specifically:

- * R.S. 14:30 First degree murder
- * R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- * R.S. 14:41 Rape
- * R.S. 14:42 Aggravated rape
- * R.S. 14:42.1 Forcible rape
- * R.S. 14:43 Simple rape
- * R.S. 14:43.1 Sexual battery
- * R.S. 14:43.2 Aggravated sexual battery
- * R.S. 14:43.3 Oral sexual battery
- * R.S. 14:43.4 Aggravated oral sexual battery
- * R.S. 14:43.5 Intentional exposure to the AIDS virus
- * R.S. 14:44 Aggravated kidnapping
- * R.S. 14:44.1 Second degree kidnapping
- * R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- * R.S. 14:78 Incest
- * R.S. 14:79.1 Criminal abandonment
- * R.S. 14:80 Carnal knowledge of a juvenile
- * R.S. 14:81 Indecent behavior with a juvenile
- * R.S. 14:81.1 Pornography involving juveniles
- * R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- * R.S. 14:82.1 Prostitution; persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
Attachment 1 continued
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibited
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- * R.S. 14:86 Enticing persons into prostitution
- * R.S. 14:89 Crime against nature
- * R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- * R.S. 14:93 Cruelty to juveniles
- * R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- * R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; distribution
- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; distribution
- R.S. 40:968(A) Prohibited acts--Schedule III; penalties; Manufacture; distribution
- R.S. 40:969(A) Prohibited acts--Schedule IV; penalties; Manufacture; distribution

R.S. 40:970(A) Prohibited acts--Schedule V; penalties; Manufacture; distribution
* Reinstatement will never be considered for crimes marked with an asterisk.
* * *

Interested persons may submit comments until 4:30 p.m., August 9, 2001 to: Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746C Louisiana Standards for
State Certification of School PersonnelC Denial of
Certification for Criminal Offenses Legislative Fiscal Office**

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

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

BESE's estimated cost for printing this policy change and first page of fiscal and economic impact statement in the Louisiana Register is approximately \$160. Funds are available.

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

This policy will have no effect on revenue collections.

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

This policy requires that any person who applies for a Louisiana certificate and has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever would be required to follow the prescribed procedures for consideration of issuance of a certificate.

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

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0106#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566C Guidelines for Pupil
Progression (LAC 28:I.907.A)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1566, *Guidelines for Pupil Progression*, referenced in LAC 28:I.907.A. The Rule change extends the waiver for students with disabilities as identified under IDEA for one additional year (2001-2002 school year). This waiver allows students with disabilities to be promoted to grades 5 or 9 without passing the required components of LEAP 21. Revisions to Bulletin 741, *The Louisiana Handbook for School Administrators*, relative to

the course sequence for high school students who have not passed certain components of LEAP 21 result in a change to Bulletin 1566 and the High Stakes Testing Policy. The new policy requires that students promoted to 9th or 10th grade who scored at the Unsatisfactory achievement level on the 8th grade LEAP 21, be required to enroll in and pass a high school remedial course before enrolling in a high school level course required for graduation.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566C Guidelines for Pupil Progression

Chapter 5. Placement Policies; State Requirements

§503. Regular Placement¹

A.1. - (iii). ...

(iv). Waiver for students with disabilities eligible under the Individuals with Disabilities Education Act (IDEA). For the 2001-2002 school year only if a student with disabilities (excluding students with only a Speech or Language Impairment) participates in on-level testing, the SBLC may consider a waiver only if the student has participated in the summer remediation program and retest offered by the LEAs. If a student with disabilities (excluding students with only a Speech or Language Impairment) participates in out-of-level testing, promotion decisions shall be determined by the SBLC. If a student with disabilities participates in an alternative assessment, promotion decisions shall be determined by the SBLC for the 2001 school year and beyond. Students with disabilities will be promoted in grades four (4) and eight (8) in accordance with SBESE adopted policies.

(v). - iii. . .

iv. Summer remediation programs and end-of-summer retests must be offered by school systems at no costs to students who did not take the Spring LEAP 21 tests or who score at the Unsatisfactory level on LEAP 21.

a. All students with disabilities who participate in on-level testing should receive services along with regular education students in summer programs, with special supports provided as needed.

b. Students with disabilities who participate in out-of-level testing or alternate assessment are not eligible to attend LEAP 21 summer remediation programs.

(a). Option 1 Students. Students in Option 1 will repeat grade 8. Students in Option 1 will retake all four components of the LEAP 21. For promotional purposes, a student must score at or above the *Approaching Basic* achievement level on the English arts and mathematics components of the LEAP 21 only one time. In accordance with the local Pupil Progression Plan, Option 1 students who scored at the Unsatisfactory achievement level on English Language Arts and/or Mathematics component(s) of the Grade 8 LEAP 21:

(i). may earn Carnegie units in accordance with *Bulletin 741: Louisiana Handbook for School Administrators policy*, regarding high school credit for elementary students;

(ii). may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. LEAP

21 shall be in lieu of a required credit examination. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

(iii). must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics.

(b). Option 2 Students. Students in Option 2 will participate in a transitional program on the high school campus. Students in Option 2 will retake the 8th grade components of the LEAP 21 previously failed (English and/or Mathematics) and all parts of the Iowa Tests at the 9th grade level. All Option 2 Students who scored at the Unsatisfactory achievement level on English Language Arts or Mathematics component of the Grade 8 LEAP 21:

(i). shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an *Unsatisfactory* achievement level was attained;

(ii). may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the student passes a specially designed remediation elective and scores at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

(iii). must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or mathematics;

(iv). may earn Carnegie credit in other content areas;

vi. Exceptional students participating in LEAP 21 must be provided with significant accommodations as noted in the student's IEP.

vii. The aforementioned policies will be in effect from spring 2000 through spring 2003. Beginning in spring 2004, the policies will also apply to students scoring at the *Approaching Basic* level.

A.1.b.viii - D.1. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:

§505. ProgressionC Students Participating in Alternate Assessment

A. Students with disabilities who participate in the alternate assessment shall have promotion decisions determined by the local Pupil Progression Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

§507. Alternatives to Regular Placement

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), repealed LR 27:

§509. Alternative Schools/Programs/Settings

A. The local school board may establish alternative schools/programs/settings which shall respond to particular educational need(s) of its students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

§513. Policies on Records and Reports

A. - B.7. ...

8. a statement regarding written notification to parent concerning retention and due process procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2172 (November 1999), amended LR 27:

§515. Policies on Due Process

A. Due process procedures for teachers, students, and parents shall be specified in each local Pupil Progression Plan as related to student placement. The local school system must assure that these procedures do not contradict the due process rights of students with disabilities as defined in the IDEA -Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2173 (November 1999), amended LR 27:

Chapter 13. Appendix B

§1301. LEAP for the 21st Century, High Stakes Testing Policy

A. Grade 4 - 3.b. ...

c. Students with disabilities who participate in out-of-level testing or alternate assessment are not eligible to attend the LEAP 21 summer remediation programs.

d. LEAs are encouraged to offer remediation services to students who score at the *Approaching Basic* level.

4. - 6.a. ...

b. Waiver for Students with Disabilities Eligible under the Individuals with Disabilities Education Act (IDEA)

i. For the 2001-2002 school year only, the SBLC shall be granted the authority to waive the state's grade promotion policy for students with disabilities (excluding students with only a speech or language impairment).

B. Grade 8 - 4. ...

5. In accordance with the local Pupil Progression Plan, Option I students who scored at the Unsatisfactory achievement level on English Language Arts and/or Mathematics component(s) of the Grade 8 LEAP 21:

a. may earn Carnegie units in accordance with the policy regarding high school credit for elementary students as found in *Bulletin 741: Louisiana*;

b. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. The LEAP 21 shall be in lieu of a required credit examination. For these specially designed remediation courses, the LEA

shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

c. must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics.

6. All Option 2 students who scored at the Unsatisfactory achievement level on English Language Arts or Mathematics component of the Grade 8 LEAP 21:

a. shall take remedial courses in the component (English language arts and/or mathematics) of the Grade 8 LEAP 21 in which an *Unsatisfactory* achievement level was attained;

b. may earn a maximum of one Carnegie unit of remedial elective credit toward graduation provided the students pass a specially designed remediation elective and score at or above the *Basic* achievement level on the component of the 8th grade LEAP 21 that is retaken. For these specially designed remediation courses, the LEA shall record a grade of *Pass* or *Fail (P/F)* on the student's transcript;

c. must pass a high school remedial course in English Language Arts and/or Mathematics before enrolling in or earning Carnegie credit for English and/or Mathematics;

d. may earn Carnegie credit in other content areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171, amended IR 27:

Interested persons may submit comments until 4:30 p.m., August 9, 2001, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1566C Guidelines for Pupil Progression

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

There should be no increase in cost to state or local governmental units.

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

There is no effect on revenue collection of state or local governmental units.

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

The proposed Rule change extends the waiver for students with disabilities. The extension of the waiver for students with disabilities will allow these students to be promoted to grades 5 and 9 without meeting the mandates of the High Stakes Testing Policy as adopted by the Board of Elementary and Secondary Education.

Also, the Rules change relative to course sequencing requires that students promoted to 9th or 10th grade who scored at the Unsatisfactory achievement level on the 8th grade LEAP 21, be required to enroll in and pass a high school remedial

course before enrolling in a high school level course required for graduation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0106#063

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1929 Louisiana Accounting
and Uniform Governmental Handbook
(LAC 28:XLI.503, 903, and 1105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the State Board of Elementary and Secondary Education approved for advertisement amendments to Bulletin 1929, *Louisiana Accounting and Uniform Governmental Handbook*, promulgated by the Board of Elementary and Secondary Education in LR 20:1097 (October 1994). The changes incorporate new accounting codes and also revise criteria for distinguishing between a supply item and an equipment item.

**Title 28
EDUCATION**

**Part XLI. Bulletin 1929, Louisiana Accounting and
Uniform Governmental Handbook**

Chapter 5. Fund Classifications

§503. Governmental Funds

A. - A.2. ...

a. Federal Revenue

i. IASA Funds All revenue related to the Improving America's School Act (IASA) including all Parts.

ii. Special Education Funds All revenue relating to the Individuals with Disabilities Education Act (IDEA) and all related Parts.

iii. Other Federal Revenue Used to account for all other federal revenue including, for example, Adult Education, Vocational Education, and Headstart.

b. Other Revenue

i. School Food Service Funds All Revenue, federal, state, or local related to the Child Nutrition Programs including School Lunch, School Breakfast, After School Snacks, Catering, and Nutrition Education.

ii. Other Special Revenue All state and/or local revenue specifically dedicated for a purpose.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:463 (March 2000), amended LR 27:

**Chapter 9. Classification of Expenditures and Other
Uses of Funds**

§903. Function Codes

A. - D.1. ...

a. 3110 Food Service District Office Activities associated with the overall general administration of the Child Nutrition Programs. (School Breakfast, School Lunch, After School Snacks, Catering, and Nutrition Education)

b. 3111 Office of the District Supervisor Activities concerned with the directing and managing of the food service operations of all schools in the district. These activities include all personnel and materials in the district office.

c. 3112 Office of the Assistant Supervisor Activities performed to assist the district supervisor in managing all food service activities of the LEA.

d. 3120 Food Service Sites Activities concerned with food service operations for a school.

e. 3121 Office of the Site Manager Activities concerned with directing and managing the food service operations of a particular school.

f. 3122 Office of the Assistant Site Manager Activities performed by the assistant site manager concerned with directing and managing the food service operations of a particular school.

D.2. - F.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:474 (March 2000), amended LR 27:

§1105. Fund Equity Codes

A. - B.2. ...

a. It can be expected to serve its principal purpose for at least one year.

B.2.b. - B.2.c. ...

d. It is equal to or greater than \$1,000 per unit cost in value. Note: The unit cost of \$1,000 does not apply to any program funded with 8g monies.

3. Note: food and computer software must always be considered supplies.

4. School districts maintain rigorous accountability for their property whether it is capitalized or not. For accountability and internal control purposes, many items of property that do not meet the districts' capitalization threshold must be inventoried. Thus, the Department of Education recommends maintaining inventory and tracking items that do not meet the equipment criteria if needed for insurance purposes and/or the item has "street value." For instance, districts might inventory VCRs and computers for internal control purposes but not capitalize them due to their low cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:483 (March 2000), amended LR 27:

Interested persons may submit written comments until 4:30 p.m. August 9, 2001, to Ms. Nina Ford, Board Recorder, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 1929C Louisiana Accounting
and Uniform Governmental Handbook**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The estimated cost for the printing of this policy change in the *Louisiana Register* and the changes to the Louisiana Accounting and Uniform Governmental Handbook is approximately \$1,253. This cost will be absorbed by the Board of Elementary and Secondary Education's budget. There will be no costs for the implementation of the policy change to wither the local school districts or the Department of Education.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no net effect on revenue collections of any state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0106#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1934C Starting Points Preschool
Regulations (LAC 28:I.906.B)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement a revision to Bulletin 1934, *Starting Points Preschool Regulations*. Changes in the Rule include the deletion of the eligibility requirements of screening and parental participation; the addition of a minimal co-pay by parents; clarification that wages earned by parents must be at the federal minimum wage; the deletion of the requirement that the school site be located in low income areas as determined by the allocation process utilized by Title I Programs; clarification documentation needed to verify attendance in a job training/educational program; and revision of the monitoring schedules of teachers rated above average from every other year to every three years.

Title 28

EDUCATION

**Part XXI. Bulletin 1934C Starting Points
Preschool Regulations**

Chapter 3. Eligibility

§301. Eligibility Criteria

A. - A.1. . . .

2. residing in a family whose mean income is no more than 85 percent of the state median income for a family of the same size and complies with a co-pay based upon a sliding scale if applicable;

3. from families with both parents (or guardian) involved in one of the following:

a. attending a job training or education program full-time;

b. working full-time earning federal minimum wage; or

c. in job training part-time and working part-time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

§303. Definitions

Attending (a job training or educational program) Cto be present for training or educational programs as scheduled except when absent for such reasons as illness or family emergency.

Family Ca basic family unit consisting of one or more adults and children, whether or not related by blood or law, and residing in or being part of the same household. Children living under the care of individuals not legally responsible for their care are to be considered part of the family.

Income Cbasic income eligibility would be based on 85 percent of the state median income adjusted for family size. Earned income is used in determining eligibility.

Job Training or Educational Program Ca program of training to prepare a parent/guardian for gainful employment. At the completion of the training period, or reasonably thereafter, the participant could reasonably be expected to fully or substantially support the family. The training or educational program can be in any public or private licensed, accredited, or recognized educational program which normally requires enrollment or leads to receipt of a high school diploma or equivalency certificate, provided that the institution is legally authorized or recognized by the state. The parent/guardian must attend the training or educational program for at least 20 hours per week.

Part-Time (job training or educational program) Cpart-time status as determined by the institution.

Working Ca person who is employed at least 20 hours per week and earning federal minimum wage is considered as meeting the requirement to be classified as a working parent/guardian. In the event a parent/guardian becomes unemployed, a brief period (up to 30 days) may be used to accomplish a job search to obtain employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

§305. Screening

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), repealed LR 27:

§311. Job Training/ Educational Program Verification

A. If a parent or guardian is enrolled in a job training or educational program, *one* of the following forms of verification must be presented:

1. registration receipts and a copy of class schedule;
2. letter from institution indicating enrollment and the number of hours per week that are spent in the educational program.

B. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary, LR 25:254 (February 1999).

§503. Teacher Qualifications

A. Each classroom teacher must be certified in *one* of the following areas:

1. early childhood education;
2. nursery school education; or
3. kindergarten.
4. early intervention

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

§507. Program Location

A. Programs will be placed in every school system based upon the submission of a proposal and final approval by the Board of Elementary and Secondary Education (BESE). Programs will be placed in both public and approved nonpublic schools which comply with Brumfield-Dodd.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

§515. Monitoring

A. Program Coordinators from the Elementary Standards Section will evaluate each program annually to ensure that program regulations are being met.

B. The *Early Childhood Environment Rating Scale-Revised (ECERS-R)* will also be used to measure the effectiveness of the program. Each new teacher and those scoring below 5.0 on the ECERS-R will be monitored on a yearly basis until an average score of 5.0 is attained on the scale. All continuing sites serving ten or more Starting Points children that score above 5.0 on the ECERS-R, will be evaluated on a three year cycle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:254 (February 1999), amended LR 27:

Interested persons may submit written comments until 4:30 p.m., August 9, 2001, to Nina A. Ford, Board of

Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 1934C Starting Points
Preschool Regulations**

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

There should be no increase in cost to state or local governmental units.

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

School systems will collect a co-pay ranging from \$5 to \$20 per year from eligible parents where applicable. The total amount of revenue collected by the school systems is not able to be determined at this time.

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

The proposed Rule change will require parents to pay a minimal co-pay for student participation in the program. The co-pay will range from \$5 to \$20 per year based upon a sliding scale. The proposed Rule change may also change the number of students who are eligible to participate in this program due to the parent having to meet the federal minimum wage requirement. Prior to this Rule change, parents were required to work a minimum of 20 hours per week but the pay did not have to be at the federal minimum wage Level (\$5.15 per hour).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0106#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

NRC Radiography Requirements and Minor Corrections
(LAC 33:XV.Chapters 1, 3, 4, 5, 6, 7, 13, and 15)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.Chapters 1, 3, 4, 5, 6, 7, 13, and 15 (Log # RP027*).

This proposed Rule is identical to federal regulations found in 62 FR 28948, 5/28/97; 63 FR 37059, 7/9/98; 10 CFR 30.71.Schedule A and B, 34.3, 34.21, 34.23(b), 34.35(a), 34.31(a) and (b)(1), 34.41, 34.47(a)(3), 34.71, and 71.5(b), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic

impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule package consists of amendments affecting licenses for industrial radiography and radiation safety requirements for industrial radiographic operations. Added language includes procedures for exposure devices containing depleted uranium (DU) shielding, personnel monitoring control language to include electronic personal dosimeters, and new definitions to comply with current federal language. Amendments to various recordkeeping policies include the addition of records at temporary job sites and applicable field stations, the addition of records pertaining to the safety and training of radiographers and radiographer trainees, and changing some recordkeeping requirements from two years to three years. Also included in multiple chapters are additions of safety provisions and minor corrections to citations. To comply with current federal regulations the Appendices in Chapter 3 have been renamed as follows: Appendices A and B will be renamed Schedules A and B, respectively; Appendices C, D, and E will be renamed Appendices A, B, and C, respectively. The overall impact of this Rule will be a streamlining of industrial radiographic operations through the addition and modification of various safety and recordkeeping requirements. As a Nuclear Regulatory Commission Agreement State, in accordance with the NRC Agreement signed on May 1, 1967, Louisiana has accepted the responsibility for promulgating regulations that satisfy the compatibility requirement of Section 274 of the Atomic Energy Act of 1954, as amended. In certain areas defined by the NRC, state regulations must be the same as NRC regulations. The extent to which the regulation must be identical, whether in content or in effect, is determined by the NRC. All amendments in this package are consequently mandated by the NRC, to comply with recent NRC regulation changes. The basis and rationale for these amendments are to achieve compatibility with the regulations of the Nuclear Regulatory Commission in accordance with Section 274 of the Atomic Energy Act of 1954, as amended.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection

Chapter 1. General Provisions

§101. Scope

* * *

[See Prior Text in A]

B. Attention is directed to the fact that state regulation of source material, by-product material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission and to parts 40 and 150 of the U.S. Nuclear Regulatory Commission's regulations (10 CFR parts 40 and 150).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§116. Public Participation in Licensing Actions

* * *

[See Prior Text in A-A.2]

3. Determination of Fact-Finding Hearing Necessity. Comments from the public and involved local, parish, and state agencies will be reviewed. Any person, within 20 days of date of publication of the legal notice specified in Subsection A.2 of this Section, may request the administrative authority to call for a fact-finding hearing. The administrative authority will determine the necessity for a fact-finding hearing based on comments received and other available information. The request for the hearing must be in writing and shall contain the following information:

* * *

[See Prior Text in A.3.a-4.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2565 (November 2000), LR 27:

Chapter 3. Licensing of Radioactive Material
Subchapter A. Exemptions

§303. Source Material

A. Any person is exempt from these regulations to the extent that such person receives, possesses, uses, owns, or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is, by weight, less than 0.05 percent of the mixture, compound, solution, or alloy.

* * *

[See Prior Text in B-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§304. Radioactive Material Other Than Source Material

A. Exempt Concentrations

1. Except as provided in Subsection A.2 of this Section, any person is exempt from this Chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in Schedule A of this Chapter.

* * *

[See Prior Text in A.2]

B. Exempt Quantities

1. Except as provided in Subsection B.3 and 4 of this Section, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities, none of which exceeds the applicable quantity set forth in Schedule B of this Chapter.

[See Prior Text in B.2-3]

4. No person may, for purposes of commercial distribution, transfer radioactive material in excess of the individual quantities set forth in Schedule B of this Chapter knowing, or having reason to believe, that such quantities of radioactive material will be transferred to persons exempt under Subsection B of this Section or equivalent regulations of the U.S. Nuclear Regulatory Commission or any other agreement state, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 32.18 or by the administrative authority in accordance with LAC 33:XV.328.B, which license states that the radioactive material may be transferred by the licensee to persons exempt under Subsection B of this Section or the equivalent regulations of the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing by-product material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

[See Prior Text in C-C.1.h]

- i. each source contains no more than one exempt quantity set forth in Schedule B of this Chapter;
- ii. each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides, and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Schedule B of this Chapter, provided that the sum of such fractions shall not exceed unity; and
- iii. for purposes of this Section, 0.05 microcurie of americium-241 is considered an exempt quantity under Schedule B of this Chapter.

[See Prior Text in C.2-5.d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2091 (November 1998); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§322. General Licenses: Radioactive Material Other Than Source Material

[See Prior Text in A-D.3.h.ii]

- i. comply with the provisions of LAC 33:XV.485 and 486 for reporting radiation incidents, theft, or loss of licensed material. Such person shall be exempt from the other requirements of Chapters 4 and 10 of these regulations.

[See Prior Text in D.4-E.1.b]

2. Persons who own, receive, acquire, possess, or use luminous safety devices in accordance with the general license in LAC 33:XV.322.E.1 are exempt from the requirements of Chapters 4 and 10 of these regulations, except that they shall comply with the provisions of LAC 33:XV.485 and 486.

[See Prior Text in E.3-I.4]

5. Any person using radioactive material in accordance with the general license of Subsection I.1 of this Section is exempt from the requirements of Chapters 4 and 10 of these regulations with respect to radioactive material covered by that general license, except that such persons using the mock iodine-125 described in Subsection I.1 of this Section shall comply with the provisions of LAC 33:XV.431, 485, and 486.

[See Prior Text in J-J.2.b]

c. are exempt from the requirements of LAC 33:XV.Chapters 4 and 10, except that such persons shall comply with the provisions of LAC 33:XV.431, 485, and 486.

[See Prior Text in J.3-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:

Subchapter D. Specific Licenses

§324. Filing Application for Specific Licenses

[See Prior Text in A - G]

H. Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Appendix C (Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) must contain either:

[See Prior Text in H.1 - I.2]

3. the release fraction in the respirable size range would be lower than the release fraction shown in Appendix C due to the chemical or physical form of the material;

[See Prior Text in I.4]

5. facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Appendix C;

6. operating restrictions or procedures would prevent a release fraction as large as that shown in Appendix C; or

[See Prior Text in I.7 - K.Note¹]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:

§325. General Requirements for the Issuance of Specific Licenses

* * *

[See Prior Text in A-C.5.a]

b. persons authorized to possess no more than 1,000 times the quantity specified in Schedule B of this Chapter or combination of radioactive material listed therein as given in Schedule B, Note 1, of this Chapter;

* * *

[See Prior Text in C.5.c-D]

1. Each applicant for a specific license authorizing the possession and use of unsealed by-product material of half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in Schedule B of this Chapter shall submit a decommissioning funding plan as described in Subsection D.5 of this Section. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10^5 is greater than one (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in Appendix A of this Chapter.

* * *

[See Prior Text in D.2.3.b]

c. Each holder of a specific license issued before the effective date of these regulations and of a type described in Subsection D.2 of this Section shall submit, on or before July 20, 1992, a certification of financial assurance for decommissioning, or a decommissioning funding plan, as described in Subsection D.5 of this Section, in accordance with the criteria set forth in this Section.

* * *

[See Prior Text in D.3.d]

4. The following table lists required amounts of financial assurance for decommissioning by quantity of material.

<p>a. Greater than 10^4 but less than or equal to 10^5 times the applicable quantities of Schedule B of this Chapter in unsealed form. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by 10^4 is greater than 1 but R divided by 10^5 is less than or equal to 1.)</p>	\$750,000
---	-----------

<p>b. Greater than 10^3 but less than or equal to 10^4 times the applicable quantities of Schedule B of this Chapter in unsealed form. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by 10^3 is greater than 1 but R divided by 10^4 is less than or equal to 1.)</p>	\$150,000
---	-----------

<p>c. Greater than 10^{10} times the applicable quantities of Schedule B of this Chapter in sealed Sources or plated foils. (For a combination of isotopes, if R, as defined in Subsection D.1 of this Section, divided by 10^{10} is greater than 1.)</p>	\$75,000
---	----------

* * *

[See Prior Text in D.5 – D.6.a]

b. Financial Assurance Method, Insurance, or Other Guarantee Method. These methods guarantee that decommissioning costs will be paid should the licensee default. A financial assurance method may be in the form of a financial assurance bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix B of this Chapter. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this Section. Any financial assurance method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * *

[See Prior Text in D.6.b.i–7.d.iv]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:1140 (September 1997), amended LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000), LR 26:2568 (November 2000), LR 27:

§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material

* * *

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

c. The applicant will have an adequate internal inspection system, or other management control, to ensure that license provisions, regulations, and the applicant's operating and emergency procedures are followed by radiographers and radiographers' assistants; the inspection system shall include the performance of internal inspections not to exceed three months and the retention of records of such inspections for three consecutive years.

* * *

[See Prior Text in E.1.d]

e. The applicant who desires to conduct his or her own leak tests of sealed sources or exposure devices containing depleted uranium (DU) shielding has established adequate procedures to be followed in testing for possible leakage and contamination and submits to the Office of Environmental Services, Permits Division a description of such procedures including:

* * *

[See Prior Text in E.1.e.i-f]

g. The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals as radiographers remains valid.

h. The applicant submits the qualifications of the individual(s) designated as the radiation safety officer (RSO) as described in LAC 33:XV.575.E.

i. The applicant who intends to perform calibrations of survey instruments and/or alarming ratemeters must describe methods to be used and the experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in LAC 33:XV.543 and 577.

j. The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations.

k. The applicant identifies the locations where all records required by these regulations will be maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 27:

§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

[See Prior Text in A.1.a]

b. the applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in Schedule A of this Chapter, that reconcentration of the radioactive material in concentrations exceeding those in Schedule A is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

[See Prior Text in A.2-M.4.g]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:

§351. Financial Assurance Arrangements

[See Prior Text in A – D.2]

3. all others except licensees exempt in accordance with LAC 33:XV.Chapter 3, Appendix A; and

[See Prior Text in D.4 – E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2573 (November 2000), LR 27:

Schedule A Exempt Concentrations (See notes at end of Schedule A)			
Element (atomic number)	Isotope	Column I Gas Concentrations (mCi/ml) ¹	Column II Liquid and Solid Concentration (mCi/ml) ²

[See Prior Text in Current Appendix A, Antimony (51) – Erbium (68).Er-171]			
Europium (63)	Eu-152 (T/2=9.2 hrs)		6 x 10 ⁻⁴
	Eu-155		2 x 10 ⁻³

[See Prior Text in Current Appendix A, Fluorine (9)- Beta- and/or gamma-emitting radioactive material not listed above with half-life less than 3 years.]			

Footnotes to Schedule A

¹ Values are given only for those materials normally used as gases.

² µCi/gm for solids.

Note 1. Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A, the activity stated is that of the parent isotope and takes into account the daughters.

Note 2. For purposes of LAC 33:XV.304, where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the radioactivity concentration present in the product and the exempt radioactivity concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} = 1$$

Example:

[See Prior Text in Current Appendix A, Notes 3-4]

Schedule B	
By-Product Material	Microcuries
Antimony 122 (Sb 122)	100
Antimony 124 (Sb 124)	10
Antimony 125 (Sb 125)	10
Arsenic 73 (As 73)	100
Arsenic 74 (As 74)	10
Arsenic 76 (As 76)	10
Arsenic 77 (As 77)	100
Barium 131 (Ba 131)	10
Barium 133 (Ba 133)	10
Barium 140 (Ba 140)	10
Bismuth 210 (Bi 210)	1
Bromine 82 (Br 82)	10

Cadmium 109 (Cd 109)	10
Cadmium 115m (Cd 115m)	10
Cadmium 115 (Cd 115)	100
Calcium 45 (Ca 45)	10
Calcium 47 (Ca 47)	10
Carbon 14 (C 14)	100
Cerium 141 (Ce 141)	100
Cerium 143 (Ce 143)	100
Cerium 144 (Ce 144)	1
Cesium 131 (Cs 131)	1,000
Cesium 134m (Cs 134m)	100
Cesium 134 (Cs 134)	1
Cesium 135 (Cs 135)	10
Cesium 136 (Cs 136)	10
Cesium 137 (Cs 137)	10
Chlorine 36 (Cl 36)	10
Chlorine 38 (Cl 38)	10
Chromium 51 (Cr 51)	1,000
Cobalt 58m (Co 58m)	10
Cobalt 58 (Co 58)	10
Cobalt 60 (Co 60)	1
Copper 64 (Cu 64)	100
Dysprosium 165 (Dy 165)	10
Dysprosium 166 (Dy 166)	100
Erbium 169 (Er 169)	100
Erbium 171 (Er 171)	100
Europium 152 9.2 h (Eu 152 9.2 h)	100
Europium 152 13 yr (Eu 152 13 yr)	1
Europium 154 (Eu 154)	1
Europium 155 (Eu 155)	10
Fluorine 18 (F 18)	1,000
Gadolinium 153 (Gd 153)	10
Gadolinium 159 (Gd 159)	100
Gallium 72 (Ga 72)	10
Germanium 71 (Ga 71)	100
Gold 198 (Au 198)	100
Gold 199 (Au 199)	100
Hafnium 181 (Hf 181)	10
Holmium 166 (Ho 166)	100
Hydrogen 3 (H3)	1,000
Indium 113m (In 113m)	100
Indium 114m (In 114m)	10
Indium 115m (In 115m)	100
Indium 115 (In 115)	10
Iodine 125 (I 125)	1
Iodine 126 (I 126)	1
Iodine 129 (I 129)	0,1
Iodine 131 (I 131)	1
Iodine 132 (I 132)	10
Iodine 133 (I 133)	1
Iodine 134 (I 134)	10
Iodine 135 (I 135)	10
Iridium 192 (Ir 192)	10
Iridium 194 (Ir 194)	100
Iron 55 (Fe 55)	100
Iron 59 (Fe 59)	10
Krypton 85 (Kr 85)	100
Krypton 87 (Kr 87)	10
Lanthanum 140 (La 140)	10
Lutetium 177 (Lu 177)	100
Manganese 52 (Mn 52)	10
Manganese 54 (Mn 54)	10

Manganese 56 (Mn 56)	10
Mercury 197m (Hg 197m)	100
Mercury 197 (Hg 197)	100
Mercury 203 (Hg 203)	10
Molybdenum 99 (Mo 99)	100
Neodymium 147 (Nd 147)	100
Neodymium 149 (Nd 149)	100
Nickel 59 (Ni 59)	100
Nickel 63 (Ni 63)	10
Nickel 65 (Ni 65)	100
Niobium 93m (Nb 93m)	10
Niobium 95 (Nb 95)	10
Niobium 97 (Nb 97)	10
Osmium 185 (Os 185)	10
Osmium 191m (Os 191)	100
Osmium 191 (Os 191)	100
Osmium 193 (Os 193)	100
Palladium 103 (Pd 103)	100
Palladium 109 (Pd 109)	100
Phosphorus 32 (P 32)	10
Platinum 191 (Pt 191)	100
Platinum 193m (Pt 193m)	100
Platinum 193 (Pt 193)	100
Platinum 197m (Pt 197m)	100
Platinum 197 (Pt 197)	100
Polonium 210 (Po 210)	0.1
Potassium 42 (K 42)	10
Praseodymium 142 (Pr 142)	100
Praseodymium 143 (Pr 143)	100
Promethium 147 (Pm 147)	10
Promethium 149 (Pm 149)	10
Rhenium 186 (Re 186)	100
Rhenium 188 (Re 188)	100
Rhodium 103m (Rh 103m)	100
Rhodium 105 (Rh 105)	100
Rubidium 86 (R86)	10
Rubidium 87 (Rb87)	10
Ruthenium 97 (Ru 97)	100
Ruthenium 103 (Ru 103)	10
Ruthenium 105 (Ru 105)	10
Ruthenium 106 (Ru 106)	1
Samarium 151 (Sm 151)	10
Samarium 153 (Sm 153)	100
Scandium 46 (Sc 46)	10
Scandium 47 (Sc 47)	100
Scandium 48 (Sc 48)	10
Selenium 75 (Se 75)	10
Silicon 31 (Si 31)	100
Silver 105 (Ag 105)	10
Silver 110m (Ag 110m)	1
Silver 111 (Ag 111)	100
Sodium 24 (Na 24)	10
Strontium 85 (Sr 85)	10
Strontium 89 (Sr 89)	1
Strontium 90 (Sr 90)	0.1
Strontium 91 (Sr 91)	10
Strontium 92 (Sr 92)	10
Sulphur 35 (S 35)	100
Tantalum 182 (Ta 182)	10
Technetium 96 (Tc 96)	10
Technetium 97m (Tc 97m)	100
Technetium 97 (Tc 97)	100

Technetium 99m (Tc 99m)	100
Technetium 99 (Tc 99)	10
Tellurium 125 m (Te 125 m)	10
Tellurium 127m (Te 127m)	10
Tellurium 127 (Te 127)	100
Tellurium 129m (Te 129m)	10
Tellurium 129 (Te 129)	100
Tellurium 131m (Te 131m)	10
Tellurium 132 (Te 132)	10
Terbium 160 (Tb 160)	10
Thallium 200 (Tl 200)	100
Thallium 201 (Tl 201)	100
Thallium 202 (Tl 202)	100
Thallium 204 (Tl 204)	10
Thulium 170 (Tm 170)	10
Thulium 171 (Tm 171)	10
Tin 113 (Sn 113)	10
Tin 125 (Sn 125)	10
Tungsten 181 (W 181)	10

Tungsten 185 (W 185)	10
Tungsten 187 (W 187)	100
Vanadium 48 (V 48)	10
Xenon 131m (Xe 131m)	1,000
Xenon 133 (Xe 133)	100
Xenon 135 (Xe 135)	100
Ytterbium 175 (Yb 175)	100
Yttrium 90 (Y 90)	10
Yttrium 91 (Y91)	10
Yttrium 92 (Y92)	100
Yttrium 93 (Y93)	100
Zinc 65 (Zn 65)	10
Zinc 69m (Zn 69m)	100
Zinc 69 (Zn 69)	1,000
Zirconium 93 (Zr 93)	10
Zirconium 95 (Zr 95)	10
Zirconium 97 (Zr 97)	10
Any by-product material not listed above other than alpha-emitting by-product materials	0.1

Appendix A			
Financial Assurance Arrangements			
Recommended Amounts for Mitigation, Liability, and Decommissioning			
By Title	Clean up	Third Party and/or Off-Site Damages	Decommissioning
A. Licensees	As determined by the chosen method	As determined by the chosen method	For Category A as a whole by quantity of material (Q): 1. $Q > 10^{10}$ x Schedule B, Chapter 3, as sealed sources = \$75,000. 2. $(10^4 \times \text{Schedule B, Chapter 3, unsealed sources}) = Q > (10^3 \times \text{Schedule B, Chapter 3, unsealed sources})$, or 10-100 mCi source materials, dispersible form = \$150,000. 3. $(10^5 \times \text{Schedule B, Chapter 3, unsealed sources}) = Q > (10^4 \times \text{Schedule B, Chapter 3, unsealed sources}) = \$750,000$.
1. Manufacturing & Distribution			
2. Radiography			
3. Gauges			
4. Well Logging			
5. Nuclear Medicine			
6. Rad. Therp.			
7. Acad.			
8. R & D			
9. Instru. Calib.			
10. Irradiators			
11. Ind. other than gauges			
12. Consultants			
13. General Lic.			
14. Others not listed in category A			

<p>B. Low Quantity</p> <ol style="list-style-type: none"> 1. In Vitro 2. Gas Chromatograph 3. Greater than or Equal to 100 x to 1000 x Exempt Quantity 4. Unsealed, discrete alpha emitters, 10µCi total 5. Check sources of sufficient quantity to require leak testing 	<p>As determined by the chosen method</p>	<p>As determined by the chosen method</p>	<p>NA for this category.</p>
---	---	---	------------------------------

Chapter 4. Standards for Protection Against Radiation

Subchapter G. Precautionary Procedures

§453. Labeling Containers and Radiation Machines

A. The licensee or registrant shall ensure that each container of licensed or registered source of radiation bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES [OR 'NAME OF COMPANY']" OR "DANGER, RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES [OR 'NAME OF COMPANY']". The label shall also provide information such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment, to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

* * *

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

Subchapter J. Reports

§487. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Constraints or Limits

* * *

[See Prior Text in A-B.1.b]

c. the cause of the elevated exposures, dose rates, or concentrations;

d. corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints, generally applicable environmental standards, and associated license or registration conditions; and

e. information required by LAC 33:XV.547.E if the overexposure involves failure of safety components of radiography equipment.

* * *

[See Prior Text in B.2-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2579 (November 2000), LR 26:2771 (December 2000), LR 27:

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

§503. Definitions

As used in this Chapter, the following definitions apply:

Annual Refresher Safety Training Ca review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, new or revised regulations, and accidents or errors that have been observed, and should also provide opportunities for employees to ask safety questions.

Associated Equipment Equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures, that drives, guides, or comes in contact with the source (e.g., guide tube, control tube, control (drive) cable, removable source stop, "J" tube, and collimator when it is used as an exposure head).

* * *

[See Prior Text]

Certifying Entity Can independent certifying organization meeting the requirements in 10 CFR 34 appendix A, or an agreement state meeting the requirements in 10 CFR 34 appendix A, parts II and III.

* * *

[See Prior Text]

Control (Drive) Cable Cthe cable that is connected to the source assembly and used to drive the source to and from the exposure location.

Control Drive Mechanism Ca device that enables the source assembly to be moved to and from the exposure device.

Control Tube Ca protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

* * *

[See Prior Text]

Exposure Head Ca device that locates the gamma radiography sealed source in the selected working position. (An exposure head is also known as a source stop.)

*Field Station*Ca facility where licensed material may be stored or used and from which equipment is dispatched.

*Guide Tube (Projection Sheath)*Ca flexible or rigid tube (i.e., "J" tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

*Hands-On Experience*Cexperience in all of those areas considered to be directly involved in the radiography process.

*Independent Certifying Organization*Can independent organization that meets all of the criteria of Appendix A of this Chapter.

* * *

[See Prior Text]

*Lay-Barge Radiography*Cindustrial radiography performed on any water vessel used for laying pipe.

* * *

[See Prior Text]

*Offshore Platform Radiography*Cindustrial radiography conducted from a platform over a body of water.

* * *

[See Prior Text]

*Practical Examination*Ca demonstration through practical application of the safety rules and principles in industrial radiography, including use of all appropriate equipment and procedures.

*Radiation Safety Officer for Industrial Radiography*Can individual with the responsibility for the overall radiation safety program on behalf of the licensee and who meets the requirements of LAC 33:XV.573.E.

* * *

[See Prior Text]

*Radiographic Exposure Device*Can x-ray tube or any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed, from a shielded to unshielded position for purposes of making a radiographic exposure.

*Radiographic Operations*Call activities associated with the presence of radioactive sources in a radiographic exposure device during use of the device or transport (except when being transported by a common or contract transport), to include surveys to confirm the adequacy of boundaries, setting up equipment, and any activity inside restricted area boundaries.

* * *

[See Prior Text]

*S-Tube*Ca tube through which the radioactive source travels when inside a radiographic exposure device.

* * *

[See Prior Text]

*Source Assembly*Can assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

* * *

[See Prior Text]

*Underwater Radiography*Cindustrial radiography performed when the radiographic exposure device and/or related equipment are beneath the surface of the water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 26:2772 (December 2000), LR 27:

§505. Form of Records

A. Each record required by this Chapter must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:

§506-539. Reserved

§540. Limits on Levels of Radiation for Radiographic Source Changers and Storage Containers

A. The maximum exposure rate limits for storage containers and source changers are 2 millisieverts (200 millirem) per hour at any exterior surface and 0.1 millisieverts (10 millirem) per hour at 1 meter from any exterior surface with the sealed source in the shielded position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§541. Locking of Sources of Radiation

A. The maximum exposure rate limits for storage containers and source changers are 2 millisieverts (200 millirem) per hour at any exterior surface and 0.1 millisieverts (10 millirem) per hour at 1 meter from any exterior surface with the sealed source in the shielded position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§542. Storage and Transportation Precautions

A. Locked radiographic exposure devices, source changers, storage containers, and radiation machines shall be physically secured to prevent tampering or removal by

unauthorized personnel. The licensee shall store radioactive material in a manner that will minimize danger from explosion or fire.

B. The licensee may not use a source changer or a container to store radioactive material unless the source changer or container has securely attached to it a durable, legible, and clearly visible label as specified in LAC 33:XV.453. Radiographic exposure devices, source changers, or transport containers that contain radioactive material shall not be stored in residential locations. This requirement does not apply to storage of radioactive material in a vehicle in transit for use at temporary job sites, if the licensee complies with Subsection C of this Section, and if the vehicle does not constitute a permanent storage location as described in Subsection D of this Section.

C. If a vehicle is to be used for storage of radioactive material, a vehicle survey shall be performed after securing radioactive material in the vehicle and before transport to ensure that radiation levels do not exceed the limits specified in LAC 33:XV.421.A at the exterior surface of the vehicle.

1. The licensee shall lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

2. The licensee may not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied by appropriate shipping papers in accordance with LAC 33:XV.Chapter 15.

* * *

[See Prior Text in D-D.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§543. Radiation Survey Instruments

A. The licensee or registrant shall maintain sufficient calibrated and operable radiation survey instruments at each location where radioactive material is present to make physical radiation surveys as required by this Chapter and LAC 33:XV.430. Instrumentation required by this Section shall have a range such that 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour can be measured.

* * *

[See Prior Text in B-B.2]

3. at two points located approximately **a** and **b** of full-scale on each scale for linear scale instruments; at midrange of each decade, and at two points of at least one decade for logarithmic scale instruments; and at three points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour for digital instruments.

C. Records of these calibrations shall be maintained for three years after the calibration date for inspection by the department.

D. Each radiation survey instrument shall be checked with a radiation source at the beginning of each day of use and at the beginning of each work shift to ensure it is operating properly. Records of the checks shall be

maintained for three years. If equipment problems are found, the equipment must be removed from service until repaired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 27:

§544. Leak Testing, Repair, Tagging, Opening, Modification, Replacement, and Records of Receipt and Transfer of Sealed Sources

* * *

[See Prior Text in A-B]

C. The leak test shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of removable contamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed source storage position, or other appropriate measuring point, by a procedure which has been approved in accordance with LAC 33:XV.326.E.1.e. Records of leak test results shall be kept in units of microcuries (becquerels) and maintained for inspection by the department for three years.

* * *

[See Prior Text in D-E]

F. Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 0.005 microcuries (185 Bq) of radioactive material on the test sample and must be performed by a person specifically authorized by the administrative authority, U.S. Nuclear Regulatory Commission, or any other agreement state to perform the analysis. Should such testing reveal the presence of 0.005 microcuries (185 Bq) or more of removable DU contamination, the exposure device must be removed from use until an evaluation of the wear on the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while in storage and not in use. Before using or transferring such a device, however, the device must be tested for DU contamination if the interval of storage exceeded 12 months. A record of the DU leak test must be made in accordance with Subsection C of this Section.

G. Each licensee or registrant shall maintain records showing the receipts and transfers of sealed sources and devices using DU for shielding and retain each record for inspection by the department for three years. These records must include the date, the name of the individual making the record, radionuclide, number of becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

§545. Quarterly Inventory

A. Each licensee shall conduct a quarterly physical inventory to account for all sealed sources and licensed devices received or possessed under his or her license, including devices containing depleted uranium. The records of the inventories shall be maintained for inspection by the department for at least three consecutive years from the date of the inventory and shall include the quantities and kinds of radioactive material, the location of sealed sources and/or devices, the date of the inventory, the name of individual(s) performing the inventory, the manufacturer, the model number, and the serial number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

§546. Utilization Logs

A. Each licensee or registrant shall maintain current logs, which shall be kept available for inspection by the department for three consecutive years from the date of the recorded event, showing for each source of radiation the following information:

1. a unique identification describing the make, model, and serial number of each radiation machine, each radiographic exposure device, each transport or storage container in which the sealed source is located, and each sealed source;

2. the identity and signature of the radiographer to whom the source is assigned;

* * *

[See Prior Text in A.3-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

§547. Inspection and Maintenance of Radiographic Exposure Devices and Storage Containers

A. The licensee or registrant shall perform visual and operability checks on radiation machines, radiographic exposure devices, transport and storage containers, source changers, and associated equipment prior to each day's use, or work shift, to ensure that:

- 1. the equipment is in good condition;
- 2. the sources are adequately shielded; and
- 3. required labeling is present.

B. Each licensee or registrant shall have written procedures for and perform inspections at intervals not to exceed three months, or before first use thereafter, and routine maintenance of radiation machines, radiographic exposure devices, source changers, storage containers, and associated equipment to ensure proper functioning of components important to safety. All appropriate parts shall

be maintained in accordance with manufacturer's specifications. The licensee's inspection and maintenance program must include procedures to ensure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

C. Records of inspection and maintenance conducted in accordance with Subsections A and B of this Section shall be maintained for inspection by the department for three consecutive years from the date of the recorded event. The record of inspection must include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was done. If any inspection conducted in accordance with Subsections A and B of this Section reveals damage to components critical to radiation safety, the device shall be removed from service and labeled as defective until repairs have been made.

* * *

[See Prior Text in D-D.3]

E. The licensee or registrant shall include the following information in each report required by Subsection D of this Section and in each report of overexposure submitted under LAC 33:XV.487 that involves failure of safety components of radiography equipment:

* * *

[See Prior Text in E.1-7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

§548. Permanent Radiographic Installations

* * *

[See Prior Text in A-A.1]

2. the control device or alarm system as described in LAC 33:XV.436.A and B shall be tested for proper operation at the beginning of each day of equipment use. If a control device or alarm system is operating improperly, it shall be immediately labeled as defective and repaired before industrial radiographic operations are resumed. Records of these tests shall be maintained for inspection by the department for three consecutive years from the date of the event or until disposition is authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§573. Conducting Industrial Radiographic Operations

A. Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has, at a minimum, met the requirements of Subsection E of this

Section. The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

B. All radiographic operations conducted at locations of use authorized on the license must be conducted in a permanent radiographic installation, unless specifically authorized by the department.

C. A licensee may conduct lay-barge, offshore platform, or underwater radiography only if procedures have been approved by the department, the Nuclear Regulatory Commission, or another agreement state.

D. At temporary job sites each licensee or registrant shall provide, as a minimum, two-person crews. Such crews shall consist of at least two qualified radiographers, an approved instructor directly supervising a qualified radiographer trainee, or an approved instructor supervising a radiographer assistant.

E. A radiation safety officer (RSO) shall be designated for every industrial radiography license and certificate of registration, or license condition specifying such, issued by the department. The RSO's qualifications shall include:

1. possession of a high school diploma or certificate of high school equivalency based on the GED test;
2. completion of the training and testing requirements of LAC 33:XV.575; and
3. two years of documented radiation protection experience, including knowledge of industrial radiographic operations, with at least 40 hours of active participation in industrial radiographic operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:

§575. Training and Testing

* * *

[See Prior Text in A-A.6]

B. Each licensee or registrant shall maintain, for inspection by the department, until disposition is authorized by the department, the following records for each radiographer and radiographer trainee:

1. records of training and certification. The records must include radiographer certification documents and verification of certification status, copies of written tests, dates and results of oral tests and field examinations, and the names of individuals conducting and receiving the oral and field examinations; and

2. records of annual refresher safety training and semiannual inspections of job performance. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any noncompliance observed by the radiation safety officer or designee.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569

(October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:

§576. Operating and Emergency Procedures

A. The licensee's or registrant's operating and emergency procedures shall include instructions in at least the following:

* * *

[See Prior Text in A.1-4]

5. personnel monitoring and the use of personnel monitoring equipment, including steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off scale or an alarm ratemeter sounds unexpectedly;

* * *

[See Prior Text in A.6-8]

9. maintenance of records;

10. the daily inspection, maintenance, and operability checks of radiographic exposure devices, radiation machines, associated equipment, survey meters, and personnel monitoring devices; and

11. source recovery procedure if licensee will perform source recoveries.

B. Each licensee shall maintain a copy of current operating and emergency procedures until the department terminates the license. Superseded material must be retained for three years after the change is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:**

§577. Personnel Monitoring Control

A. No licensee or registrant shall permit an individual to act as a radiographer, instructor, or radiographer trainee unless, at all times during radiographic operations, each such individual wears a direct-reading pocket dosimeter, an alarm ratemeter, and either a film badge, an optically-stimulated luminescence dosimeter (OSL), or a thermoluminescent dosimeter (TLD), except that for permanent radiography facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarming ratemeter is not required.

B. Pocket dosimeters shall have a range of zero to at least 2 millisieverts (200 millirems) and shall be recharged at least daily or at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters. Pocket dosimeters, or electronic personal dosimeters, shall be checked for correct response to radiation at periods not to exceed one year. Acceptable dosimeters shall read within ± 20 percent of the true radiation exposure. Records of positive dosimeter response shall be maintained for three years by the licensee or registrant for department inspection.

C. Each film badge, TLD, or OSL shall be assigned to and worn by only one individual. Film badges must be replaced at periods not to exceed one month. After

replacement, each film badge, OSL, or TLD must be processed as soon as possible.

D. Direct reading dosimeters, such as electronic personal dosimeters or pocket dosimeters, shall be read and exposures recorded at least daily with use.

E. If an individual's pocket dosimeter is discharged beyond its range (i.e., goes "off-scale"), or an individual's electronic pocket dosimeter reads greater than 2 millisieverts (200 millirems) and the possibility of radiation exposure cannot be ruled out as the cause, industrial radiographic operations by that individual shall cease and the individual's film badge, OSL, or TLD shall be processed immediately. The individual shall not return to work with sources of radiation until a determination of the radiation exposure has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination must be recorded and maintained indefinitely or until the department authorizes their disposition.

F. Records of the pocket dosimeter readings shall be maintained for inspection by the department for three consecutive years. If the dosimeter readings were used to determine external radiation dose, the records shall be maintained indefinitely or until the department authorizes their disposition.

G. If a film badge, OSL, or TLD is lost or damaged, the worker shall cease work immediately until a replacement film badge, OSL, or TLD is provided and the exposure is calculated for the time period from issuance to loss or damage of the film badge, OSL, or TLD. The results of the calculated exposure and the time period for which the film badge, OSL, or TLD was lost or damaged must be recorded and maintained indefinitely or until the department authorizes their disposition.

* * *

[See Prior Text in H-H.1]

2. be set to give an alarm signal at the preset dose rate of 5 mSv/hr (500 millirems/hour);

3. require special means to change the preset alarm function; and

4. be calibrated at periods not to exceed one year for correct response to radiation: acceptable ratemeters must alarm within ± 20 percent of the true radiation dose rate. Records of calibrations will be maintained for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:

Subchapter C. Precautionary Procedures in Radiographic Operations

§585. Security

A. During each radiographic operation, a radiographer or instructor shall maintain continuous direct, visual surveillance of the operation to protect against unauthorized entry into a radiation area or high radiation area, as defined in LAC 33:XV.Chapter 1, except:

1. where the high radiation area is equipped with a control device or alarm system as described in LAC 33:XV.436.A; or

2. where the high radiation area is locked to protect against unauthorized or accidental entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§587. Radiation Surveys and Survey Records

* * *

[See Prior Text in A]

B. A physical radiation survey shall be made after each radiographic exposure utilizing radiation machines or sealed sources to determine that the machine is "off" or that the sealed source has been returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment. The entire circumference or perimeter of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall also include the entire length of the guide tube.

C. A physical radiation survey shall be made to determine that each sealed source is in its shielded position any time the source is exchanged and prior to securing the radiographic exposure device or storage container as specified in LAC 33:XV.541.

* * *

[See Prior Text in D]

E. Records shall be kept of the surveys required by Subsections C and D of this Section. Such records shall be maintained for inspection by the department for three consecutive years after completion of the survey. If the survey has been used to determine an individual's exposure, the records of the survey shall be maintained until the department authorizes their disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:

§588. Documents and Records Required at Temporary Job Sites and Applicable Field Stations

A. Each licensee or registrant conducting industrial radiography at a temporary job site or applicable field station shall have the following documents and records available at that job site or field station for inspection by the department:

* * *

[See Prior Text in A.1-4]

5. dosimeter records, from daily pocket dosimeters and/or electronic personal dosimeters, for the period of operation at the site as required by LAC 33:XV.577;

6. the latest instrument calibration and leak test records for specific devices and sealed sources in use at the site as required by LAC 33:XV.543 and 544. Acceptable records include tags or labels that are affixed to the device or survey meter;

7. a copy of the written confirmation letter issued by the department granting radiographer trainee status to any

radiographer trainee performing industrial radiography at the temporary job site;

8. records of equipment problems identified in daily checks of equipment as required in LAC 33:XV.547;

9. evidence of the latest calibration of alarming ratemeters and operability checks of dosimeters as required by LAC 33:XV.577;

10. the shipping papers for the transportation of radioactive materials as required by LAC 33:XV.1502; and

11. when operating under reciprocity in accordance with LAC 33:XV.390, a copy of the applicable state license or registration or Nuclear Regulatory Commission license authorizing the use of sources of radiation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2772 (December 2000), LR 27:

§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography

* * *

[See Prior Text in A-C]

D. No individual other than a radiographer, a radiographer assistant, or a radiographer trainee who is under the personal supervision of a radiographer instructor shall manipulate controls or operate equipment used in industrial radiographic operations. The radiographer's assistant or radiographer trainee shall also be under the personal supervision of a radiographer when using radiographic exposure devices, associated equipment, or a sealed source or while conducting radiation surveys required by LAC 33:XV.587 to determine that the sealed source has returned to its shielded position or the radiation machine is off after an exposure. The personal supervision must include:

1. the radiographer's physical presence at the site where the sources of radiation are being used;

2. the availability of the radiographer to give immediate assistance if required; and

3. the radiographer's direct observation of the assistant's performance of the operations referred to in this Section.

* * *

[See Prior Text in E-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:

Appendix B C Radiographer Certification

A. Requirements For Certification Programs. All certification programs must:

1. require applicants for certification to:

a. receive training in the topics set forth in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission regulations; and

b. satisfactorily complete a written examination covering these topics;

2. require applicants for certification to provide documentation that demonstrates that the applicant has:

a. received training in the topics set forth in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission regulations;

b. satisfactorily completed a minimum period of on-the-job training as specified in LAC 33:XV.575; and

c. received verification by a state licensee or registrant or a Nuclear Regulatory Commission licensee that the applicant has demonstrated the capability of independently working as a radiographer;

3. include procedures to ensure that all examination questions are protected from disclosure;

4. include procedures for denying an application and revoking, suspending, and reinstating a certification;

5. provide a certification period of not less than three years nor more than five years;

6. include procedures for renewing certifications and, if the procedures allow renewal without examination, require evidence of full-time employment and annual refresher training; and

7. provide a timely response to inquiries, by telephone or letter, from members of the public about an individual's certification status.

B. Requirements For Written Examinations. All examinations must:

1. be designed to test an individual's knowledge and understanding of the topics listed in Appendix A of this Chapter or equivalent Nuclear Regulatory Commission requirements;

2. be written in a multiple-choice format; and

3. have test items drawn from a question bank containing psychometrically valid questions based on the material in Appendix A of this Chapter.

Chapter 6. X-rays in the Healing Arts

§606. Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, or Computed Tomography X-Ray Systems

* * *

[See Prior Text in A-B.6.b]

i. used continuously for more than one week in the same location, e.g., a room or suite, shall meet the requirements of Subsection B.6.a of this Section; and

* * *

[See Prior Text in B.6.b.ii]

7. Operator Protection for Veterinary Systems and Panoramic Dental Systems. All stationary, mobile, or portable X-ray systems used for veterinary work or panoramic dental systems shall be provided with either a 6.5 foot (2 meters) high protective barrier for operator protection during exposures, or shall be provided with means to allow the operator to be at least 12 feet (3.7 meters) from the tube housing assembly during exposures.

* * *

[See Prior Text in C-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November

1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), LR 27:

Chapter 7. Use of Radionuclides in the Healing Arts

§728. Decay-in-Storage

A. A licensee shall hold radioactive material for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of LAC 33:XV.460 of these regulations if the licensee:

* * *

[See Prior Text in A.1-B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:

§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits For Imaging and Localization Studies

* * *

[See Prior Text in A-F2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter E. Records, Reports, Tests, and Inspections

§1333. Maintenance of Records, Reports, and Transfers

* * *

[See Prior Text in A-C]

D. Notwithstanding Subsections A-C of this Section, copies of records of the location and the quantity of radioactive wastes contained in the disposal site shall be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the parish in which the facility is located, the parish zoning board or land development and planning agency, the state governor, and other state, local, and federal governmental agencies as designated by the department at the time of license termination.

* * *

[See Prior Text in E-J.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2111 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2598 (November 2000), LR 27:

Chapter 15. Transportation of Radioactive Material §1502. Scope

* * *

[See Prior Text in A-C.4]

D. If U.S. DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. DOT specified in Subsection A of this Section to the same extent as if the shipment or transportation were subject to U.S. DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the U.S. DOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000), LR 26:2771 (December 2000), LR 27:

A public hearing will be held on July 26, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by RP027*. Such comments must be received no later than July 26, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of RP027*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0106#053

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

GOEA Policy Manual Revision C Family
Caregiver Support Program (LAC 4:VII.1245)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to amend the GOEA Policy Manual effective September 20, 2001. This Rule provides guidance to the aging network for use in implementing the provisions of the newly authorized National Family Caregiver Support Program under Title III, Part E of the Older Americans Act, as amended in 2000 (P.L. 106C501). The legislative authority and provisions of the National Family Caregiver Support Program became effective upon the signing of the Older Americans Act Amendments of 2000 by President Clinton on November 13, 2000. This new program provides an opportunity for the aging network to develop a service delivery system to respond to the needs of our nation's caregivers. The effect of the proposed Rule upon impact on family formation, stability, and autonomy as set forth in R.S. 39:321 is not known at this time. This Rule complies with R.S. 46:932, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as Amended (P. L. 106C501); and 42 U.S.C. 6001.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter E. Uniform Service Requirements

§1245. Family Caregiver Support Program

A. Purpose. The purpose of the Family Caregiver Support Program (hereafter referred to as "this program") is to provide multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

B. Definitions

Activities of Daily Living C includes eating, dressing, bathing, toileting, transferring in and out of bed/chair and walking

Child C an individual who is not more than 18 years of age.

Family Caregiver C an adult family member, or another individual, who provides uncompensated in-home and community care to an older individual who needs supportive services.

Grandparent or Older Individual Who Is a Relative Caregiver C a grandparent or step-grandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and

- a. lives with the child;
- b. is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and
- c. has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

Individual Counseling C services of a state licensed professional designed to increase the caregiver's capability to care for an individual. These services are meant to provide short term training or therapy to develop critical skills.

Persons providing this service must be licensed in the specific area in which training or consultation is being provided. The areas covered include, but shall not be limited to the following: social work, psychology, professional counseling, nursing, food and nutrition, occupational therapy, physical therapy, and speech pathology and audiology.

Mental Retardation and Related Developmental Disabilities C

a. a diagnosis of mental retardation. Mental retardation refers to significantly sub-average general intellectual function existing concurrently with deficits in adaptive behavior and manifested prior to age 22; or

b. a severe, chronic disability which is attributable to mental retardation, cerebral palsy, epilepsy or autism; or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment of services similar to those required for these persons; the disability:

- i. is manifested before the person reaches age 22;
- ii. is likely to continue indefinitely;
- iii. results in substantial functional limitations in three or more of the following areas of major life activity: self-care; understanding and use of language; learning; mobility; self-direction; capacity for independent living; economic self-sufficiency; and

iv. reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

Older Individual C an individual who is 60 years of age or older.

Personal Care C a service that provides personal assistance, stand-by assistance, supervision or cues for persons with the inability to perform one or more of the following activities of daily living: eating, dressing, bathing, toileting, transferring in and out of bed/chair or walking. All appropriate state licensing requirements must be met.

Qualifying Individual C the older individual or child receiving the care provided by the family caregiver or the grandparent or older individual who is a relative caregiver.

Respite Care C a service that provides temporary or periodic services for frail elderly or individuals with developmental disabilities on a short term basis in order to give a caregiver relief from the continuous care of the disabled family member. This care can be provided in the person's home by a trained worker or in a hospital, nursing home, adult day care, adult day health care or other licensed facility by a certified provider. The service must be provided for periods of at least 4 hours and not more than 72 hours per visit and shall be limited to a maximum of 96 hours per calendar year per qualifying individual. All appropriate state licensing requirements must be met.

*Sitter Service*Ca service in the home setting to ensure the health and safety of the client. It includes observing, conversing, providing food for the client, etc.

C. Support Services

1. Funds allocated under this program for services provided by an area agency on aging, or entity that such agency has contracted with, shall be expended as follows:

- a. information to caregivers about available services Cten percent;
- b. assistance to caregivers in gaining access to the services Cten percent;
- c. individual counseling, organization of support groups, and caregiver training to caregivers to assist the caregivers in making decisions and solving problems relating to their caregiving roles Ctwenty percent;
- d. respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities Cforty percent; and
- e. supplemental services (i.e., sitter service or personal care), to complement the care provided by caregivers Ctwenty percent.

2. Area agencies may use not more than 10 percent of the funds allocated under this program to provide the support services listed in Paragraph 1 of this Subsection to grandparents and older individuals who are relative caregivers.

3. The services provided under this program shall supplement, and not supplant, replace, or substitute for any services described in Paragraph 1 of this Subsection provided by GOEA or other state agency or unit of general purpose local government (including an area agency on aging) using federal, state, or local funds on or before November 12, 2000, which was one day before the date of enactment of Title III-E.

4. Direct payment to family caregivers shall not be allowed in this program.

D. Participant Eligibility and Priority Requirements

1. Eligibility Criteria

- a. Services shall be provided to:
 - i. family caregivers, as defined in Subsection B of this Section; and
 - ii. grandparents or older individuals who are relative caregivers, as defined in Subsection B of this Section.

b. Services specified in §1245.C.1.d and e of this manual, shall be provided to a family caregiver who is providing care to an older individual who is determined to be functionally impaired because the individual

- i. is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or
- ii. due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

2. An area agency on aging, or entity that such agency has contracted with, shall give priority for services to older individuals with greatest social and economic need, (with particular attention to low-income older individuals) and older individuals providing care and support to persons with mental retardation and related developmental disabilities.

E. Participant Selection Criteria. Initial participants in this program shall be selected using guidelines established by the Office of Elderly Affairs.

F. Coordination with Service Providers. Each area agency on aging shall coordinate the activities of the agency, or entity that such agency has contracted with, with the activities of other community agencies and voluntary organizations providing the types of services described in §1245.C.

G. Accountability

1. The area agency shall collect data and maintain records relating to this program in the format specified by GOEA. The area agency shall furnish the records to the Office of Elderly Affairs in the prescribed time frame. These records will enable the Office of Elderly Affairs to monitor program administration and compliance, and to evaluate and compare the effectiveness of this program.

2. The area agency shall prepare and submit to GOEA reports on the data and records required under Paragraph 1, including information on the services funded under this program.

3. The area agency on aging, or entity that such agency has contracted with shall comply with standards established by the state agency to assure the quality of services provided with assistance made available under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as amended (P. L. 106-501); and 42 U.S.C. 6001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 27:

A public hearing on this proposed Rule will be held on July 26, 2001 at 10 a.m. in the Mineral Board Auditorium, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, Louisiana. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Written comments may be addressed to Betty N. Johnson, HCBS Director, Governor's Office of Elderly Affairs, P.O. Box 80374, Baton Rouge, LA 70898-0374. Written comments will be accepted until 5 p.m. July 26, 2001.

P.F. "Pete" Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: GOEA Policy Manual Revision**

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

The total cost of the National Family Caregiver Support Program (NFCSP) will be \$2,021,117. Section 308(b) of the Older Americans Act allows the state agency on aging to use 5 percent of the total Title III allotment or \$500,000 to pay for not more than 75 percent of the cost for administration of the state plan. Assuming the funding is constant, GOEA estimates that it will use \$76,750 for administrative purposes. Title III-E funds will be used for state administrative costs in the same manner as other Title III funds.

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

The proposed Rule will not affect revenue collections of any state or local governmental units.

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

Area agencies on aging (AAAs) will be required to amend the current area plans to incorporate the new Title III-E program. The related costs will vary depending upon the number of subcontracts required to administer the program locally. Older Americans Act Title III-E funds may be used for area plan costs in the same manner as Title III-B and C funds and are subject to the same limitations. These funds may be used to pay for not more than 75 percent of the cost for administration of area plans. The cost of administration of area plans can be taken from any or all of these three sources.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Some NFCSP support services must be provided by licensed entities. AAAs that are not licensed will be required to award contracts in accordance with the state bid law. AAAs and/or successful bidders may need to employ additional staff to provide direct services to eligible participants.

P.F. Arceneaux, Jr.
Executive Director
0105#051

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
and
Department of Social Services
Office of the Secretary**

Community and Family Support System
Cash Subsidy (LAC 48:I.16103-16121)

The Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary propose to amend this Rule to implement Act 378 of the 1989 Regular Session of the Louisiana Legislature and Act 1011 of the 1991 Regular Session of the Louisiana Legislature which created the Community and Family Support System (R.S. 28:772). The original Rule was promulgated to implement the Cash Subsidy Program to provide a cash stipend to families of eligible children with severe and profound disabilities to offset the cost of keeping their children at home. This proposed amendment will implement changes in eligibility criteria, the application process, acceptance to the waiting list for services and payment procedures.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 11. Community and Family Support System

Chapter 161. Community and Family Support System

Cash Subsidy

§16103. Definitions

Agency the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) which shall administer the cash subsidy program for the exceptionalities of developmental delay for children under

the age of 9, autism, severe mental retardation, profound mental retardation, deaf/blind, traumatic brain injury, multi-handicapped and other health impaired or, the Office of Mental Health (OMH), which shall administer the cash subsidy program for the exceptionality, emotional/behavioral disorder.

Appropriate Documentation for Exceptionalities Served by the OCDD the most recent report, current within a year, which demonstrates parental participation with the Louisiana State Department of Education in development of specialized educational services and/or authorization of specialized educational settings for children with special needs. No evaluation or assessment can be accepted into consideration for eligibility determination unless incorporated into the report of exceptionality generated through the local school system. Documentation of any kind that is not current within a year can be accepted into consideration for eligibility determination. Appropriate documentation includes: the Department of Education 1508 Evaluation (for infants and toddlers, this may be called a Multidisciplinary Evaluation for Part H Services); the Individualized Education Plan (IEP); an approved home study plan; or, the Individual Family Service Plan (IFSP).

Appropriate Documentation for the Exceptionality Served by the OMHC that documentation referenced above; or, evidence of an Interagency Service Coordination Process; or, a certification from a licensed mental health professional that the child meets the Department of Education's criteria for emotional/behavioral disorder.

Cash Subsidy a monetary payment to eligible families of children with severe or profound developmental disabilities to offset the costs of keeping their child at home.

Child an individual under the age of 18.

Developmental Disability for a Person Age 5 and Older a severe, chronic disability which:

1. is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. is manifested before the person attains age 22;
3. is likely to continue indefinitely;
4. results in substantial functional limitations in three or more of the following areas of major life activity: self care, receptive language, expressive language, learning, mobility, self-direction, and capacity for independent living; and
5. reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of life-long or extended duration and are individually planned and coordinated.

Licensed Mental Health Professional a person credentialed to provide mental health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians (psychiatrists), psychologists, social workers, counselors, nurse practitioners, etc.

Qualifying Exceptionality only the following exceptionalities identified through the Department of Education's 1508 Evaluation Process may be considered for the cash subsidy from the OCDD: autism, deaf/blind, profound mental retardation, severe mental retardation, multi-handicapped, orthopedic handicap, health impaired, traumatic brain injury and developmentally delayed for

children under the age of 9; other exceptionalities listed through that process are not eligible for participation in the cash subsidy program except that the exceptionality, emotional/behavioral disorder may be considered for the cash subsidy from the OMH.

Responsible Care Giver Ca child's natural or adoptive mother or father or the person who is responsible for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

§16105. Application Process

A. Applications for cash subsidy will be accepted by mail only; the responsible care giver shall be responsible for completing the application and for timely submission of appropriate documentation of a qualifying exceptionality.

B. To be deemed complete, the documentation listed in §16103 must accompany the application for the cash subsidy and the application must be signed by the responsible care giver and received by the appropriate program office through the mail.

C. Only when deemed complete will applications be placed on the waiting list for eligibility determination. Applications will be maintained on the waiting list only in the region in which the applicant lives; no child may be placed on a waiting list or receive a cash subsidy from more than one region or program office.

D. Responsible care givers will receive timely confirmation of the date of receipt of the initial completed application and of their date of application on the waiting list for eligibility determination, and annually thereafter.

E. There shall be no closing date for accepting applications; a responsible care giver may submit a new application at any time an application or cash subsidy is terminated for any reason other than exceeding the eligible age for participation in the cash subsidy program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

§16107. Determining Children Eligible for the Cash Subsidy

A. In all cases, the exceptionality reported on the most current, current within a year, appropriate documentation shall be used to make a determination of eligibility for the cash subsidy program.

B. Evaluations not reported through the Department of Education's 1508 Process will not be accepted for consideration for exceptionalities served by the Office for Citizens with Developmental Disabilities; such evaluations shall be considered if/when reported through that process.

C. Children must be involved in an approved educational setting to be eligible for the cash subsidy; such settings may include home schooling and other educational arrangements which have the approval of the local educational agency.

D. Children must meet the criteria for developmental disability and severity of exceptionality, as appropriate, to be eligible for the cash subsidy, except that children under the

age of 5 who meet the severity criteria will be considered to be developmentally disabled.

E. If a child is found to have a developmental disability and is classified with the following qualifying primary or secondary exceptionalities, the child is eligible for the cash subsidy: autism, deaf-blind, profoundly mentally handicapped, severely mentally handicapped, and multi-handicapped.

F. If a child is found to have a developmental disability and is classified with the following primary or secondary exceptionalities, the child shall be screened to determine whether they meet the severity criteria specific to their exceptionality: Developmental delay for children to age 9, emotional/behavioral disorder (OMH only), orthopedically handicapped, health impaired, and traumatic brain injury. Only children who meet the established criteria for severity of exceptionality shall be eligible to receive the cash subsidy.

G. Children who are adopted are eligible for the cash subsidy, including families who are receiving a specialized adoption subsidy; families who have more than one child who meets the eligibility criteria will be eligible for the cash subsidy amount for each child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

§16109. Children Ineligible for the Cash Subsidy

A. These children are not eligible for the cash subsidy: children living in out-of-home settings, such as children who live in foster care or specialized foster care settings; children living and/or attending schools outside the state of Louisiana; children in residence at the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired.

B. Any removal of the cash subsidy recipient from the home of the responsible care giver that exceeds 30 days may be considered an out-of-home placement, except that acute care hospitalization does not disqualify a child from receiving the cash subsidy and psychiatric hospitalizations of up to 90 days are not automatically considered out-of-home placements. With appropriate documentation, the responsible regional program office shall make an individual assessment of the continuation of the cash subsidy in light of family situation and circumstances.

C. It will be the responsibility of the responsible care giver to notify the regional program office when a child is removed from the home; failure to notify the responsible regional program office of such removal shall be potential grounds for termination of the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

§16111. Eligibility Determination

A. The OCDD Regional Offices and the OMH shall be responsible for determination of eligibility of all applicants for the cash subsidy for which they have responsibility.

B. An initial determination for eligibility for the cash subsidy will be made at the time that a slot becomes

available; if receiving the cash subsidy, an annual determination of eligibility shall be made for the duration of eligibility for the cash subsidy.

C. At any time a responsible care giver cannot provide adequate and appropriate documentation of a qualifying exceptionality, the responsible care giver may request the local school agency to provide an alternative or re-evaluation of the child's exceptionality.

1. If the request for re-evaluation occurs at the point of initial determination of eligibility, the eligibility determination process will be held open for the period of re-evaluation, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will begin in the month that the next slot becomes available.

2. If the request for re-evaluation occurs at the point of annual determination of eligibility, the cash subsidy will be terminated until the re-evaluation becomes available, plus 10 working days. If the child can then be determined to be eligible, the cash subsidy will resume in the month when the determination is made.

D. The OCDD Central Office shall be responsible to maintain a centralized waiting list of all cash subsidy applicants to the OCDD throughout the state according to their date of application. The OCDD, in concert with the OMH, shall be responsible to ensure that applicants for the cash subsidy program administered by the OMH are not receiving the cash subsidy from the OCDD.

E. There shall be no financial criteria for eligibility for the cash subsidy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

§16113. Payment Guidelines

A. The amount of the cash subsidy shall be \$258 monthly to families of eligible children with severe and profound disabilities to off-set the cost of keeping their child at home; families will not be required to document how the subsidy is used.

B. The termination date for a child attaining age 18 shall be the first of the month following that birthday.

C. If for any reason a recipient receives excess payment, repayment of that amount will be requested. Failure to cooperate with repayment will be referred to DHH for recoupment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

§16115. Terminations

A. Reasons for termination may include the following: family moves out of state; family requests termination of cash subsidy payment; child is placed out of the home or attends school away from the home or in another state; death of the child; judicial removal of the child from the home; fraud; theft; termination or limitation of funding of the program; failure to comply with the provisions of the individual agreement or the cash subsidy program including the requirement to maintain quarterly contact with the office

administering the cash subsidy; child's exceptionality no longer meets eligibility criteria; child attains age 18; and, responsible care giver fails to maintain the child in an approved educational program whether on-site or in-home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

' 16117. Ongoing Monitoring

A. The responsible care giver is responsible to maintain contact with the regional program office staff in the area in which the family resides at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and cash subsidy program are being met. Licensed case management programs, if available to the cash subsidy recipient, shall be responsible for this quarterly contact and for timely documentation of the contact to the regional program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

§16119. Appeals

A. All persons receiving an eligibility determination and/or cash subsidy shall have access to the Department of Health and Hospitals= appeal process and shall be informed of their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a cash subsidy for any reason other than exceeding the eligible age for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

§16121. Program Evaluation

A. An annual external evaluation based on consumer satisfaction with the program and performance may be completed by the responsible program office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:772.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 27:

As described in R.S. 49:472, this proposed Rule will have a positive effect on the stability, functioning, behavior and personal responsibility of recipient families and children, as well as the earnings and budget of such families and children with severe/profound levels of exceptionalities through the award of a cash subsidy to assist families with the extraordinary expenses of maintaining their child at home. It will have no effect on the authority and rights of parents regarding supervision and education of their children. In addition, the proposed Rule has no effect on the ability of local governments to perform its function.

David W. Hood
Secretary

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

**RULE TITLE: Community and Family Support System
Cash Subsidy**

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

There are no estimated programmatic costs (savings) to state or local governmental units because this program has an established number of slots based on legislative appropriation for the eligible population. The estimated administrative costs of \$1,000 are limited to the projected expenditures for the publication of this Notice of Intent and subsequent Rule in the *Louisiana Register*.

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

There is no estimated effect on revenue collections of state or local governmental units because this program does not generate revenues.

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

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups. The eligibility criteria of age and the determination of a severe and profound disability for this program remains unchanged by the addition of another category of exceptionality.

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

There is no effect on competition and employment as this Program serves persons from birth to 18 years of age.

Raymond A. Jetson
Assistant Secretary
0106#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Durable Medical Equipment
Ostomy Supplies
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously reimbursed certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at either 80 percent of the Medicare Fee Schedule, 80 percent of the manufacturer's suggested retail price (MSRP) or billed charges, whichever was the lesser amount. As a result of a budgetary shortfall, the reimbursement for these durable medical equipment items was reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the MSRP or billed charges,

whichever was the lesser amount (*Louisiana Register*, Volume 27, Number 1). In order to assure access to participating providers of ostomy services, the bureau increased the reimbursement for ostomy supplies identified by specific HCPC codes to either 80 percent of the Medicare Fee Schedule, 80 percent of the MSRP or billed charges, whichever is the lesser amount (*Louisiana Register*, Volume 27, Number 4). If an item is not available at 80 percent of the Medicare Fee Schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community. The bureau now proposes to adopt a Rule to continue the provisions contained in the April 6, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972. Recipients will be assured access to participating providers of these medically necessary supplies and services.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for ostomy supplies identified by specific Health Care Financing Administration Common Procedure Codes. The reimbursement is increased to 80 percent of the Medicare Fee Schedule, 80 percent of the manufacturer's suggested retail price (MSRP) or billed charges, whichever is the lesser amount, for the following HCPC codes:

Ostomy Supplies
A4360-A4421
A5051-A5149
K0137-K0139
K0278-K0280
K0421-K0437

If an item is not available at 80 percent of the Medicare Fee Schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

**RULE TITLE: Durable Medical Equipment C Ostomy
Supplies C Reimbursement Increase**

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$4,533 for SFY 2000-01, \$19,827 for SFY 2001-02, and \$20,422 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$10,741 for SFY 2000-01, \$47,067 for SFY 2001-02, and \$48,479 for SFY 2002-03.

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

Implementation of this proposed Rule will increase payments to Durable Medical Equipment providers of ostomy supplies by approximately \$15,154 for SFY 2000-01, \$66,894 for SFY 2001-02, and \$68,901 for SFY 2002-03.

This proposed Rule will protect the health and well being of Medicaid recipients by ensuring access to participating providers of these medically necessary supplies and services.

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

There is no known effect on competition and employment.

Ben A. Bearden
Director
0106#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Inpatient Hospital Services
Reimbursement Methodology
Well Baby Care

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). Under the prospective reimbursement methodology, five general peer groups for hospitals and three peer groups for specialty hospital services were established for the reimbursement of inpatient hospital services. In addition, peer groups were established

for the reimbursement of the following high intensity inpatient services: neonatal intensive care, pediatric intensive care, burn care and transplants.

Four levels of neonatal intensive care based on severity of illness and intensity of service are recognized under the current reimbursement methodology. Level 1 (nursery boarder) is a separate prospective per diem rate developed for infants who remain in the hospital nursery after the mother is discharged. The principal cost of the birth is included with the payment for the mother's stay at the general peer group per diem rate. The nursery boarder rate is intended to cover incidental costs associated with an infant's short-term stay in the nursery following the mother's discharge. In order to ensure continuity of access to hospital services for deliveries, the bureau established a separate prospective per diem rate for services rendered to infants who are discharged at the same time that the mother is discharged (*Louisiana Register*, Volume 27, Number 4).

The bureau now proposes to adopt a Rule to continue the provisions contained in the April 10, 2001 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a separate prospective per diem rate for well baby care rendered to infants who are discharged at the same time that the mother is discharged. The separate per diem rate for well baby care shall be available to private hospitals that perform more than 1500 Medicaid deliveries per year. The per diem rate for well baby care shall be the lesser of actual costs as documented on the last finalized cost report or the rate for a nursery boarder.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, July 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

**RULE TITLE: Inpatient Hospital
Services C Reimbursement Methodology C Well Baby
Care**

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$80,462 for SFY 2000-01, \$377,956 for SFY 2001-02, and

\$389,295 for SFY 2002-03. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2000-2001 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$192,021 for SFY 2000-01, \$897,198 for SFY 2001-02, and \$924,114 for SFY 2002-03.

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

Implementation of this proposed Rule will increase payments to inpatient hospitals that provide well baby care by approximately \$272,363 for SFY 2000-01, \$1,275,154 for SFY 2001-02, and \$1,313,409 for SFY 2002-03. This proposed Rule will protect the health and well-being of Medicaid eligible mothers and infants by ensuring the continuity of access to hospital services for deliveries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0106#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation
Pipeline Division**

Pipeline Safety/Hazardous Liquids
(LAC 33:V.Chapters 301 and 304)

The Louisiana Office of Conservation proposes to amend LAC 33:V.30101 et seq. in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These proposed Rules amend the minimum pipeline safety requirements for hazardous liquids pipelines and add new requirements for operator qualification of individuals performing covered tasks on a pipeline facility (LAC 33:V.30261).

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

Subchapter A. General

§30103. Applicability

A. - B.2. ...

3. transportation through the following low-stress pipelines:

a. an offshore pipeline or pipeline segment that:

i. does not transport HVL;

ii. is located in a rural area; and

iii. is located outside a waterway currently used

for commercial navigation;

b. a pipeline subject to safety regulations of the U.S. Coast Guard; or

c. a pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation;

B.4 - 5. ...

6. transportation of a hazardous liquid or carbon dioxide in Outer Continental Shelf pipelines which are located upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator;

B.7 - 8b. ...

C. Breakout tanks subject to this part must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails. Anhydrous ammonia breakout tanks need not comply with §§30189.B, 30202.B, 30215.C, 30239.B and E, 30287.C and D, and 30291.B and C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (April 1994), LR 21:814 (August 1995), LR 27:

§30105. Definitions

A. As used in this Chapter:

Abandoned C permanently removed from service.

Computation Pipeline Monitoring (CPM) Ca software-based monitoring tool that alerts the pipeline dispatcher of a possible pipeline operation anomaly that may be indicative of a commodity release.

Exposed Pipeline Ca pipeline where the top of the pipe is above the seabed in water less than 15 feet (4.6 meters), as measured from the mean low water.

Gulf of Mexico and Its Inlets C the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (excluding rivers, tidal marshes, lakes and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters) deep, as measured from the mean low water.

Hazard to Navigation C for the purpose of this Chapter, a pipeline where the top of the pipe is less than 12 inches (305 millimeters) below the seabed in water less than 15 feet (4.6 meters) deep, as measured from the mean low water.

Outer Continental Shelf C all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Specified Minimum Yield Strength C the minimum yield strength, expressed in pounds per square inch (p.s.i.) (kPa) gauge, prescribed by the specification under which the

material is purchased from the material is purchased from the manufacturer.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 27:

§30107. Matter Incorporated by Reference

A. - B.5. ...

6. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

7. National Fire Protection Association (NFPA), 11 Tracy Drive, Avon, MA 02322.

C. The full titles of publications incorporated by reference wholly or partially in this Part are as follows. Numbers in parentheses indicate applicable editions.

C.1. ...

2. American Petroleum Institute (API).

a. API 1130 *Computational Pipeline Monitoring* (1st edition, 1995)

b. API 510 *Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration* (8th edition, June 1997)

c. API Publication 2026 *Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service* (2nd edition, April 1998)

d. API Recommended Practice 651 *Cathodic Protection of Aboveground Petroleum Storage Tanks* (2nd edition, December 1997)

e. API Recommended Practice 652 *Lining of Aboveground Petroleum Storage Tank Bottoms* (2nd edition, December 1997)

f. API Recommended Practice 2003 *Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents* (6th edition, December 1998)

g. API Recommended Practice 2350 *Overfill Protection for Storage Tanks in Petroleum Facilities* (2nd edition, January 1996)

h. API Specification 5L *Specification for Line Pipe* (41st edition, 1995)

i. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21st edition, 1994)

j. API Specification 12F *Specification for Shop Welded Tanks for Storage of Production Liquids* (11th edition, November 1994)

k. API Standard 1104 *Welding Pipelines and Related Facilities* (18th edition, 1994)

l. API Standard 620 *Design and Construction of Large, Welded, Low-Pressure Storage Tanks* (9th edition, February 1996, Including Addenda 1 and 2).

m. API Standard 650 *Welded Steel Tanks for Oil Storage* (9th edition, July 1993, Including Addenda 1 and 2);

n. API Standard 653 *Tank Inspection, Repair Alteration, and Reconstruction* (2nd edition, December 1995, including Addenda 1 and 2)

o. API Standard 2000 *Venting Atmospheric and Low-Pressure Storage Tanks* (4th edition, September 1992);

p. API Standard 2510 *Design and Construction of LPG Installations* (7th edition, May 1995)

C.3. - C.3.e. ...

f. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualifications* (1995 edition with 1995 Addenda)

C.4. - C.4.b. ...

5. American Society for Testing and Materials (ASTM)

a. ASTM Designation A 53 *Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless* (A 53-96)

b. ASTM Designation: A 106 *Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service* (A 106-95)

C.5.c. - f. ...

g. ASTM Designation: A 691 *Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures* (A 691-93)

h. National Fire Protection Association (NFPA): *ANSI/NFPA 30 Flammable and Combustible Liquids Code*. (1996)

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (July 1998), LR 27:

§30114. Outer Continental Shelf Pipelines

A. Operators of transportation pipelines on the Outer Continental Shelf must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic maintained near the transfer point. If a transfer point is located subsea, the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to RSPA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the Regional Director and the MMS Regional Supervisor will make a joint determination of the transfer point.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

Subchapter B. Reporting Accidents and Safety-Related Conditions

§30125. Reporting Accidents

A. An accident report is required for each failure in a pipeline system subject to this Part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

1. explosion or fire not intentionally set by the operator;

2. loss of 50 or more barrels (8 or more cubic meters) of hazardous liquid or carbon dioxide;

3. escape to the atmosphere of more than five barrels (0.8 cubic meters) a day of highly volatile liquids;

A.4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 21:816 (August 1995), LR 27:

§30133. Reporting Safety-Related Conditions

A. - A.6. ...

B. A report is not required for any safety-related condition that:

1. exist on a pipeline that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway, or that occur offshore, or at on-shore locations where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water;

B.2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), LS 27:

§30147. Abandoned Underwater Facilities Report

A. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility.

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at [703] 317-3073. A digital data format is preferred, but a hard copy submissions are acceptable if they comply with the NPMS Standards. In addition to the NPMS required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or email to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax [202] 366-4566; email, roger.little@rspa.dot.gov. The information in the report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed before April 10, 2001. Operators may submit reports by mail, fax, email to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128,

400 Seventh Street, SW, Washington DC 20590; fax [202] 366-4566; email, roger.little@rspa.dot.gov . The information in the report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

Subchapter C. Design Requirements

§30161. Internal Design Pressure

A. Internal design pressure for the pipe in a pipeline is determined in accordance with the following formula:

$$P = (2 St/D) \times E \times F$$

P = internal design pressure in pounds per square inch (p.s.i.) (kPa) gauge.

S = yield strength in pounds per square inch (p.s.i.) (kPa) gauge determined in accordance with §30161.B.

t = nominal wall thickness of the pipe in inches (millimeters). If this is unknown, it is determined in accordance with §30161.C.

D = outside diameter of the pipe in inches (millimeters).

E = seam joint factor determined in accordance with §30161.E.

F = a design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located offshore or on a platform in inland navigable waters, and 0.54 is used for pipe that has been subjected to cold expansion to meet the specified minimum yield strength and is subsequently heated, other than by welding or stress relieving as a part of welding, to a temperature higher than 900° F (482° C) for any period of time or over 600° F (316° C) for more than one hour.

B. The yield strength to be used in determining the internal design pressure under §30161.A is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength to be used in the design formula is one of the following:

1. the yield strength determined by performing all of the tensile tests of API Specification 5L on randomly selected specimens with the following number of tests:

Pipeline Size	Number of Tests
Less than 168.3 mm (6 5/8 in.) nominal outside diameter (168 mm)	One test for each 200 lengths
168.3 through 323.8 mm (6 5/8 through 12 3/4 in.) nominal outside diameter (168 mm through 324 mm)	One test for each 100 lengths
Larger than 323.8 mm (12 3/4 in.) nominal outside diameter 12 3/4 in (324 mm)	One test for each 50 lengths

2. If the average yield-tensile ratio exceeds 0.85, the yield strength shall be taken as 165,474 kPa (24,000 psi). If the average yield tensile ratio is 0.85 or less, the yield strength of the pipe is taken as the lower of the following:

a. eighty percent of the average yield strength determined by the tensile tests;

b. the lowest yield strength determined by the tensile tests.

3. If the pipe is not tensile tested as provided in Subsection B, the yield strength shall be taken as 165,474 kPa (24,000 psi).

C. If the nominal wall thickness to be used in determining internal design pressure under §30161.A is not

known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. However, if the pipe is of uniform grade, size and thickness, only 10 individual lengths or 5 percent of all lengths, whichever is greater, need be measured. The thickness of the lengths that are not measured must be verified by applying a gauge set to the minimum thickness found by the measurement. The nominal wall thickness to be used is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 508 mm (20 in.) nominal outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 508 mm (20 in.) or more in nominal outside diameter.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (April 1994), LR 21:817 (August 1995), LR 27:

§30169. New Pipe

A. - A.2. ...

3. Each length of pipe with a nominal outside diameter of 4 1/2 in. (114.3 mm) or more must be marked on the pipe or pipe coating with the specification to which it was made, the specified minimum yield strength or grade, and the pipe size. The marking must be applied in a manner that does not damage the pipe or pipe coating and must remain visible until the pipe is installed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:

§30177. Passage of Internal Inspection Devices

A. - B.5. ...

6. offshore pipelines, other than main lines 19 inches (254 mm) or greater in nominal diameter, that transport liquids to onshore facilities; and

B.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:

§30189. Above Ground Breakout Tanks

A. Each aboveground breakout tank must be designed and constructed to withstand the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads.

B. For aboveground breakout tanks first placed in service after October 2, 2000, compliance with paragraph A. of this section requires one of the following.

1. Shop-fabricated, vertical, cylindrical, closed top, welded steel tanks with nominal capacities of 90 to 750 barrels (14.3 to 119.2 m³) and with internal vapor space pressures that are approximately atmospheric must be designed and constructed in accordance with API Specification 12F.

2. Welded, low-pressure (i.e., internal vapor space pressure not greater than 15 psig (103.4 kPa)), carbon steel tanks that have wall shapes that can be generated by a single

vertical axis of revolution must be designed and constructed in accordance with API Standard 620.

3. Vertical, cylindrical, welded steel tanks with internal pressures at the tank top approximately atmospheric pressures (i.e., internal vapor space pressures not greater than 2.5 psig (17.2 kPa), or not greater than the pressure developed by the weight of the tank roof) must be designed and constructed in accordance with API Standard 650.

4. High pressure steel tanks (i.e., internal gas or vapor space pressures greater than 15 psig (103.4 kPa)) with a nominal capacity of 2000 gallons (7571 liters) or more of liquefied petroleum gas (LPG) must be designed and constructed in accordance with AOI Standard 2510.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30191. CPM Leak Detection

A. This section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). On such systems, each new computational pipeline monitoring (CPM) leak detection system and each replaced component of an existing CPM system must comply with section 4.2 of API 1130 in its design and with any other design criteria addressed in API 1130 for components of the CPM leak detection system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

Subchapter D. Construction

§30201. Scope

A. - B. ...

C. InspectionCGeneral. Inspection must be provided to ensure the installation of pipe or pipeline systems in accordance with the requirements of this Subchapter. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources, of proposed pipeline construction at least seven days prior to commencement of said construction. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected.

D. Material Inspection. No pipe or other component may be installed in a pipeline system unless it has been visually inspected at the site of installation to ensure that it is not damaged in a manner that could impair its strength or reduce its serviceability.

E. Welding of Supports and Braces. Supports or braces may not be welded directly to pipe that will be operated at a pressure of more than 100 p.s.i. (89 kPa) gauge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30203. Pipe Location

A. ...

B. No pipeline may be located within 50 feet (15 meters) of any private dwelling, or any industrial building or place of public assembly in which persons work, congregate, or

assemble, unless it is provided with at least 12 inches (305 mm) of cover in addition to that prescribed in §30221.

AUTHORITY NOTE: Promulgated in accordance with 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30205. Bending of Pipe

A. - B.3.a. ...

b. the pipe is 12 3/4 (324 mm) or less nominal outside diameter or has a diameter to wall thickness ratio less than 70;

C

AUTHORITY NOTE: Promulgated in accordance with R.S. 30: 703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21;818 (August 1995), LR 27:

§30215. Cathodic Protection System

A. - B. ...

C. For the bottoms of aboveground breakout tanks with greater than 500 barrels (79.5 m³) capacity built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), the installation of a cathodic protection system under paragraph A of this section after October 2, 2000, must be in accordance with API Recommended Practice 651, unless the operator notes in the procedural manual (§30259.C)) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of a particular breakout tank.

D. For the internal bottom of aboveground breakout tanks built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), the installation of a tank bottom lining after October 2, 2000, must be in accordance with API Recommended Practice 652, unless the operator notes in the procedural manual (§30259.C)) why compliance with all or certain provisions of API Recommended Practice 652 is not necessary for the safety of a particular breakout tank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30221. Cover Over Buried Pipeline

A. Unless specifically exempted in this Subchapter, all pipe must be buried so that it is below the level of cultivation. Except as provided in §30221.B, the pipe must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or sea bottom, as applicable, complies with the following table:

Location	Cover inches (millimeters)	
	For Normal Excavation	For Rock Excavation
Industrial, commercial and residential area	36 (914)	30 (762)
Crossing of inland bodies of water with a width of at least 100 ft. (30 m) from high water mark to high water mark	48 (1219)	48 (1219)
Drainage ditches at public roads and railroads	36 (914)	36 (914)
Deepwater port safety zone	48 (1219)	24 (610)
Other offshore areas under water less than 12 ft. (3.7 m) deep as measured from the mean low tide	36 (914)	18 (457)
Any other area	30 (762)	18 (457)

A.1. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:818 (August 1995), LR 27:

§30223. Clearance Between Pipe and Underground Structures

A. Any pipe installed underground must have at least 12 inches (305 mm) of clearance between the outside of the pipe and the extremity of any other underground structure except that for drainage tile the minimum clearance may be less than 12 inches (305 mm) but not less than two inches (51 mm). However, where 12 inches (305 mm) of clearance is impracticable, the clearance may be reduced if adequate provisions are made for corrosion control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30235. Valves: Location

A. A valve must be installed at each of the following locations:

A.1. - A.4. ...

5. on each side of a water crossing that is more than 100 feet (30 m) wide from high-water mark to high-water mark unless the secretary finds in a particular case that valves are not justified;

A.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30239. Impoundment, Protection Against Entry, Normal/Emergency Venting or Pressure/Vacuum Relief for Aboveground Breakout Tanks

A. A means must be provided for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tank.

B. After October 2, 2000, compliance with paragraph A. of this section requires the following for the aboveground breakout tanks specified.

1. for tanks built to API Specification 12F, API Standard 620, and others (such as API Standard 650 or its predecessor Standard 12C), the installation of impoundment must be in accordance with the following sections of NFPA 30:

a. impoundment around a breakout tank must be installed in accordance with Section 2-3.4.3; and

b. impoundment by drainage to a remote impounding area must be installed in accordance with Section 2-3.4.2.

2. For tanks built to API Standard 2510, the installation of impoundment must be in accordance with Section 3 or 9 of API Standard 2510.

C. Aboveground breakout tank areas must be adequately protected against unauthorized entry.

D. Normal/emergency relief venting must be provided for each atmospheric pressure breakout tank. Pressure/vacuum-relieving devices must be provided for each low-pressure and high-pressure breakout tank.

E. For normal/emergency relief venting and pressure/vacuum-relieving devices installed on aboveground breakout tanks after October 2, 2000, compliance with paragraph D. of this section requires the following for the tanks specified.

1. Normal/emergency relief venting installed on atmospheric pressure tanks built to API Specifications 12F must be in accordance with Section 4, and Appendices B and C, of API Specification 12F.

2. Normal/emergency relief venting installed on atmospheric pressure tanks (such as those built to API Standard 650 or its predecessor Standard 12C) must be in accordance with API Standard 2000.

3. Pressure-relieving and emergency vacuum-relieving devices installed on low pressure tanks built to API Standard 620 must be in accordance with Section 7 of API Standard 620 and its references to the normal and emergency venting requirements in API Standard 2000.

4. Pressure and vacuum-relieving devices installed on high pressure tanks built to API Standard 2510 must be in accordance with Sections 5 or 9 of API Standard 2510.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

Subchapter E. Hydrostatic Testing

§30247. General Requirements

A. - C. ...

1. before December 7, 1998, for each pipeline each operator shall:

a. plan and schedule testing, according to this Subsection; or
b. establish the pipelines maximum operating pressure under §30265.A.5;

2. for pipelines scheduled for testing, each operator shall:

a. before December 7, 2000, pressure test:
i. each pipeline identified by name, symbol, or otherwise that existing records show contains more than 50 percent by mileage (length) of electric resistance welded pipe manufactured before 1970; and
ii. at least 50 percent of the mileage (length) of all other pipelines; and

b. before December 7, 2003, pressure test the remainder of the pipeline mileage (length).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:818 (August 1995), LR 27:

§30248. Test Pressure

A. The test pressure for each pressure test conducted under this Subpart must be maintained throughout the part of the system being tested for at least four continuous hours at a pressure equal to 125 percent, or more, of the maximum operating pressure and in the case of a pipeline that is not visually inspected for leakage during the test, for at least an additional four continuous hours at a pressure equal to 110 percent, or more, of the maximum operating pressure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30249. Testing

A. - B.2.a. ...

b. each building within 300 feet (91 meters) of the test section is unoccupied while the test pressure is equal to or greater than a pressure which produces a hoop stress of 50 percent of specified minimum yield strength;

B.2.c. - 3.a. ...

b. each building within 300 feet (91 meters) of the test section is unoccupied while the test pressure is equal to or greater than a pressure that produces a hoop stress of 50 percent of specified minimum yield strength;

3.c. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 27:

§30250. Pressure Testing Aboveground Breakout Tanks

A. For aboveground breakout tanks built to API Specification 12F and first placed in service after October 2, 2000, pneumatic testing must be in accordance with section 5.3 of API Specification 12F.

B. For aboveground breakout tanks built to API Standard 620 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with section 5.18 of API Standard 620.

C. For aboveground breakout tanks built to API Standard 650 and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be in accordance with section 5.3 of API Standard 650.

D. For aboveground atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated and tanks built to API Standard 650 or its predecessor Standard 12C that are returned to service after October 2, 2000, the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in section 10.3 of API Standard 653.

E. For aboveground breakout tanks built to API Standard 2510 and first placed in service after October 2, 2000, pressure testing must be in accordance with ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 or 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30251. Records

A. - B.8. ...

9. where elevation differences in the section under test exceed 100 feet (30 meters), a profile of the pipeline that shows the elevation and test sites over the entire length of the test section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

Subchapter F. Operation and Maintenance
§30259. Procedural Manual for Operations,
Maintenance, and Emergencies

A. - C.9. ...

10. abandoning pipeline facilities, including safe disconnection from an operating pipeline system, purging of combustibles, and sealing abandoned facilities left in place to minimize safety and environmental hazards;

C.11. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 24:1314 (July 1998), LR 27:

§30262. Emergency Response Training

After October 28, 2002, this Section will be in effect.

A. Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

1. carry out the emergency procedures established under §30259 that relate to their assignments;

2. know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

3. recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action;

4. take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and

5. learn the proper use of firefighting procedures and equipment, fire suits, and breathing apparatus by utilizing, where feasible, a simulated pipeline emergency condition.

B. At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

1. review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph A of this section; and

2. make appropriate changes to the emergency response training program as necessary to insure that it is effective.

C. Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under §30259 for which they are responsible to ensure compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 27:

§30264. Protection Against Ignitions and Safe
Access/Egress Involving Floating Roofs

A. After October 2, 2000, protection provided against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving above ground breakout tanks must be in accordance with API Recommended Practice 2003, unless the operator notes in the procedural manual (Sec. 195.402 (c)) why compliance with all or certain provisions of API

Recommended Practice 2003 is not necessary for the safety of a particular breakout tank.

B. The hazards associated with access/egress onto floating roofs of in-service aboveground breakout tanks to perform inspection, service, maintenance or repair activities (other than specified general considerations, specified routine tasks or entering tanks removed from service for cleaning) are addressed in API Publication 2026. After October 2, 2000, the operator must review and consider the potentially hazardous conditions, safety practices and procedures in API Publication 2026 for inclusion in the procedure manual (Sec. 195.402 (c)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30265. Maximum Operating Pressure

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

b. if the pipe is 12 3/4 in. (324 mm) or less outside diameter and is not tested to yield under this paragraph, 200 p.s.i. (1379 kPa) gauge.

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:819 (August 1995), LR 27:

§30269. Line Markers

A. - A.2. ...

a. the word "Warning," "Caution," or "Danger," followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline," or "Carbon Dioxide Pipeline," all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch (25 millimeters) high with an approximate stroke of 1/4 inch (6.4 millimeters).

A.2.b. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 24:1314 (July 1998), LR 27:

§30272. Underwater Inspection and Reburial
of Pipelines in the Gulf of Mexico and Its Inlets

A. Except for gathering lines of 4 1/2 inches (114 mm) nominal outside diameter or smaller, each operator shall, in accordance with this section, conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before November 16, 1992.

B. - B.1. ...

2. promptly, but not later than 7 days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center; and

3. within 6 months after discovery, or not later than November 1 of the following year if the 6 month period is after November 1 of the year that the discovery is made, place the pipeline so that the top of the pipe is 36 inches

(914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18:865 (August 1992), LR 21:820 (August 1995), LR 27:

§30275. External Corrosion Control

A. - E. ...

F. Any pipe that is found to be generally corroded so that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances must be replaced with coated pipe that meets the requirements of this part. However, generally corroded pipe need not be replaced if:

1. the operating pressure is reduced to be commensurate with the limits on operating pressure specified in this subpart, based on the actual remaining wall thickness; or

2. the pipe is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

G. - H. ...

I. Each operator shall clean, coat with material suitable for the prevention of atmospheric corrosion, and , maintain this protection for, each component in its pipeline system that is exposed to the atmosphere.

J. For aboveground breakout tanks where corrosion by a cathodic protection system, the cathodic protection system must be inspected to ensure it is operated and maintained in accordance with API Recommended Practice 651, unless the operator notes in the procedure manual (Sec. 195.402 (c)) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of a particular breakout tank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:820 (August 1995), LR 27:

§30283. Pipe Movement

A. - B.3.a. ...

b. the lowest practical level that will maintain the highly volatile liquid in a liquid state with continuous flow, but not less than 50 p.s.i. (345 kPa) gauge above the vapor pressure of the commodity.

C. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30287. Overpressure Safety Devices

A. - B. ...

C. Aboveground breakout tanks that are constructed or significantly altered according to API Standard 2510 after October 2, 2000, must have an overfill protection system installed according to section 5.1.2 of API Standard 2510. Other aboveground breakout tanks with 600 gallons (2271 liters) or more of storage capacity that are constructed or significantly altered after October 2, 2000, must have an overfill protection system installed according to API Recommended Practice 2350. However, operators need not comply with any part of API Recommended Practice 2350

for a particular breakout tank if the operator notes in the manual required by Sec. 195.402 why compliance with that part is not necessary for safety of the tank.

D. After October 2, 2000, the requirements of paragraphs A and B of this section for inspection and testing of pressure control equipment apply to the inspection and testing of overfill protection systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30291. Inspection of In-Service Breakout Tanks

A. Except for breakout tanks inspected under paragraphs B and C of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each in-service breakout tank.

B. Each operator shall inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to section 4 of API Standard 653. However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under Sec. 195.402 (c)(3).

C. Each operator shall inspect the physical integrity of in-service steel aboveground breakout tanks built to API Standard 2510 according to section 6 of API 510.

D. The intervals of inspection specified by documents referenced in paragraphs B and C of this section begin on May 3, 1999, or on the operator's last recorded date of the inspection, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 27:

§30296. Smoking or Open Flames

A. Each operator shall prohibit smoking and open flames in each pump station area and each breakout tank area where there is a possibility of the leakage of a flammable hazardous liquid or of the presence of flammable vapors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30297. Public Education

A. Each operator shall establish a continuing educational program to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbon dioxide pipeline emergency and to report it to the operator or the fire, police, or other appropriate public officials. The program must be conducted in English or in other languages commonly understood by a significant number and concentration of non-English speaking population in the operator's operating areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:866 (August 1992), LR 27:

§30298. Damage Prevention Program

A. Except as provided in Subsection C of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.

B. An operator may comply with any of the requirements of Subsection C of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of the responsibility for compliance with this section. However, an operator must perform the duties of Subsection C.3. of this section through participation in a one-call system, if that one-call system is a qualified one call-system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of the section, a one-call system is considered a "qualified one-call system" if it meets the requirements of Subsection B.1. or B.2. of this section:

1. the state has adopted a one-call damage prevention program under 49 CFR 198.37; or
2. the one-call system:
 - i. is operated in accordance with 49 CFR 198.39;
 - ii. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and
 - iii. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline.

C. The damage prevention program required by Subsection A. of this section must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.
2. provide for notification of the public in the vicinity of the pipeline and actual notification of persons identified in Subsection C.1. of this section of the following as often as needed to make them aware of the damage prevention program:
 - a. the program's existence and purpose; and
 - b. how to learn the location of underground pipelines before excavation activities are begun;
3. provide a means of receiving and recording notification of planned excavation activities;
4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;
5. provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins;

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities;

- a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and
- b. in the case of blasting, any inspection must include leakage surveys.

D. A damage prevention program under this section is not required for the following pipelines:

1. pipelines located offshore;
2. pipelines to which access is physically controlled by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1315 (July 1998), amended LR 27:

§30299. CPM Leak Detection

A. Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

Subchapter G. Operator Qualification

§30301. Scope

A. This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

B. For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

1. is performed on a pipeline facility;
2. is an operations or maintenance task;
3. is performed as a requirement of this part; and
4. affects the operation or integrity of the pipeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30303. Definitions

Abnormal Operating Condition Ca a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

1. indicate a condition exceeding design limits; or
2. result in a hazard(s) to persons, property, or the environment.

Evaluation Ca a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

1. written examination;
2. oral examination;
3. work performance history review;
4. observation during:
5. performance on the job;
6. on the job training, or
7. simulations; or
8. other forms of assessment.

Qualified Can individual has been evaluated and can:

1. perform assigned covered tasks; and
2. recognize and react to abnormal operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30305. Qualification Program

A. Each operator shall have and follow a written qualification program. The program shall include provisions to:

1. identify covered tasks;
2. ensure through evaluation that individuals performing covered tasks are qualified;
3. allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;
4. evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in §30125;
5. evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;
6. communicate changes that affect covered tasks to individuals performing those covered tasks; and
7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30307. Record Keeping

A. Each operator shall maintain records that demonstrate compliance with this subpart.

1. Qualification records shall include:
 - a. identification of qualified individual(s);
 - b. identification of the covered tasks the individual is qualified to perform;
 - c. date(s) of current qualification; and
 - d. qualification method(s).
2. Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30309. General

- A. Operators must have a written qualification program by April 27, 2001.
- B. Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.
- C. Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to August 27, 1999.
- D. After October 28, 2002, work performance history may not be used as a sole evaluation method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

Chapter 304. Hazardous Liquids Pipeline Enforcement **§30401. Scope**

A. This regulation prescribes the authority of the assistant secretary of the Office of Conservation and procedures to be utilized by him in carrying out his duties regarding administration and enforcement of R.S. 30:701, et seq., and the Rules and regulations promulgated thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30403. Service

A. Except as herein provided, any order, notice or other documents required to be served under this regulation shall be served personally or by registered or certified mail.

B. Should the assistant secretary elect to make personal service, it may be made by an officer authorized to serve process or any agent or employee of the assistant secretary in the same manner as is provided by law for the service of citation in civil actions in the district courts. Proof of service by an agent or employee shall be by the affidavit of the person making it.

C. Service upon a person's duly authorized representative, officer or agent constitutes service upon that person.

D. Service by registered or certified mail is complete upon mailing. An official U.S. postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:.

§30405. Subpoenas

A. The assistant secretary may sign and issue subpoenas either on his own initiative or, upon request and adequate showing by any person participating in any proceeding before the assistant secretary that the information sought is relevant and will materially advance the proceeding.

B. A subpoena may require the attendance of a witness for the purpose of giving testimony, or the production of documents or other tangible evidence in the possession or under the control of the person served, or both.

C. A subpoena may be served by any agent of the Department of Conservation, by the sheriff of the parish where service is to be made or the parish where the action is pending or by any other person authorized by the law to serve process in this state.

D. Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person. Delivery of a copy of a subpoena may be made by handing them to the person, leaving them at his office with persons in charge thereof, leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, or by any method whereby actual notice is given to him.

E. When the person to be served is not a natural person, delivery of a copy of the subpoena may be affected by handing them to a designated agent or representative for service, or to any officer, director, or agent in charge of any office of the person.

F. The original subpoena bearing a certificate of service shall be filed in the assistant secretary's records for the proceedings in connection with which the subpoena was issued.

G. No person shall be excused from attending and testifying or producing books, papers, or records, or from obeying the subpoena of the assistant secretary, or of a court of record on the grounds that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. Pursuant to R.S. 30:8(4), no natural person shall be subject to criminal prosecution or to any penalty or forfeiture on account of anything concerning which may be required to testify or produce evidence before the assistant secretary or a court of law; however, no person testifying shall be exempt from prosecution and punishment for perjury.

H. In the case of failure or refusal of a person to comply with a subpoena issued by the assistant secretary, or in the case of a refusal of a witness to testify or answer as to a matter regarding which he may be lawfully interrogated, any district court on the application of the assistant secretary may, in term time or in vacation, issue an attachment for the person to compel him to comply with the subpoena and to attend before the assistant secretary with the desired documents and to give his testimony upon whatever matters are lawfully required. The court may punish for contempt those disobeying its orders as in the case of disobedience of a subpoena issued by the court or refusal to testify therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30407. Inspection, Field Inspection Reports

A. Officers, employees or agents authorized by the assistant secretary, upon presenting proper credentials, are authorized to enter upon, inspect and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent that such records and properties are relevant to determining compliance of such person with R.S. 30:701, et seq. or any Rules, regulations or orders issued thereunder.

B. Inspection may be conducted pursuant to a routine schedule, a complaint received from a member of the public, information obtained from a previous inspection, report of accident or incident involving facilities, or whenever deemed appropriate by the assistant secretary.

C. If, after inspection, the assistant secretary believes that further information is needed or required to determine compliance or appropriate action, the assistant secretary may request specific information of the person or operator to be answered within ten days of receipt of said request.

D. The assistant secretary may, to the extent necessary to carry out his responsibilities, require reasonable testing of any portion of a facility in connection with a violation or suspected violation.

E. When information obtained from an inspection indicates that a violation has probably occurred, the

inspector shall complete a field inspection report as to the nature of the violation citing the specific provisions which have been violated. Said field inspection report shall be filed with the assistant secretary for review and further action, if appropriate.

F. The assistant secretary or his agent, after review of the field inspection report, and depending upon the severity of the violation and the exigency of the situation, may issue to the operator a letter of non-compliance or initiate one or more enforcement proceedings prescribed by §30411 through 30419.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation Pipeline Division, LR 27:

§30409. Letter of Non-compliance; Relief Therefrom

A. Upon determination that a probable violation of R.S. 30:701, et seq., or any Rule, regulation or order issued thereunder has occurred, the assistant secretary may institute enforcement procedures by serving upon the hazardous liquid pipeline operator a letter of non-compliance notifying said operator of said probable violation and directing said operator to correct said violation within a designated period of time to be determined by the assistant secretary or be subject to enforcement action prescribed by §30411 through §30419. A copy of the field inspection report or other evidence of violation shall be attached to the letter of non-compliance. The letter of non-compliance may inform the operator of the time at which reinspection of the facility will be conducted to confirm compliance and shall inform the operator of the time delays and procedure available to said operator for securing relief from said letter of non-compliance.

B. Except in cases of emergency action instituted pursuant to §30415, within seven days of receipt of a letter of non-compliance, the operator who believes himself to be in compliance with the applicable statute and the Rules, regulations or orders issued thereunder or who believes the time limits imposed upon him for compliance to be burdensome, may request for said conference may be verbal or presented in writing.

C. The conference before the assistant secretary or his agent shall be informal without strict adherence to Rules of evidence. The operator may submit any relevant information and materials which shall become part of the record and may examine the assistant secretary's files relative to the probable violation. If circumstances are deemed appropriate by the assistant secretary and upon request of the operator, this conference may be held by telephone conference.

D. Upon conclusion of the conference for relief the assistant secretary may issue to the operator a modified letter of non-compliance extending the time for compliance or containing such other terms and conditions as may be appropriate considering the nature of the probable violation, the circumstances and exigency of the situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30411. Reinspection, Show Cause Conference

A. Upon expiration of the delay allowed in the letter of non-compliance of modified letter of non-compliance for correcting said probable violation, the operator's facilities shall be reinspected and if the operator is found to be in compliance, the enforcement file for said violation will be closed.

B. If upon reinspection the operator is found to be in violation of the statute, Rule or regulation for which a letter of non-compliance has been issued, the assistant secretary may:

1. re-issue to the operator in the form of a letter of non-compliance containing such modifications or extensions of time as the case may warrant;

2. require that the operator attend a show cause conference with the assistant secretary or his agent to review the compliant and the operator's efforts in resolving correcting the violation and at the conclusion of said conference the assistant secretary may re-issue a modified letter of non-compliance containing such modifications or extensions of times as the case may warrant; or

3. immediately after reinspection or after the show cause conference, initiate one or more enforcement proceedings prescribed by §30413 through §30419.

C. The show cause conference shall be conducted informally without strict adherence to the Rules of evidence. The operator may submit any relevant information, call witnesses against him. No detailed record of said conference shall be prepared but said record shall contain the materials in the enforcement case file pertinent to the issues, relevant submissions of the operator and the written recommendations of the assistant secretary or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30413. Show Cause Hearing, Notice, Rules of Procedure, Record, Order of Compliance

A. At any time that the assistant secretary determines that such action is appropriate, he may direct that an operator attend a formal show cause hearing and to show cause at said hearing why he should not be compelled to comply with applicable statutes and the Rules and regulations promulgated thereunder.

B. The operator shall be given at least ten days notice of said show cause hearing in the manner herein provided and shall be required to attend. The assistant secretary may issue such subpoenas as may be necessary for the attendance of witness and the production of documents.

C. The show cause hearing shall be conducted in accordance with the procedures for adjudication prescribed by the Administration Procedures Act.

D. The record of the case shall include those items required by R.S. 49:955E together with the enforcement file for the violation in question which enforcement file may include inspection reports and other evidence of violation, letters of non-compliance, modified letters of non-compliance, materials submitted by the operator pursuant to §30409 and §30411, all correspondence and orders directed to the operator by the assistant secretary correspondence received by the assistant secretary from the operator, and

evaluations and recommendations of the assistant secretary or his staff.

E. After conclusion of the show cause hearing the assistant secretary shall issue an order of compliance directed to the operator setting forth findings and determinations on all material issues, including a determination as to whether each alleged violation has been proven, and a statement of the actions required to be taken by the operator and the time by which such actions must be accomplished. The compliance order shall become final as specified by the Administrative Procedures Act.

F. The assistant secretary may tax the operator with all costs of said hearing including but not limited to transcription and service costs and hearing fees in the amount prescribed by R.S.30:21.

G. The operator and the assistant secretary may consent to waiver of the show cause hearing and enter into a consent order which will become final and non-appealable upon its issuance.

H. If the operator fails to comply with the final order of compliance, the assistant secretary may take whatever civil or criminal action is necessary to enforce said order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30415. Emergency

A. Should the assistant secretary, the director of pipelines or the chief of pipeline safety find an existing emergency due to non-compliance with law or the Rules, regulations or orders issued pursuant thereto or due to leakage or other hazard which in his judgment requires the issuance of an emergency order or an order for the immediate termination of the offending service without first complying with the procedures set forth herein and without having a hearing, he may issue the emergency order or terminate said offending service and invoke a show cause hearing pursuant to §30413 requiring the operator to show cause why the circumstances giving rise to the emergency should not be corrected. The emergency order or order for termination of the offending service shall remain in force no longer than 15 days from its effective date. In any event, the emergency order shall expire when the order made after notice and hearing with respect to the same subject matter becomes effective. An emergency is defined as any situation where there is a substantial likelihood that loss of life, personal injury, health or property will result before the procedures under this regulation for notice and hearing can be fully complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30417. Hazardous Facility Orders

A. Notwithstanding any self imposed regulatory limitations, if the assistant secretary finds, after reasonable notice and an opportunity to be heard in accordance with §30413, a particular pipeline facility subject to R.S. 30:701 to be hazardous to life or property, he may issue an order requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, inspection, testing, repair,

replacement, or other action as appropriate. The provisions of §30415 shall also be applicable for issuance of hazardous facility orders on an emergency basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30419. Civil Enforcement, Injunction

A. Whenever it appears to the assistant secretary that any person or operator has engaged, is engaged, or is about to engage in any act or practice constituting a violation of R.S. 30:701, et seq., or any Rule, regulation or order issued thereunder, he may bring an action in the court having jurisdiction, to enjoin such acts or practice and to enforce compliance with the applicable statute and the Rules, regulations and orders issued pursuant thereto, and upon proper showing a temporary restraining order or a preliminary or permanent injunction commanding any person to comply with the applicable law or any Rule, regulation or order issued thereunder, and to make restitution of money received in violation of any such Rule, regulation or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30421. Violation, Penalties

A. After notice and opportunity to be heard, in accordance with §30413, the assistant secretary may, after determining that a person has violated any provision of R.S. 30:701 et seq., or any Rule, regulation or order issued pursuant thereto, assess a civil penalty upon or against said person not to exceed the amounts fixed by statute, particularly, but not exclusively, R.S. 30:705. The amount of the penalty shall be assessed by the assistant secretary by written notice. In determining the amount of penalty, the assistant secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

B. The assistant secretary may transmit such evidence as may be available concerning acts or practice in violation of R.S. 30:701, et seq. or any Rules, regulation or order issued pursuant thereto or any order issued pursuant to this regulation to the district attorney having jurisdiction over same who, in his discretion, may institute necessary proceedings to collect the fines and impose the penalties provided by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§30423. Waiver of Compliance with Standards

A. Upon application by any person engaged in the transportation of hazardous liquids or the operation of intrastate pipeline facilities, the assistant secretary shall, by order, after notice and opportunity for hearing and under such terms and conditions and to such extent as the assistant

secretary may deem reasonable and proper, waive in whole or in part compliance with any standard established under R.S. 30:701, et seq., if he determines that compliance with such standard works a substantial hardship on an owner or operator of pipeline facilities or is not in the public interest and a waiver of compliance with such standard is not inconsistent with pipeline safety, provided that such waiver shall not be effective until the requirements of 49 U.S.C.A. Section 2001, et seq. relative to such a waiver have first been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, amended LR 27:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on family earnings and family budget.

5. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on the functioning of the family.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may contact Mariano Hinojosa, Director, Pipeline Division, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275 or by calling (225) 342-5505.

Philip N. Asproditis
Commissioner of Conservation

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pipeline SafetyC Hazardous Liquids

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

There should be no additional costs or savings regarding the amendment of this Rule. This action adopts federal amendments to pipeline safety regulations.

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

There should be no effect on revenue or costs as the Department was previously enforcing similar Rules.

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

There should be no significant costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There should be no effect on competition or employment.

Philip N. Asproditis
Commissioner
0106#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation
Pipeline Division**

Pipeline Safety Natural Gas (LAC 43:XIII.Chapters 1-30)

The Louisiana Office of Conservation proposes to amend LAC 43:XIII.101 et seq. in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These proposed Rules amend the minimum pipeline safety requirements for natural gas pipelines and add new requirements for operator qualification of individuals performing covered tasks on a pipeline facility (LAC 43:XII:3001).

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation-Pipeline Safety

Subpart 1. General Provisions

Chapter 1. General

§101. Applicability

A. - B.2. ...

3. on the outer continental shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (April 1994), LR 27:

§125. Definitions

Abandoned permanently removed from service.

Administrator the administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

Building any structure in which gas can accumulate.

Business a permanent structure occupied for the express usage of wholesale or retail sales, services, the manufacture or storage of products, or a public building.

Business District an area of two or more businesses within 100 yards (300 feet) of each other and within 100 yards along the linear length of any gas pipeline. The district will extend 100 feet past the defined boundaries of the last business in the district.

* * *

Exposed Pipeline a pipeline where the top of the pipe is above the seabed in water less than 15 feet (4.6 meters) deep, as measured from the mean low water.

* * *

Gulf of Mexico and its Inlets the waters from the mean high water mark of the Gulf of Mexico and its inlets open to the sea (excluding river, tidal marshes, lakes, and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters), as measured from the mean low water.

Hazard to Navigation for the purpose of this Part, a pipeline where the top of the pipe is less than 12 inches (305 millimeters) below the seabed in water less than 15 feet (4.6 meters), as measured from the mean low water.

* * *

Outer Continental Shelf means all submerged lands lying seaward and outside the area of lands beneath navigable water as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

* * *

Petroleum Gas propane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 208 psi (1434 kPa) gage at 100°F (38°C).

* * *

Public Building a structure which members of the public may congregate such as schools, hospitals, nursing homes, churches, civic centers, post offices, and federal, state and local government buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (April 1994), LR 21:821 (August 1995), LR 24:1306 (July 1998), LR 27:

Chapter 3. Reporting of Incidents, Safety-Related Conditions, and Annual Reports

§301. Scope

A. - B.2.a. ...

b. any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

3. on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 27:

§303. Definitions

* * *

Municipality a city, parish, or any other political subdivision of a state.

Offshore beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

Operator a person who engages in the transportation of gas.

Person any individual, firm, joint venture, partnership, corporation, association, state, municipality, corporation,

association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

State the state of Louisiana.

Transportation of Gas the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in or affecting interstate or foreign commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:

§307. Addressee for Written Reports

A. One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII, must be submitted to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590. However, no report to the Information Resources Manager is required if the estimated property damage, including cost of gas lost of the operator or others, or both, is less than \$50,000. Safety-related condition reports required by LAC 43:XIII.321 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 20:442 (1994), LR 27:

§321. Reporting Safety-Related Conditions

A. - B.2. ...

3. exists on a pipeline (other than an LNG facility) that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly, except that reports are required or conditions within the right-of-way of an active railroad, paved road, street, or highway; or

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 11:254 (March 1985), amended LR 27:

Chapter 5. Class Locations

§501. Class Locations

A. This Section classifies pipeline locations for purposes of this Part. The following criteria apply to classifications under this Section.

1. A class location unit is an onshore area that extends 220 yards (200 meters) on either side of the centerline of any continuous one-mile (1.6 kilometers) length of pipeline.

A.2. - 3.a.

b. an area where the pipeline lies within 100 yards (91 meters) of either a building or a small, well-defined

outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least five days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

4. A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

C. The length of Class locations 2, 3, and 4 may be adjusted as follows.

1. A Class 4 location ends 220 yards (200 meters) from the nearest building with four or more stories aboveground.

2. When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards (200 meters) from the nearest building in the cluster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998), LR 27:

§502. Outer Continental Shelf Pipelines

A. Operators of transportation pipelines on the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act; 43 U.S.C. 1331) must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic located near the transfer point. If a transfer point is located subsea, then the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to RSPA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the Regional Director and the MMS Regional Supervisor will make a joint determination of the transfer point.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§509. Customer Notification

A. - B.4. ...

5. The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customers buried piping.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

Chapter 7. Qualification of Pipe

§705. Steel Pipe

A. - B.4. ...

C. New or used steel pipe may be used at a pressure resulting in a hoop stress of less than 6,000 psi (41 MPa)

where no close coiling or close bending is to be done, if visual examination indicates that the pipe is in good condition and that it is free of split seams and other defects that would cause leakage. If it is to be welded, steel pipe that has not been manufactured to a listed specification must also pass the weldability tests prescribed in Paragraph II-B of Appendix B to Part XIII.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

Chapter 9. Pipe Design

§905. Design Formula for Steel Pipe

A. The design pressure for steel pipe is determined in accordance with the following formula:

$$P = (2St/D) H F H E H T$$

P = design pressure in pounds per square inch (kPa) gage.

S = yield strength in pounds per square inch (kPa) determined in accordance with §905.

D = nominal outside diameter of the pipe in inches (millimeters).

B. - C.2.a.ii. ...

b. If the pipe is not tensile tested as provided in Subsection B.1 of this Section, 24,000 psi (165 Mpa).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998), LR 27:

§907. Nominal Wall Thickness (t) for Steel Pipe

A. ...

B. However, if the pipe is of uniform grade, size, and thickness and there are more than 10 lengths, only 10 percent of the individual lengths, but not less than 10 lengths, need to be measured. The thickness of the lengths that are not measured must be verified by applying a gauge set to the minimum thickness found by the measurement. The nominal wall thickness to be used in the design formula in §905 is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness used may not be more than 1.14 times the smallest measurement taken on pipe less than 20 inches (508 millimeters) in outside diameter, nor more than 1.11 times the smallest measurement take on pipe 20 inches (508 millimeters) or more in outside diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§911. Longitudinal Joint Factor (E) for Steel Pipe

A. The longitudinal factor to be used in the design formula in §905 is determined in accordance with the following table:

Specification	Pipe Class	Longitudinal Joint Factor (E)
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM 106	Seamless	1.00
ASTM A 333/A 333 M	Seamless	1.00
	Electric resistance welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric fusion welded	1.00
ASTM A 62	Electric fusion welded	1.00
ASTM A 691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	.60
Other	Pipe four inches (102 millimeters) less	.80
Other	Pipe four inches (102 millimeters) or less	.60

B. If the type of longitudinal joint cannot be determined, the joint factor to be used must not exceed that designated for "other."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1922), LR 20:444 (April 1994), LR: 27:

§913. Temperature Derating Factor (T) for Steel Pipe

A. The temperature derating factor to be used in the design formula in 905 is determined as follows:

Gas Temp. in degrees Fahrenheit (Celsius)	Temp. Derating Factor (T)
250 °F or less (121 °C)	1.000
300 °F (149 °C)	0.967
350 °F (177 °C)	0.933
400 °F (204 °C)	0.900
450 °F (232 °C)	0.867

B. For intermediate gas temperatures, the derating factor is determined by interpolation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:444 (April 1994), LR: 27:

§917. Design of Plastic Pipe

A. Subject to the limitations of §919, the design pressure for plastic pipe is determined in accordance with either of the following formulas:

$$P = 2S \frac{t}{D} H 0.32$$

D - t

2S

$$P = \frac{2SDR - 1}{SDR} H 0.32$$

SDR - 1

where:

P = Design pressure, gauge, kPa (psig).

S = For thermoplastic pipe, the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 73EF (23EC), 100EF (38EC), 120EF (49EC), or 140EF (60EC); for reinforced thermosetting plastic pipe, 11,000 psi (75,842 kPa).

t = Specified wall thickness, mm (in).

D = Specified outside diameter, mm (in).

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:

§919. Design Limitations for Plastic Pipe

A. - A.2. ...

B. Plastic pipe may not be used where operating temperatures of the pipe will be:

1. below -20 EF (-20EC), or -40EF (-40EC) if all pipe and pipeline components whose operating temperature will be below -29EC (-20EF) have a temperature rating by the manufacturer consistent with that operating temperature; or

2. above the following applicable temperatures:

a. for thermoplastic pipe, the temperature at which the long-term hydrostatic strength used in the design formula under §917 is determined at 73EF (23EC), it may be used at temperatures up to 100EF (38EC).

b. for reinforced thermosetting plastic pipe, 150EF (66EC).

C. The wall thickness for thermoplastic pipe may not be less than 0.062 inches (1.57 millimeters).

D. The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table:

Nominal size in inches (millimeters).	Minimum wall thickness inches (millimeters).
2 (51).....	0.060 (1.52)
3 (76).....	0.060 (1.52)
4 (102).....	0.070 (1.78)
6 (152).....	0.100 (2.54)

§921. Design of Cooper Pipe

A. Copper pipe used in mains must have a minimum wall thickness of 0.065 inches (1.65 millimeters) and must be hard drawn.

B. Copper pipe used in service lines must have wall thickness not less than indicated in the following table:

Standard Size Inch (millimeter)	Nominal O.D.inch (millimeter)	Wall Thickness Inch (millimeter)
		Nominal Tolerance
2 (13)	.625 (16)	.040 (1.06) .0035 (.0889)
e (16)	.750 (19)	.042 (1.07) .0035 (.0889)
: (19)	.875 (22)	.045 (1.14) .004 (.102)
1 (25)	1.125 (29)	.050 (1.27) .004 (.102)
13 (32)	1.375 (35)	.055 (1.40) .004 (.102)
12 (38)	1.625 (41)	.060 (1.52) .0045 (.1143)

C. Copper pipe used in mains and service lines may not be used at pressures in excess of 100 p.s.i. (689 kPa) gage.

D. Copper pipe that does not have an internal corrosion resistant lining may not be used to carry gas that has an average hydrogen sulfide content of more than 0.3 grains/100 ft³ (6.9/m³) under standard conditions. Standard conditions refers to 60EF and 14.7 psia (15.6EC and one atmosphere) of gas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 27:

Chapter 11. Pipeline Design Requirements

§1107. Valves

A. - C. ...

D. No valve having shell components made of ductile iron may be used at pressures exceeding 80 percent of the pressure ratings for comparable steel valves at their temperature. However, a valve having shell components made of ductile iron may be used at pressures up to 80 percent of the pressure ratings for comparable steel valves at their listed temperature, if:

1. the temperature-adjusted service pressure does not exceed 1,000 p.s.i.g. (7 Mpa) gage; and

D.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 27:

§1112. Passage of Internal Inspection Devices

A. - B.6. ...

7. offshore pipelines, other than transmission lines 10 inches (254 millimeters) or greater in nominal diameter, that transport gas to onshore facilities; and

A.8. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated with the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:821 (August 1995), amended LR 27:

§1113. Tapping

A. - C.1. ...

2. a 13-inch (32 millimeters) tap may be made in a 4-inch (102 millimeters) cast iron or ductile iron pipe, without reinforcement. However, in areas where climate, soil, and service conditions may create unusual external stresses on cast iron pipe, unreinforced taps may be used only on 6-inch (152 millimeters) or larger pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1115. Components Fabricated by Welding

A. - C. ...

D. Except for flat closures designed in accordance with Section VIII of the ASME Boiler and Pressure Code, flat closures and fish tails may not be used on pipe that either operates at 100 p.s.i. (689 kPa) gage, or more, or is more than 3 inches (76 millimeters) nominal diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:444 (April 1994), LR 27:

§1125. Compressor Stations: Design and Construction

A. ...

B. Building Construction. Each building on a compressor station site must be made of noncombustible materials if it contains either:

1. pipe more than 2 inches (51 millimeters) in diameter that is carrying gas under pressure; or

B.2. - C. ...

D. Fenced Areas. Each fence around a compressor station must have at least two gates located so as to provide a convenient opportunity for escape to a place of safety, or have other facilities affording a similarly convenient exit from the area. Each gate located within 200 feet (61 meters) of any compressor plant building must open outward and, when occupied, must be openable from the inside without a key.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 27:

§1129. Compressor Stations: Emergency Shutdown

A. Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:

A.1. - 4.b. ...

c. not more than 500 feet (153 meters) from the limits of the station.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1137. Pipe-Type and Bottle-Type Holders

A. ...

B. Each pipe-type or bottle-type holder must have minimum clearance from other holders in accordance with the following formula:

$$C = (DHPHF/48.33) (C = (3DHPHF/1,000)) \text{ in which:}$$

C = minimum clearance between pipe containers or bottles in inches (millimeters).

D = outside diameter of pipe containers or bottles in inches (millimeters).

P = maximum allowable operating pressure, p.s.i. (kPa) gage.

F = design factor as set forth in §909 of Part XIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1139. Additional Provisions for Bottle-Type Holders

A. Each bottle-type holder must be:

1. located on a site entirely surrounded by fencing that prevents access by unauthorized persons and with minimum clearance from the fence as follows:

Maximum Allowable Operating Pressure	Minimum Clearance feet (meters)
Less than 1,000 p.s.i. (7 MPa) gage.....	25 (7.6)
1,000 p.s.i. (7 MPa) gage or more.....	100 (31)

A.2. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 20:445 (April 1994), LR 27:

§1141. Transmission Line Valves

A. Each transmission line, other than offshore segments, must have sectionalizing block valves spaced as follow, unless in a particular case the administrator finds that alternative spacing would provide an equivalent level of safety:

1. each point on the pipeline in a Class 4 location must be within 2 2 miles of a valve;

2. each point on the pipeline in a Class 3 location must be within 4 miles (6.4 kilometers) of a valve;

3. each point on the pipeline in a Class 2 location must be within 7 2 miles (12 kilometers) of a valve;

4. each point on the pipeline in a Class 1 location must be within 10 miles (16 kilometers) of a valve.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1308 (July 1998), LR 27:

§1145. Vaults: Structural Design Requirements

A. - B. ...

C. Each pipe entering, or within, a regulator vault or pit must be steel for sizes 10 inches (254 millimeters), and less, except that control and gage piping may be copper. Where

pipe extends through the opening and to aver strains in the pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1149. Vaults: Sealing, Venting, and Ventilation

A. Each underground vault or closed top pit containing either a pressure regulating or reducing station, or a pressure limiting or relieving station, must be sealed, vented or ventilated, as follows:

1. when the internal volume exceeds 200 cubic feet (5.7 cubic meters):

a. the vault or pit must be ventilated with two ducts, each having at least the ventilating effect of a pipe 4 inches (102 millimeters) in diameter;

b. the ventilation must be enough to minimize the formulation of combustible atmosphere in the vault or pit; and

c. the ducts must be high enough above grade to disperse any gas-air mixtures that might be discharged;

2. when the internal volume is more than 75 cubic feet (2.1 cubic meters) but less than 200 cubic feet (5.7 cubic meters):

a. if the vault or pit is sealed, each opening must have a tight fitting cover without open holes through which an explosive mixture might be ignited, and there must be a means for testing the internal atmosphere before removing the cover;

b. if the vault or pit is vented, there must be a means of preventing external sources of ignition from reaching the vault atmosphere; or

c. if the vault or pit is ventilated, Paragraphs 1 and 3 of this Subsection applies;

A.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1159. Control of the Pressure of Gas Delivered from the High-Pressure Distribution Systems

A. If the maximum actual operating pressure of the distribution system is under 60 p.s.i. (414 kPa) gage and a service regulator having the following characteristics is used, no other pressure limiting device is required:

A.1. - 3. ...

4. pipe connections to the regulator not exceeding two inches (51 millimeters) in diameter;

A.5. - 6. ...

B. If the maximum actual operating pressure of the distribution system is 60 p.s.i. (414 kPa) gage or less, and a service regulator that does not have all of the characteristics listed in Subsection A of this Section is used, or if the gas contains materials that seriously interfere with the operation of service regulators, there must be suitable protective devices to prevent unsafe overpressuring of the customers appliances if the service regulator fails.

C. If the maximum actual operating pressure of the distribution system exceeds 60 p.s.i. (414 kPa) gage, one of the following methods must be used to regulate and limit, to

the maximum safe value, the pressure of gas delivered to the customer:

1. a service regulator having the characteristics listed in §1159.A, and another regulator located upstream from the service regulator. The upstream regulator may not be set to maintain a pressure higher than 60 p.s.i. (414 kPa) gage. A device must be installed between the upstream regulator and the service regulator to limit the pressure of the inlet of the service regulator to 60 p.s.i. (414 kPa) gage or less in case the upstream regulator fails to function properly. This device may be either a relief valve or an automatic shutoff that shuts if the pressure on the inlet of the service regulator exceeds the set pressure (60 p.s.i. (414 kPa) gage or less), and remains closed until manually reset;

C.2. ...

3. a service regulator with a relief valve vented to the outside atmosphere, with the relief valve set to open so that the pressure of gas going to the customer does not exceed a maximum safe value. The relief valve may either be built into the service regulator or it may be a separate unit installed downstream from the service regulator. This combination may be used alone only in those cases where the inlet pressure on the service regulator does not exceed the manufacturer's safe working pressure rating of the service regulator, and may not be used where the inlet pressure on the service regulator exceeds 125 p.s.i. (862 kPa) gage. For higher inlet pressure, the methods in Paragraphs 1 or 2 of this Subsection must be used;

C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:856 (August 1992), LR 27:

§1163. Required Capacity of Pressure Relieving and Limiting Station

A. - A.1. ...

2. in pipelines other than a low pressure distribution system:

a. if the maximum allowable operating pressure is 60 p.s.i. (414 kPa) gage or more, the pressure may not exceed the maximum allowable operating pressure plus 10 percent, or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower;

b. if the maximum allowable operating pressure is 12 p.s.i. (83 kPa) gage or more, but less than 60 p.s.i. (414 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 6 p.s.i. (41 kPa) gage; or

c. if the maximum allowable operating pressure is less than 12 p.s.i. (83 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 50 percent.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1165. Instrument, Control, and Sampling Pipe and Components

A. - B.2. ...

3. brass or cooper material may not be used for metal temperatures greater than 400EF (204EC);

B.4. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 27:

Chapter 13. Welding Requirements

§1307. Limitations on Welders

A. - D.2.a. ...

b. for welders who work only on service lines 2 inches (51 millimeters) or smaller in diameter, two sample welds tested and found acceptable in accordance with the test in Section III of Appendix C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998), LR 27:

§1315. Inspection and Test of Welds

A. - B. ...

1. the pipe has a nominal diameter of less than six inches (152 millimeters); or

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1309 (July 1998), LR 27:

§1511. Plastic Pipe; Qualifying Joining Procedures

A. - B.2. ...

3. the speed of testing is 0.20 in. (5.0 mm) per minute, plus or minus 25 percent;

4. pipe specimens less than 4 inches (102 mm) in diameter are qualified if the pipe yields to an elongation of no less than 25 percent or failure initiates outside the joint area;

5. pipe specimens 4 inches (102 mm) and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 100EF (38EC) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five test results or the manufacturer's rating, whichever is lower must be used in the design calculations for stress;

B.6. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:

Chapter 17. Transmission Line Construction

§1709. Repair of Steel Pipe

A. - A.2. ...

B. Each of the following dents must be removed from steel pipe to be operated at a pressure that produces a hoop stress of 20 percent, or more, of SMYS, unless the dent is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe:

B.1. - 3. ...

a. more than one-quarter inch (6.4 millimeters) in pipe 12 : inches (324 millimeters) or less in outer diameter; or

b. more than 2 percent of the nominal pipe diameter in pipe over 12 : inches (324 millimeters) in outer diameter.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:857 (August 1992), LR 27:

§1713. Bends and Elbows

A. - A.3.a. ...

b. the pipe is 12 inches (305 millimeters) or less in outside diameter or has a diameter to wall thickness ratio less than 70.

B. ...

C. Wrought-steel welding elbows and transverse segments of these elbows may not be used for changes in direction on steel pipe that is 2 inches (51 millimeters) or more in diameter unless the arc length, as measured along the crotch, is at least 1 inch (25 millimeters).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1715. Wrinkle Bends in Steel Pipe

A. - B.2. ...

3. on pipe 16 inches (406 millimeters) or larger in diameter, the bend may not have a deflection of more than 12E for each wrinkle.

A.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1719. Installation of Pipe in a Ditch

A. - B. ...

C. All offshore pipe in water at least 12 feet (3.7 meters) deep but not more than 200 feet (61 meters) deep, as measured from the mean low tide, except pipe in the Gulf of Mexico and its inlets under 15 feet (4.6 meters) of water, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. Pipe in the Gulf of Mexico and its inlets under 15 feet (4.6 meters) of water must be installed so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:

§1721. Installation of Plastic Pipe

A. - C. ...

D. Thermoplastic pipe that is not encased must have a minimum wall thickness of 0.090 inches (2.29 millimeters), except that pipe with an outside diameter of 0.875 inches

(22.3 millimeters) or less may have a minimum wall thickness of 0.062 inches (1.58 millimeters).

E. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1310 (July 1998), LR 27:

§1725. Underground Clearance

A. Each transmission line must be installed with at least 12 inches (305 millimeters) of clearance from any other underground structure not associated with the transmission line. If this clearance cannot be attained, the transmission line must be protected from damage that might result from the proximity of the other structure.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 27:

§1727. Cover

A. Cover as provided in §1727.C, E, F and G, each buried transmission line must be installed with a minimum cover as follows:

Location	Normal Soil	Consolidated Rock
Inches (Millimeters).	30 (762)	18 (457)
Class 1 locations.....	36 (914)	24 (610)
Class 2,3 and 4 locations.....	36 (914)	24 (610)
Drainage ditches of public roads and railroad crossings.....		

B. Except as provided in Subsections C and D of this Section, each buried main must be installed with at least 24 inches (610 millimeters) of cover.

C. ...

D. A main may be installed with less than 24 inches (610 millimeters) of cover if the law of the state or municipality:

1. establishes a minimum cover of less than 24 inches (610 millimeters);

D.2. - 3. ...

E. Except as provided in §1727.C, all pipe installed in a navigable river, stream, or harbor must be installed with a minimum cover of 48 inches (1219 millimeters) in soil or 24 inches (610 millimeters) in consolidated rock between the top of the pipe and the natural bottom.

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet (60 meters) deep, as measured from the mean low tide, must be installed as follows:

1. except as provided in §1727.C, pipe under water less than 12 feet (3.66 meters) deep, must be installed with a minimum cover of 36 inches (914 millimeters) in soil or 18 inches (457 millimeters) in consolidated rock between the top of the pipe and the natural bottom.

2. pipe under water at least 12 feet (3.66 meters) deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:

Chapter 19. Meters, Regulators, Service Lines and Valve Requirements

§1903. Customer Meters and Regulators: Location

A. - B. ...

C. Each meter installed within a building must be located in a ventilated place and not less than three feet (914 millimeters) from any source of ignition or any source of heat which might damage the meter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1909. Customer Meter Installations: Operating Pressure

A. ...

B. Each newly installed meter manufactured after November 12, 1970, must have been tested to a minimum of 10 p.s.i. (69 kPa) gage.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1911. Service Lines: Installation

A. Depth. Each buried service line must be installed with at least 12 inches (305 millimeters) of cover in private property and at least 18 inches (457 millimeters) of cover in streets and roads. However, where an underground structure prevents installation at those depths, the service line must be able to withstand any anticipated external load.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1921. Service Lines: Steel

A. Each steel service line to be operated at less than 100 p.s.i. (689 kPa) gage must be constructed of pipe designed for a minimum of 100 p.s.i. (689 kPa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1923. Service Lines: Cast Iron and Ductile Iron

A. Cast or ductile iron pipe less than 6 inches (152 millimeters) in diameter may not be installed for service lines.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§1931. Service Lines: Excess Flow Valve Performance Standards

A. Excess flow valves to be used on single residence service lines that operate continuously throughout the year at a pressure not less than 10 p.s.i. (69 kPa) gage must be manufactured and tested by the manufacturer according to an industry specification, or the manufacturer's written specification, to ensure that each valve will:

- 1. function properly up to the maximum operating pressure at which the valve is rated;
- 2. function properly at all temperatures reasonably expected in the operating environment of the service line;
- 3. at 10 p.s.i. (69 kPa) gage:
 - a. close at, or not more than 50 percent above, the rated closure flow rate specified by the manufacturer; and
 - b. upon closure, reduce gas flow:
 - i. for an excess flow valve designed to allow pressure to equalize across the valve, to no more than 5 percent of the manufacturer's specified closure flow rate, up to a maximum of 20 cubic feet per hour (0.57 cubic meters per hour); or
 - ii. for an excess flow valve designed to prevent equalization of pressure across the valve, to no more than 0.4 cubic feet per hour (.01 cubic meters per hour); and

A.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:1311 (July 1998), amended LR 27:

§1933. Excess Flow Valve Customer Notification

A. Definitions. As used in this section:

Costs Associated with Installation—the costs directly connected with installing an excess flow valve, for example, costs of parts, labor, inventory, and procurement. It does not include maintenance and replacement costs until such costs are incurred.

Replaced Service Line—a natural gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

Service Line Customer—the person who pays the gas bill, or where service has not yet been established, the person requesting service.

B. Which Customers Must Receive Notification. Notification is required on each newly installed service line or replaced service line that operates continuously throughout the year at a pressure not less than 68.0 kPa (10 psig) and that serves a single residence. On these lines an operator of a natural gas distribution system must notify the service line customer once in writing.

C. What to Put in the Written Notice

- 1. An explanation for the customer that an excess flow valve meeting the performance standards prescribed under §1931 is available for the operator to install if the customer bears the costs associated with installation;
- 2. An explanation for the customer of the potential safety benefits that may be derived from installing an excess flow valve. The explanation must include that an excess flow valve is designed to shut off flow of natural gas automatically if the service line breaks;
- 3. A description of installation, maintenance, and replacement costs. The notice must explain that if the customer requests the operator to install an EFV, the

customer bears all costs associated with installation, and what those costs are. The notice must alert the customer that the costs for maintaining and replacing an EFV may later be incurred, and what those costs will be, to the extent known.

D. When Notification and Installation Must Be Made

- 1. After February 3, 1999 an operator must notify each service line customer set forth in §1933.B:
 - a. on new service lines when the customer applies for service;
 - b. on replaced service lines when the operator determines the service line will be replaced.
- 2. If a service line customer requests installation an operator must install the EFG at a mutually agreeable date.

E. What Records Are Required

- 1. An operator must make the following records available for inspection by the Administrator or a State agency participating under 49 U.S.C. 60105 or 60106:
 - a. a copy of the notice currently in use; and
 - b. evidence that notice has been sent to the service line customers set forth in §1933.B, within the previous three years.

F. When Notification Is Not Required. The notification requirements do not apply if the operator can demonstrate:

- 1. that the operator will voluntarily install an excess flow valve or that the state or local jurisdiction requires installation;
- 2. that excess flow valves meeting the performance standards in §1931 are not available to the operator;
- 3. that the operator has prior experience with contaminants in the gas stream that could interfere with the operation of an excess flow valve, cause loss of service to a residence, or interfere with the operation of an excess flow valve, cause loss of service to a residence, or interfere with necessary operation or maintenance activities, such as blowing liquids from the line.
- 4. that an emergency or short time notice replacement situation made it impractical for the operator to notify a service line customer before replacing a service line. Examples of these situations would be where an operator has to replace a service line quickly because of:
 - a. third party excavation damage;
 - b. grade 1 leaks as defined in the Appendix G §192B11 of the Gas Piping Technology Committee guide for gas transmission and distribution systems;
 - c. a short notice service line relocation request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

Chapter 21. Corrosion Requirements

§2107. External Corrosion Control: Buried or Submerged Pipelines Installed After July 31, 1971

A. - A.2. ...

B. An operator need not comply with Subsection A of this Section, if the operator can demonstrate by tests, investigation, or experience in the area of application, including as a minimum, soil resistivity measurements and tests for corrosion accelerating bacteria, that a corrosive environment does not exist. However, within six months after an installation made pursuant to the preceding sentence, the operator shall conduct tests, including pipe-to-soil

potential measurements with respect to either a continuous reference electrode or an electrode using close spacing, not to exceed 20 feet (6 meters), and soil resistivity measurements at potential profile peak locations to adequately evaluate the potential profile along the entire pipeline. If the tests made indicate that a corrosive condition exists, the pipeline must be cathodically protected in accordance with Subsection A.2 of this Section.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998), LR 27:

§2111. External Corrosion Control: Examination of Buried Pipeline When Exposed

A. Whenever an operator has knowledge that any portion of a buried pipeline is exposed, the exposed portion must be examined for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion requiring remedial action under §2135 through 2141 is found, the operator shall investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2117. External Corrosion Control: Monitoring

A. Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §2115. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended 10:503 (July 1984), LR 27:

§2127. Internal Corrosion Control: General

A. - B. ...

C. Gas containing more than 0.25 grain of hydrogen sulfide per 100 cubic feet (5.8 milligrams/m³) at standard conditions (4 parts per million) may not be stored in pipe-type or bottle-type holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:1311 (July 1998), LR 27:

§2137. Remedial Measures: Transmission Lines

A. General Corrosion. Each segment of transmission line with general corrosion and with a remaining and with a remaining wall thickness less than that required for the MAOP of the pipeline must be replaced or the operating pressure reduced commensurate with the strength of the pipe based on actual remaining wall thickness. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this Subsection.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1311 (July 1998), LR 27:

§2139. Remedial Measures: Distribution Lines other than Cast Iron or Ductile Iron Lines

A. General Corrosion. Except for cast iron or ductile iron pipe, each segment or generally corroded distribution line pipe with a remaining wall thickness less than that required for the MAOP of the pipeline, or a remaining wall thickness less than 30 percent of the nominal wall thickness, must be replaced. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this Subsection.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

Chapter 23. Test Requirements

§2305. Strength Test Requirements for Steel Pipeline to Operate at a Hoop Stress of 30 Percent or More of SMYS

A. Except for service lines, each segment of a steel pipeline that is to operate at a hoop stress of 30 percent or more of SYMS must be strength tested in accordance with this Section to substantiate the proposed maximum allowable operating pressure. In addition, in a Class 1 or Class 2 location, if there is a building intended for human occupancy within 300 feet (91 meters) of a pipeline, a hydrostatic test must be conducted to a test pressure of at least 125 percent of maximum operating pressure on that segment of the pipeline within 300 feet (91 meters) of such a building, but in no event may the test section be less than 600 feet (183 meters) unless the length of the newly installed or relocated pipe is less than 600 feet (183 meters). However, if the buildings are evacuated while the hoop stress exceeds 50 percent of SMYS, air or inert gas may be used as the test medium.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2307. Test Requirements for Pipelines to Operate at a Hoop Stress Less than 30 Percent of SMYS and at or Above 100 p.s.i. (689 kPa) Gage

A. Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated at a hoop stress less than 30 percent of SMYS and at or above 100 p.s.i. (689 kPa) gage must be tested in accordance with the following:

A.1. - 2. ...

a. a leak test must be made at a pressure between 100 p.s.i. (689 kPa) gage and the pressure required to produce a hoop stress of 20 percent of SMYS; or

A.2.b. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2309. Test Requirements for Pipelines to Operate below 100 p.s.i. (689 kPa) gage

A. Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated below 100 p.s.i. (689 kPa) gage must be leak tested in accordance with the following:

1. the test procedure used must ensure discovery of all potentially hazardous leaks in the segment being tested;

2. each main that is to be operated at less than one p.s.i. (6.9 kPa) gage must be tested to at least 10 p.s.i. (69 kPa) gage and each main to be operated at or above one p.s.i. (6.9 kPa) gage must be tested to at least 90 p.s.i. (621 kPa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2311. Test Requirements for Service Lines

A. ...

B. Each segment of a service line (other than plastic) intended to be operated at a pressure of at least one p.s.i. (6.9 kPa) gage but not more than 40 p.s.i. (276 kPa) gage must be given a leak test at a pressure of not less than 50 p.s.i. (345 kPa) gage.

C. Each segment of a service line (other than plastic) intended to be operated at pressures of more than 40 p.s.i. (276 kPa) gage must be tested to at least 90 p.s.i. (621 kPa) gage, except that each segment of the steel service line stressed to 20 percent or more of SMYS must be tested in accordance with §2307 of Part XIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2313. Test Requirements for Plastic Pipelines

A. - B. ...

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i. (345 kPa) gage, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under §917, at a temperature not less than the pipe temperature during the test.

D. During the test, the temperature of thermoplastic material may not be more than 100EF (38EC), or the temperature at which the materials long-term hydrostatic strength has been determined under the listed specification, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998),LR 27:

Chapter 25. Uprating

§2507. Uprating: Steel Pipelines to a Pressure that will Produce a Hoop Stress less than 30 Percent of SMYS: Plastic, Cast Iron, and Ductile Iron Pipelines

A. - B. ...

C. After complying with Subsection B of this Section, the increase in maximum allowable operating pressure must be made in increments that are equal to 10 p.s.i. (69 kPa) gage or 25 percent of the total pressure increase, whichever produces the fewer number of increments. Whenever the requirements of Subsection B.6 of this Section apply, there must be at least two approximately equal incremental increases.

D. - D.2. ...

3. unless the actual nominal wall thickness is known, the operator shall determine the wall thickness by cutting and measuring coupons from at least three separate pipe lengths. The coupons must be cut from pipe lengths in area where the cover depth is most likely to be the greatest. The average of all measurements taken must be increased by the allowance indicated in the following table:

Pipe Size (inches) (millimeters)	Allowance (inches) (millimeters)		Ductile iron pipe
	Cast iron pipe		
	Pit cast pipe	Centrifugally cast pipe	
3 to 8 (76 to 203)	0.075 (1.91)	0.065 (1.65)	0.065 (1.65)
10 to 12 (254 to 305)	0.08 (2.03)	0.07 (1.78)	0.07 (1.78)
14 to 24 (356 to 610)	0.08 (2.03)	0.08 (2.03)	0.075 (2.03)
30 to 42 (762 to 1067)	0.09 (2.29)	0.09 (2.29)	0.075 (1.91)
48 (1219)	0.09 (2.29)	0.09 (2.29)	0.08 (2.03)
54 to 60 (1372 to 1524)	0.09 (2.29)		

4. for cast iron pipe, unless the pipe manufacturing process is known, the operator shall assume that the pipe is pit cast pipe with a bursting tensile strength of 11,000 p.s.i. (76 Mpa) gage and a modulus of rupture of 31,000 p.s.i. (214 Mpa) gage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

Chapter 27. General Operating Requirements

§2712. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and its Inlets

A. - B.1. ...

2. promptly, but not later than seven days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center; and

3. within six months after discovery, or not later than November 1 of the following year if the six-month period is later than November 1 of the year the discovery is made, place the pipeline so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:858 (August 1992), amended LR 27:

§2715. Damage Prevention Program

A. Except as provided in D and E of this section, each operator of a buried pipeline shall carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purpose of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means, and other earth moving operations.

B. An operator may comply with any of the requirements of §2715.C through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section. However, an operator must perform the duties of §2715.C.3 through participation in a one-call system, if that one-call system is a qualified one-call system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of this section, a one-call system is considered a "qualified one-call system" if it meets the requirements of §2715.B.1 or B.2.

1. The state has adopted a one-call damage prevention program under §198.37 of CFR 49, or

2. The one-call system:

a. is operated in accordance with §198.39 of CFR 49;

b. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and

c. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call systems' coverage of the operator's pipeline.

C. The damage prevention program required by §2715.A must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located;

2. provide for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in §2715.C.1 of the following as often as needed to make them aware of the damage prevention program:

a. the program's existence and purpose; and

b. how to learn the location of underground pipelines before excavation activities are begun.

3. provide a means of receiving and recording notification of planned excavation activities;

4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;

5. provide for temporary marking of buried pipelines in the area of excavation activity before the activity begins, except in emergency situations;

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

b. in the case of blasting, any inspection must include leakage surveys.

D. A damage prevention program under this section is not required for the following pipelines:

1. pipelines located offshore;

2. pipelines, other than those located offshore, in Class 1 or 2 locations until September 20, 1995;

3. pipelines to which access is physically controlled by the operator.

E. Pipelines operated by persons other than municipalities (including operators of master meters) whose primary activity does not include the transportation of gas need not comply with the following:

1. the requirements of §2715.A that the damage prevention program be written; and

2. the requirements of §2715.C.1 and C.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:822 (August 1995), LR 27:

§2721. Maximum Allowable Operating Pressure: Steel or Plastic Pipelines

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

b. if the pipe is 12: inches (324 mm) or less in outside diameter and is not tested to yield under this Subsection, 200 p.s.i. (1379 kPa) gage.

2. The pressure obtained by dividing the pressure to which the segment was tested after construction as follows:

a. for plastic pipe in all locations, the test pressure is divided by a factor of 1.5.

b. for steel pipe operated at 100 p.s.i. (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table:

Class location	Factors ¹ , segment		
	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970)	Covered under §192.14
1	1.1	1.1	1.25
2	1.25	1.25	1.25
3	1.4	1.5	1.5
4	1.4	1.5	1.5

¹ For offshore segments installed, uprated or converted after July 31, 1977, that are not located on an offshore platform, the factor is 1.25. For segments installed, uprated or converted after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

A.3. - D.1. ...

2. 60 p.s.i. (414 kPa) gage, for a segment of a distribution system otherwise designated to operate at over 60 p.s.i. (414 kPa) gage, unless the service lines in the segment are equipped with service regulators or other pressure limiting devices in series that meet the requirements of §1159.C;

3. 25 p.s.i.(172 kPa) gage in segments of cast iron pipe in which there are unreinforced bell and spigot joints;

D.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1312 (July 1998), LR 27:

§2725. Odorization of Gas

A. - H.2.a. ...

b. the quantity of each kind of malodorant agent used during each quarter; Farm taps are exempt from this requirement. and

H.2.c. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

Chapter 29. Maintenance Requirements

§2905. Transmission Lines: Patrolling

A. ...

B. The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following:

Class location of line	Maximum interval between patrols	
	At highway and railroad crossings	At all other places
1, 2	7 1/2 months; but at least twice each calendar year	15 months; but at least once each calendar year
3	4 1/2 months; but at least four times each calendar year	7 1/2 months; but at least twice each calendar year
4	4 1/2 months; but at least four times each calendar year	4 1/2 months; but at least four times each calendar year

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 24:1313 (July 1998), LR 27:

§2909. Line Markers for Mains and Transmission Lines

A. - C. ...

D. Marker Warning. The following must be written legibly on a background of sharply contrasting color on each line marker:

1. the word AWarning,@ ACaution,@ or ADanger@ followed by the words AGas (or name of gas transported) Pipeline@ all of which, except for markers in heavily developed urban areas, must be in letters at least one inch (25 millimeters) high with one-quarter inch (6.4 millimeters) stroke;

D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:1313 (July 1998), LR 27:

§2913. Transmission Lines: General Requirements for Repair Procedures

A. - A.2. ...

B. Except as provided in §2919.B.3, no operator may use a welded patch as a means of repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2915. Transmission Lines: Permanent Field Repair of Imperfections and Damages

A. Each imperfection or damage that impairs the serviceability of pipe in a steel transmission line operating at or above 40 percent of SMYS must be:

1. removed by cutting out and replacing a cylindrical piece of pipe; or

2. repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

B. Operating pressure must be at a safe level during repair operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2917. Transmission Lines: Permanent Field Repair of Welds

A. Each weld that is unacceptable under §1315 must be repaired as follows.

1. If it is feasible to take the segment of transmission line out of service, the weld must be repaired in accordance with the applicable requirements of §1319.

2. A weld may be repaired in accordance with §1319 while the segment of transmission line is in service if:

a. a weld is not leaking;

b. the pressure in the segment is reduced so that it does not produce a stress that is more than 20 percent of the SMYS of the pipe;

c. grinding of the defective area can be limited so that at least C-inch (3.2 millimeters) thickness in the pipe weld remains.

3. A defective weld which cannot be repaired in accordance with Paragraphs 1 and 2 of this section must be repaired by installing a full encirclement welded split sleeve of appropriate design.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2919. Transmission Lines: Permanent Field Repair of Leaks

A. Each permanent field repair of a leak on a transmission line must be made by:

1. removing the leak by cutting out and replacing a cylindrical piece of pipe; or

2. repairing the leak by one of the following methods;
a. a full encirclement welded split sleeve of appropriate design, unless the transmission line is joined by mechanical couplings and operates at less than 40 percent of SMYS;

b. if the leak is due to a corrosion pit, install a properly designed bolt-on-leak clamp;

c. if the leak is due to a corrosion pit on the pipe of not more than 40,000 p.s.i. (276 Mpa) gage SMYS, fillet weld over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size.

d. if the leak is on a submerged offshore pipeline in inland navigable water, mechanically apply a full encirclement split sleeve of appropriate design;

e. apply a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2927. Abandonment or Deactivation of Facilities

A. - F. ...

G. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility.

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operators knowledge, all of the reasonably available information requested was provided and, to the best of the operators knowledge, the

abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; email, roger.little@rspa.dot.gov. The information on the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed by before April 10, 2001. Operators may submit reports by mail, fax or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, roger.little@rspa.dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:824 (August 1995), LR 27:

§2936. Compressor Stations: Gas Detection

A. - A.1. ...

2. located in an unattended field compressor station of 1,000 horsepower (746 kW) or less.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:824 (August 1995), amended LR 27:

§2947. Vault Maintenance

A. Each vault housing pressure regulating and pressure limiting equipment, and having a volumetric internal content of 200 cubic feet (5.66 cubic meters) or more, must be inspected at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is in good physical condition and adequately ventilated.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

§2951. Caulked Bell and Spigot Joint

A. Each cast-iron caulked bell and spigot joint that is subject to pressures of 25 p.s.i. (172 kPa) gage or more must be sealed with:

A.1. - A.2.c. ...

B. Each cast iron caulked bell and spigot joint that is subject to pressures of less than 25 p.s.i. (172 kPa) gage and

is exposed for any reason, must be sealed by a means other than caulking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 27:

Chapter 30. Operator Qualification

§3001. Scope

A. This chapter prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

B. For the purpose of this chapter, a covered task is an activity, identified by the operator, that:

1. is performed on a pipeline facility;
2. is an operations or maintenance task;
3. is performed as a requirement of this chapter; and
4. affects the operation or integrity of the pipeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§3003. Definitions

Abnormal Operating Condition Ca condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

1. indicate a condition exceeding design limits; or
2. result in a hazard(s) to persons, property, or the environment.

Evaluation Ca process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

1. written examination;
2. oral examination;
3. work performance history review;
4. observation during;
5. performance on the job;
6. on the job training;
7. simulations;
8. other forms of assessment.

Qualified C that an individual has been evaluated and can:

1. perform assigned covered tasks; and
2. recognize and react to abnormal operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§3005. Qualification Program

A. Each operator shall have and follow a written qualification program. The program shall include provisions to:

1. identify covered tasks;
2. endure through evaluation that individuals performing covered tasks are qualified;
3. allow individuals that are not qualified pursuant to this chapter to perform a covered task if directed and observed by an individual that is qualified.
4. evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Chapter 3;

5. evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task.

6. communicate changes that affect covered tasks to individuals performing those covered tasks; and

7. identify those covered tasks and the intervals at which evaluation of the individual's qualification is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§3007. Recordkeeping

A. Each operator shall maintain records that demonstrate compliance with this chapter.

1. Qualification records shall include:

- a. identification of qualified individual(s);
- b. identification of the covered tasks the individual is qualified to perform;
- c. date(s) of current qualification; and
- d. qualification method(s).

2. records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

§3009. General

A. Operators must have a written qualification program by April 27, 2001.

B. Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.

C. Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to August 27, 1999.

D. After October 28, 2002, work performance history may not be used as a sole evaluation method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

' 3011. List of Organizations and Addresses

A. The following organizations develop and publish material standards and specifications that are used by the pipeline industry. The most current editions of such publications can be procured directly from the organization, agency or committee listed below.

1. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, VA 22209.

2. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036.

3. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

3. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017.

4. The American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

5. Manufactures Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NW., Vienna, VA 22180.

6. National Fire Protection Association (NFPA), 1 Battery march Park, P.O. Box 9101, Quincy, MA 02269-9101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

' 3013. Documents

A. The following documents are incorporated by reference. The material standards and specifications depicted in these publications establish the minimum requirements for pipeline construction, operations and maintenance.

1. American Gas Association (AGA)
 - a. AGA Pipeline Research Committee, Project PR-3-805, *A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe* (December 22, 1989).
2. American Petroleum Institute (API)
 - a. API Specification 5L *Specification for Line Pipe* (41st edition, 1995).
 - b. API Recommended Practice 5L1 *Recommended Practice for Railroad Transportation of Line Pipe* (4th edition, 1990).
 - c. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21st edition, 1994).
 - d. API Standard 1104 *Welding of Pipelines and Related Facilities* (18th edition, 1994).
3. American Society for Testing and Materials (ASTM)
 - a. ASTM Designation: A 53 *Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless* (a53-96).
 - b. ASTM Designation: a106 *Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service* (a106-95).
 - c. ASTM Designation: A333/A333M *Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service* (A333/A333M-94).
 - d. ASTM Designation: A372/A372M *Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels* (A372/A372M-95).
 - e. ASTM Designation: A381 *Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems* (A381-93).
 - f. ASTM Designation: A671 *Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures* (A671-94).
 - g. ASTM Designation: A672 *Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures* (A672-94).
 - h. ASTM Designation: A691 *Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures* (A691-93).
 - i. ASTM Designation: D638 *Standard Test method for Tensile Properties of Plastics* (D638-96).
 - j. ASTM Designation: D2513 *Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing,*

and Fittings (D2513-87 edition for ' 192.63(a), otherwise D2513-96a).

k. ASTM Designation: D2517 *Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings* (D2517-94).

l. ASTM Designation: F1055 *Standard Specification for Electro fusion Type Polyethylene fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing* (F1055-95).

4. The American Society of Mechanical Engineers(ASME)

a. ASME/ANSI B16.1 *Cast Iron Pipe Flanges and Flanged Fittings* (1989).

b. ASME/ANSI B16.5 *Pipe Flanges and Flanged Fittings* (1988 with October 1988 Errata and ASME/ANSI B16.5a-1992 Addenda).

c. ASME/ANSI B31G *Manual for Determining the Remaining Strength of Corroded Pipelines* (1991).

d. ASME/ANSI B31.8 *Gas Transmission and Distribution Piping Systems* (1995).

e. ASME Boiler and Pressure Vessel Code, Section I *Power Boilers* (1995 edition with 1995 Addenda).

f. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 *Pressure Vessels* (1995 edition with 1995 Addenda).

g. ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 *Pressure Vessels: Alternative Rules* (1995 edition with 1995 Addenda).

h. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualification* (1995 edition with 1995 Addenda).

5. Manufactures Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

a. MSS SP-44-96 *Steel Pipe Line Flanges* (includes 1996 errata) (1996).

b. .[Reserved].

6. National Fire Protection Association (NFPA):

a. NFPA 30 *Flammable and Combustible Liquids Code* (1996).

b. ANSI/NFPA 58 *Standard for the Storage and Handling of Liquefied Petroleum Gases* (1995).

c. ANSI/NFPA 59 *Standard for the storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants* (1995).

d. ANSI/NFPA 70 *National Electrical Code* (1996).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

' 3015. Qualification of Pipe

A. The following publications are incorporated by reference. These publications define minimum material standards and specifications for pipe.

1. Listed Pipe Specifications. (Numbers in Parentheses Indicate Applicable Editions.)

a. API 5L-Steel pipe (1995)

b. ASTM A53-Steel pipe (1995a)

c. ASTM A106-Steel pipe (1994a)

d. ASTM A333/A333M Steel pipe (1994)

e. ASTM A381-Steel pipe (1993)

f. ASTM A671-Steel pipe (1994)

g. ASTM A672-Steel pipe (1994)

h. ASTM D2513-Thermoplastic pipe and tubing [1996(a)].

i. ASTM D2517-Thermosetting plastic pipe and tubing (1994)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

' 3017. Steel Pipe of Unknown or Unlisted Specification

A. Bending properties. For pipe 2 inches (51 millimeters) or less in diameter, a length of pipe must be cold bent through at least 90 degrees around a cylindrical mandrel that has a diameter 12 times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld.

1. For pipe more than 2 inches (51 millimeters) in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM A53, except that the number of tests must be at least equal to the minimum required in Paragraph D of this section to determine yield strength.

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Subpart E of this part. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104. If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with section IX of the ASME Boiler and Pressure Vessels Code. The same number of chemical tests must be made as are required for testing a girth weld.

C. Inspection. The pipe must be cleaned enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are not defects which might impair the strength or tightness of the pipe.

D. Tensile properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. (165 Mpa) or less, or the tensile properties may be established by performing tensile tests as set forth in API Specification 5L. All test specimens shall be selected at random and the following numbers of tests must be performed:

Number of Tensile Tests-All Sizes	
10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths but not less than 20 tests.

1. If the yield -tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in ' 192.55 (c):

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

' 3019. Steel Pipe Manufactured before November 12, 1970, to Earlier Editions of Listed Specifications

A. Steel pipe manufactured before November 12, 1970, in accordance with a specification of which a later edition is listed in ' 3015, is qualified for use under this part if the following requirements are met.

1. Inspection. The pipe must be clean enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and that there are no defects which might impair the strength or tightness of the pipe.

2. Similarity of specification requirements. The edition of the listed specification under which the pipe was manufactured must have substantially the same requirements with respect to the following properties as a later edition of that specification listed in ' 3015:

a. physical (mechanical) properties of pipe, including yield and tensile strength, elongation, and yield to tensile ratio, and testing requirements to verify those properties.

b. chemical properties of pipe and testing requirements to verify those properties.

3. Inspection or test of welded pipe. On pipe with welded seams, one of the following requirements must be met.

a. The edition of the listed specification to which the pipe was manufactured must have substantially the same requirements with respect to nondestructive inspection of welded seams and the standards for acceptance or rejection and repair as a later edition of the specification listed in ' 3015.

b. The pipe must be tested in accordance with Subpart J of this part to at least 1.25 times the maximum allowable operating pressure if it is to be installed in a class 1 location and to at least 1.5 times the maximum allowable operating pressure if it is to be installed in a class 2,3 or 4 location. Notwithstanding any shorter time period permitted under Subpart J of this part, the test pressure must be maintained for at least 8 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

' 3021. Qualification of Welders for Low Stress Level Pipe

A. Basic Test. The test is made on pipe 12 inches (305 millimeters) or less in diameter. The test weld must be made with the pipe in a horizontal fixed position so that the test weld includes at least one section of overhead position welding. The beveling, root opening, and other details must conform to the specifications of the procedure under which the welder is being qualified. Upon completion, the test weld is cut into four coupons and subjected to a root bend test. If, as a result of this test, two or more of the four coupons develop a crack in the weld material, or between the weld material and base metal, that is more than 1/8-inch (3.2 millimeters) long in any direction, the weld is unacceptable.

Cracks that occur on the corner of the specimen during testing are not considered.

B. Additional Tests for Welders of Service Line Connections to Mains. A service line connection fitting is welded to a pipe section with the same diameter as a typical main. The weld is made in the same position as it is made in the field. The weld is unacceptable if it shows a serious undercutting or if it has rolled edges. The weld is tested by attempting to break the fitting off the run pipe. The weld is unacceptable if it breaks and shows incomplete fusion, overlap, or poor penetration at the junction of the fitting and run pipe.

C. Periodic Tests for Welders of Small Service Lines. Two samples of the welders' work, each about 8 inches (203 millimeters) long with the weld located approximately in the center, are cut from steel service line and tested as follows:

1. One sample is centered in a guided bend testing machine and bent to the contour of the die for a distance of 2 inches (51 millimeters) on each side of the weld. If the sample shows any breaks or cracks after removal from the bending machine, it is unacceptable.

2. The ends of the second sample are flattened and the entire joint subjected to a tensile strength test. If failure occurs adjacent to or in the weld metal, the weld is unacceptable. If a tensile strength testing machine is not available, this sample must also pass the bending test prescribed in subparagraph 1. of this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

' 3023. Criteria for Cathodic Protection and Determination of Measurements

A. Criteria for Cathodic Protection

1. Steel, Cast Iron, and Ductile Iron Structures

a. A negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-copper sulfate half cell. Determination of this voltage must be made with the protective current applied, and in accordance with paragraphs B and D of this section.

b. A negative (cathodic) voltage shift of at least 300 millivolts. Determination of this voltage shift must be made with the protective current applied, and in accordance with Paragraphs B and D of this section. This criterion of voltage shift applies to structures not in contact with metals of different anodic potentials.

c. A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Paragraphs C and D of this section.

d. A voltage at least as negative (cathodic) as that originally established at the beginning of the Tael segment of the E-log-I curve. This voltage must be measured in accordance with Paragraph D of this section.

e. A net protective current from the electrolyte into the structure surface as measured by the earth current technique applied at predetermined current discharge (anodic) points of the structure.

2. Aluminum structures.

a. Except as provided in subparagraphs c. and d. of this paragraph, a minimum negative (cathodic) voltage shift of 150 millivolts, produced by the application of protective current. The voltage shift must be determined in accordance with Paragraphs B and D of this section.

b. Except as provided in subparagraphs c. and d. of this paragraph, a minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Paragraphs C and D of this section.

c. Notwithstanding the alternative minimum criteria in subparagraphs a. and b. of this paragraph, aluminum, if cathodically protected at voltages in excess of 1.20 volts as measured with reference to a copper-copper sulfate half cell, in accordance with Paragraph D. of this section, and compensated for the voltage (IR) drops other than those across the structure-electrolyte boundary may suffer corrosion resulting from the build-up of alkali on the metal surface. A voltage in excess of 1.20 volts may not be used unless previous test results indicate no appreciable corrosion will occur in the particular environment.

d. Since aluminum may suffer from corrosion under high pH conditions, and since application of cathodic protection tends to increase the pH at the metal surface, careful investigation or testing must be made before applying cathodic protection to stop pitting attack on aluminum structures in environments with a natural pH in excess of 8.

3. Copper Structures. A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Sections C. and D. of this section.

4. Metals of Different Anodic Potentials. A negative (cathodic) voltage, measured in accordance with section D. of this appendix, equal to that required for the most anodic metal in the system must be maintained. If amphoteric structures are involved that could be damaged by high alkalinity covered by Subparagraphs c. and d. of Paragraph A.2. of this section, they must be electrically isolated with insulating flanges, or the equivalent.

B. Interpretation of Voltage Measurement. Voltage (IR) drops other than those across the structure electrolyte boundary must be considered for valid interpretation of the voltage measurement in Subparagraphs A.1.a. and A.1.b. and Subparagraph A.2.a. of this Section.

C. Determination of Polarization Voltage Shift. The polarization voltage shift must be determined by interrupting the protective current and measuring the polarization decay. When the current is initially interrupted, an immediate voltage shift occurs. The voltage reading after the immediate shift must be used as the base reading from which to measure polarization decay in Subparagraphs A.1.c. and A.2.b. and paragraph A.3. of this section.

D. Reference Half Cells

1. Except as provided in Paragraphs 2 and 3 of this section, negative (cathodic) voltage must be measured between the structure surface and a saturated copper-copper sulfate half cell contacting the electrolyte.

2. Other standard reference half cells may be substituted for the saturated copper-copper sulfate half cell. Two commonly used reference half cells are listed below along with their voltage equivalent to -0.85 volt as referred to a saturated copper-copper sulfate half cell:

- a. Saturated KC1 calomel half cell: -0.78 volt.
- b. Silver-silver chloride half cell used in sea water: -0.80 volt.

3. In addition to the standard reference half cells, and alternate metallic material or structure may be used in place of the saturated copper-copper sulfate half cell if its potential stability is assured and if its voltage equivalent referred to a saturated copper-copper sulfate half cell is established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:

Chapter 31. Drug Testing

§3101. Scope and Compliance

A. - C. ...

D. This chapter applies to pipeline operators, only with respect to pipeline employees located within the territory of the United States, including those employees located within the limits of the outer continental shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 27:

§3103. Definitions

Covered Employee A person who performs, on a pipeline or LNG facility, an operations, maintenance, or emergency-response function regulated by 49 CFR Part 192, 193, or 195. This does not include clerical, truck driving, accounting, or other functions not subject to 49 CFR Part 192, 193, or 195. The person may be employed by the operator, be a contractor engaged by the operator, or be employed by such a contractor.

Covered Function Can operations, maintenance, or emergency-response function conducted on the pipeline or LNG facility that is regulated by 49 CFR Part 192, 193, or 195.

Employee Cdefinition repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998), LR 27:

§3107. Anti-Drug Plan

A. - A.2. ...

3. the name and address of the operator's medical review officer, and substance abuse professional; and

A.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:1306 (July 1998), LR 27:

§3111. Drug Tests Required

A. Each operator shall conduct the following drug tests for the presence of a prohibited drug:

A.1. - 4. ...

5. Return to Duty Testing. A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has been evaluated face-to-face by a SAP, has properly followed any prescribed assistance, has passed a return-to-duty drug test administered under this Chapter and the SAP has determined that the employee may return to duty.

6. Follow Up Testing. A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:135 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 21:826 (August 1995), repromulgated LR 21:955 (September 1995), LR 27:

§3115. Review of Drug Testing Results

A. - C.2.e. ...

3. ensure that an employee has been drug tested in accordance with the DOT Procedures before the employee returns to duty.

D. MRO Determinations. The following Rules govern MRO determinations.

1. If the MRO determines, after appropriate review, that there is a legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO is not required to take further action.

2. If the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO shall refer:

a. the individual tested to a personnel or administrative office for further proceedings in accordance with the operator's anti-drug program; and

b. for evaluation by a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with drug misuse.

3. Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the MRO may conclude that a particular drug test result is scientifically insufficient for further action. Under these circumstances, the MRO should conclude that the test is negative for the presence of a prohibited drug or drug metabolite in an individual's system.

E. Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment or costs shall be made in accordance with the operator/employee agreements and operator/employee policies.

F. The operator shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring a covered employee for assistance provided through:

1. a public agency, such as a state, parish, or municipality;

2. the operator or a person under contract to provide treatment for drug problems on behalf of the operator;

3. the sole source or therapeutically appropriate treatment under the employee's health insurance program; or
4. the sole source of therapeutically appropriate treatment reasonably accessible to the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16:534 (June 1990), LR 27:

§3117. Retention of Samples and Retesting

A. Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or the employee's representative, the operator, the administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:136 (February 1990), repromulgated LR 16:535 (June 1990), amended LR 21:827 (August 1995), LR 27:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These Rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. These Rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These Rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on the functioning and family budget.

5. The Effect of these Rules on Family Earnings and Family Budget. These Rules will have no effect on the functioning of the family.

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rules.

Interested persons may contact Mariano Hinojosa, Director, Pipeline Division, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by calling (225) 342-5505.

Philip N. Asprodites
Commissioner of Conservation

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pipeline Safety Natural Gas

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

There should be no additional costs or savings regarding the amendment of this Rule. This action adopts federal amendments to pipeline safety regulations.

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

There should be no effect on revenue or costs as the Department was previously enforcing similar Rules.

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

There should be no significant costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Philip N. Asprodites
Commissioner
0106#010

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

NFPA Codes (LAC 55:V.103)

In accordance with the provisions of R.S.49:950, et seq. and R.S. 40:1563.F, relative to the authority of the State Fire Marshal to promulgate and enforce Rules, the Office of the State Fire Marshal proposes to amend the following Rules.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 1. Preliminary Provisions

' 103. General Provisions

A. It shall be the policy of the state fire marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the state fire marshal, that the National Fire Codes published by the National Fire Protection Association and the Standard Building Code shall be used as the references and standards for determinations by the state fire marshal as follows.

NFPA 1	1997 Edition	Fire Prevention Code
NFPA 10	1998 Edition	Standard for Portable Fire Extinguishers
NFPA 11	1998 Edition	Standard for Low-Expansion Foam
NFPA 12	2000 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	1997 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	1999 Edition	Standard for the Installation of Sprinkler Systems
NFPA 13D	1999 Edition	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	1999 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2000 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	1996 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	1999 Edition	Standard for the Installation of Deluge Foam-Water Sprinkler Systems
NFPA 17	1998 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	1998 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	1995 Edition	Standard on Wetting Agents
NFPA 20	1999 Edition	Standard for the Installation of Centrifugal Pumps
NFPA 24	1995 Edition	Standard for the Installation of Private Fire Service Mains and Their Appurtenances
NFPA 25	1998 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	1996 Edition	Flammable and Combustible Liquids Code
NFPA 30A	1996 Edition	Automotive and Marine Service Station Code
NFPA 30B	1998 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	1997 Edition	Standard for the Installation of Oil-Burning Equipment

NFPA 32	1996 Edition	Standard for Dry Cleaning Plants
NFPA 33	1995 Edition	Standard for Spray Application Using Flammable or Combustible Materials
NFPA 34	1995 Edition	Standard for Dipping and Coating Processed Using Flammable or Combustible Liquids
NFPA 37	1998 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	1997 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	1996 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 49	1994 Edition	Hazardous Chemicals Data
NFPA 50	1996 Edition	Standard for Bulk Oxygen Systems at Consumer Sites
NFPA 50A	1999 Edition	Standard for Gaseous Hydrogen Systems at Consumer Sites
NFPA 50B	1998 Edition	Standard for Liquefied Hydrogen Systems at Consumer Sites
NFPA 51	1997 Edition	Standards for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 52	1998 Edition	Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems
NFPA 53	1999 Edition	Guide on Fire Hazards in Oxygen Enriched Atmospheres
NFPA 54	1999 Edition	National Fuel Gas Code
NFPA 55	1998 Edition	Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders
NFPA 57	1999 Edition	Standard for Liquefied Natural Gas (LNG) Vehicular Fuel Systems
NFPA 58	1998 Edition	Standard for the Storage and Handling of Liquefied Petroleum Gases
NFPA 59A	1996 Edition	Standard for the production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	1999 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 68	1998 Edition	Guide for Venting of Deflagrations
NFPA 69	1997 Edition	Standard on Explosion Prevention Systems
NFPA 70	1999 Edition	National Electrical Code
NFPA 72	1999 Edition	National Fire Alarm Code
NFPA 75	1999 Edition	Standard for Protection of Electronic Computer/Data Processing Equipment
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	1999 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	1998 Edition	Standard for Parking Structures
NFPA 88B	1999 Edition	Standard for Repair Garages
NFPA 90A	1999 Edition	Standard for the Installation of Air Conditioning and Ventilating Systems
NFPA 90B	1999 Edition	Standard for the Installation of Warm Air Heating and Air Conditioning Systems
NFPA 92A	1996 Edition	Standard for Installation of Air Conditioning and Ventilation Systems
NFPA 92B	1995 Edition	Guide for Smoke Management in Malls, Atria, and Large Areas
NFPA 96	1998 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 97	2000 Edition	Standard Glossary of Terms Relating to Chimneys, Vents, and Heat Producing Appliances
NFPA 99	1999 Edition	Standard for Health Care Facilities
NFPA 99B	1999 Edition	Standard for Hypobaric Facilities
NFPA 101	2000 Edition	Code for Safety to Life from Fire in Buildings and Structures

NFPA 101A	1998 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	1999 Edition	Recommended Practice for the Installation of Smoke Control Door Assemblies
NFPA 110	1999 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	1996 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 150	1995 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 170	1999 Edition	Standard for Fire Safety Symbols
NFPA 204	1998 Edition	Guide for Smoke and Heat Venting
NFPA 211	2000 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	1999 Edition	Standard on Types of Building Construction
NFPA 221	1997 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 230	1999 Edition	Standard for General Storage
NFPA 231D	1994 Edition	Standard for Storage of Rubber Tires
NFPA 232	1995 Edition	Standard for the Protection of Records
NFPA 303	1995 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	1995 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	1996 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	1995 Edition	Standard on Aircraft Hangars
NFPA 415	1997 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	1995 Edition	Standard for Heliports
NFPA 430	2000 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	1997 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	1998 Edition	Code for the Storage of Pesticides
NFPA 490	1998 Edition	Code for the Storage of Ammonium Nitrate
NFPA 491M	1991 Edition	Manual of Hazardous Chemical Reactions
NFPA 495	1996 Edition	Explosive Materials Code
NFPA 496	1998 Edition	Standard for Purged and Pressurized Enclosures for Electrical Equipment
NFPA 513	1998 Edition	Standard for Motor Freight Terminals
NFPA 701	1999 Edition	Standard Methods of Fire Tests for Flame-Resistant Textiles and Films
NFPA 703	1995 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 704	1996 Edition	Standard System for the Identification of the Hazards of Materials for Emergency Response
NFPA 705	1997 Edition	Recommended Practice for a Field Flame Test for Textiles and Films
NFPA 750	1996 Edition	Standard on Water Mist Fire Protection Systems
NFPA 801	1998 Edition	Standard for Facilities Handling Radioactive Materials
NFPA 901	1995 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 902	1997 Edition	Fire Reporting Field Incident Guide
NFPA 903	1996 Edition	Fire Reporting Property Survey
NFPA 904	1996 Edition	Incident Follow-up Report Guide
NFPA 906	1998 Edition	Guide for Fire Incident Field Notes
NFPA 1123	1995 Edition	Code for Fireworks Display

NFPA 1124	1995 Edition	Code for the Manufacture, Transportation, and Storage of Fireworks
NFPA 1126	1996 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	1999 Edition	Standard for the Installation, Maintenance, and Use of Public Fire Communication Systems
NFPA 1402	1997 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	1997 Edition	Standard on Live Fire Training Evolutions
NFPA 2001	2000 Edition	Standard on Clean Agent Fire Extinguishing Systems
NFPA 8501	1997 Edition	Standard for Single Burner Boiler Operation
NFPA 8502	1999 Edition	Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers
NFPA 8506	1998 Edition	Standard on Heat Recovery Steam Generator Systems

B. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after June 30, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc. All references to performance based criteria in the 2000 Edition of the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after December 31, 2001, shall be made utilizing new construction requirements set forth in the 2000 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1997 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

C. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1998 will be made utilizing new construction requirements set forth in the 1997 edition of the *Life Safety Code* of the National Fire Protection Association and Section 412-Special Provisions for High-Rise Building published by the 1994 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

D. All inspections of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal on or after January 5, 1995, will be made utilizing new construction requirements set forth in the 1994 edition of the *Life Safety Code* of the National Fire protection Association and Section 506-Special Provisions for High-Rise Buildings published by the 1991 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

E. All inspections of building constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal after May 31, 1992, will be made utilizing new construction requirements set forth in the 1991 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings

published by the 1998 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

F. With regard to buildings constructed or remodeled between February 19, 1989, and May 31, 1992, or whose construction was timely completed pursuant to plans submitted to the Office of State Fire Marshal prior to May 31, 1992, inspections will be made utilizing the new construction requirements set forth in the 1998 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506-Special Provisions for High-Rise Buildings published by the *Standard Building Code* of the Southern Building Code Congress International, Inc. (1985 edition).

G. All inspections of buildings constructed or remodeled between September 1, 1986, and February 19, 1989, will be made utilizing the requirements set forth in the 1985 edition of the *Life Safety Code* of the National Fire Protection Association and Section 518 Special Provisions for High Rise of Chapter 4 of the 1985 edition of the *Standard Building Code* of the Southern Building Code Congress International, Inc.

H. All inspections of building constructed or remodeled between September 1, 1981, and September 1, 1986 will be made utilizing the requirements set forth in the 1981 edition of the *Life Safety Code* of the National Fire Protection Association and Section 506 Special Provisions for high rise of the *Standard Building Code* (1979 edition) of the Southern Building Code Congress International, Inc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 F.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981). LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:

Interested persons may submit written comments on these proposed Rules to Mark Gates at 5150 Florida Boulevard, Baton Rouge, LA 70806. Comments will be accepted through close of business July 20, 2001.

Jerry Jones
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fire Protection**

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

There are no anticipated implementation costs or savings.

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

There is no anticipated impact on revenue collections or state or local governmental units.

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

This Rule is intended to align Louisiana with national standards regarding fire safety and building construction. The Rules merely adopt the most recent changes to codes of the National Fire Protection Association (NFPA) that are already in effect in Louisiana. The purpose of the code(s) is fire safety

and the economic benefit derived from the saving of lives and property damage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Jerry W. Jones
Undersecretary
0106#041

John Rombach
Legislative Fiscal Officer

**NOTICE OF INTENT
Department of Revenue
Policy Services Division**

Composite Returns (LAC 61:I.1401)

Under the authority of R.S. 47:201.1 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1401 relative to composite returns and composite payments of tax made by a partnership or limited liability company on behalf of nonresident partners or members.

Act 21 of the 2000 Second Extraordinary Session of the Louisiana Legislature enacted R.S. 47:201.1 to require certain partnerships and limited liability companies with nonresident partners or members to file composite returns and make composite payments of tax for nonresident partners or members who do not agree to file and pay Louisiana income tax on their own behalf. This Rule will provide guidance concerning which partnerships and limited liability companies must file composite returns and make composite payments; when composite returns and payments are due; which partners or members are to be included on the composite return; and how partners or members who do not wish to be included in a composite return can enter into an agreement with the Department of Revenue to file and pay on their own behalf.

**Title 61
REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 14. Income: Partnerships
§1401. Composite Return Requirement, Composite
Payment Requirement, Exceptions**

A. Definitions. For the purpose of this Rule, the following terms are defined.

Corporation Can entity that is treated as a corporation for state income tax purposes as set forth in R.S. 47:287.11(A).

Individual Return Ca Louisiana personal income tax return or a Louisiana fiduciary income tax return.

Partner Ca member or partner of an association that is treated as a partnership for state income tax purposes, including but not limited to, a member in a limited liability company or a partner in a general partnership, a partnership in commendam, or a registered limited liability partnership. A partner is the ultimate owner of a partnership interest; therefore someone holding or managing a partnership interest on behalf of another, such as a broker, is not a partner for purposes of this Rule.

Partnership Any association that is treated as a partnership for state income tax purposes including, but not limited to, a general partnership, partnership in commendam, a registered limited liability partnership, or a limited liability company. Because of R.S. 47:287.11(A), the above listed business associations that do not elect to be taxed as corporations for federal income tax purposes are treated as partnerships for Louisiana income tax purposes.

B. Composite Return Requirement

1. Partnerships that have nonresident partners are required to file a composite partnership return. However, if every nonresident partner is either a corporation or has filed an agreement to file an individual return and pay income tax on all income derived from or attributable to sources in this state, no composite partnership return is required.

2. All nonresident partners, other than partners that are corporations, who were partners at any time during the taxable year and who do not have an agreement on file with the Department of Revenue must be included in the composite partnership return.

3. A schedule must be attached to each composite return that includes the following information for every partner in the partnership, including all partners not included in the composite return:

- a. the name of the partner;
- b. the address of the partner;
- c. the taxpayer identification number of the partner;
- d. the partner's distributive share; and
- e. whether or not that partner has an agreement on

file with the Department of Revenue to file an individual return on his or her own behalf.

4. The filing of a composite return by the partnership does not relieve any partner included in the composite return from the duty to file an individual return.

C. Corporate partners cannot be included in composite returns filed by a partnership. Corporate partners must file a Louisiana corporation income and franchise tax return, and must report all sources of income, including income from the partnership in that return.

D. Composite Payment Requirement

1. All partnerships that engage in activities in this state and have nonresident partners shall make composite payments on behalf of all of their nonresident partners, other than corporate partners, who do not file an agreement to file an individual return and pay Louisiana income tax.

2. The composite payment is due on the earlier of the date of filing of the composite return or the due date of the composite return, without regard to extensions of time to file. An extension of time to file the composite return does not extend the time to pay the composite payment.

3. Each partner's share of the composite payment is the maximum tax rate for individuals multiplied by the nonresident partner's share of partnership income that was derived from or attributable to sources in this state. This computation applies whether or not the partnership income is distributed.

4. The composite payment to be made by the partnership is the sum of each nonresident partner's share of the composite payment for all nonresident partners included in the composite return.

5. Amounts paid by the partnership for a nonresident partner will be treated as a payment of the Louisiana income tax liability of the partner.

E. Partner's Agreement to File an Individual Return

1. No composite return or composite payment is required from a partnership for a partner for whom the partnership files an agreement with the Department of Revenue in which the partner has agreed to file an individual return and pay income tax on all income derived from or attributable to sources in this state.

2. The partner will execute the agreement and forward the agreement to the partnership, on or before the original due date of the composite return.

3. The partnership will file the original agreement with the composite return filed for that taxable year. The partnership must keep a copy of the agreement on file until the partner is no longer a partner of the partnership.

4. The agreement must be in the form of an affidavit and must include all of the following:

- a. a statement that the taxpayer is a nonresident partner or member;
- b. the partner's name;
- c. the partner's address;
- d. the partner's social security number or taxpayer identification number;
- e. the name of the partnership;
- f. the address of the partnership;
- g. the partnership's taxpayer identification number;
- h. a statement that the taxpayer agrees to timely file all appropriate returns and make payment of all Louisiana taxes required by law;

i. a statement that the taxpayer agrees that he or she is subject to personal jurisdiction in the state of Louisiana for the purpose of determining and collecting any Louisiana taxes, including estimated taxes, penalties and interest;

j. a statement that the agreement binds the taxpayer's heirs, assigns, successors, administrators, curators, representatives, and executors;

k. a statement that the taxpayer understands that the Louisiana Department of Revenue is not bound by the agreement if the taxpayer fails to abide by the terms of the agreement;

l. the statement that "under penalties of perjury, I declare that I have examined this affidavit and agreement and to the best of my knowledge, and belief, it is true correct and complete;" and

m. the signature of the partner.

5. Once an agreement is signed by the partner, forwarded to the partnership, and the partnership has filed the agreement with the Department of Revenue, the agreement will continue in effect until the partner or the Department of Revenue revokes the agreement.

F. A partnership making a composite return and payment must furnish the following information to all partners included in the composite return:

1. the partnership's taxpayer identification number;
2. the amount of the payment made on the partner's behalf;
3. a statement that the amount paid on the partner's behalf can be used as a payment of Louisiana income tax when the partner files an individual return with the Department of Revenue;

4. the mailing address of the Louisiana Department of Revenue; and

5. the internet address of the Louisiana Department of Revenue.

G Nothing in this regulation shall restrict the secretary's authority to otherwise provide for efficient administration of the composite return and composite payment requirements of R.S. 47:201.1.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:201.1 and R.S. 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue, Policy Services Division, LR 27:

Family Impact Statement

The proposed adoption of LAC 61:I.1401, regarding composite returns and composite payments of tax made by a partnership or limited liability company on behalf of nonresident partners or members should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Leonore Heavey, Attorney, Policy Services Division, in person to 330 North Ardenwood Drive, Baton Rouge, LA, 70806, or by mail to P.O. Box 15409, Baton Rouge, LA 70895-5409. All comments must be submitted no later than 4:30 p.m., July 26, 2001. A public hearing will be held on July 27, 2001, at 1:30 p.m. in the Secretary's Conference room on the second floor of 330 North Ardenwood Drive, Baton Rouge, Louisiana.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Composite Returns

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

The implementation of this proposed regulation will have no impact upon any local governmental units.

The implementation of this proposed regulation, which requires certain entities taxed as partnerships to file composite returns, will have minor impact on the agency's costs. The number of returns is expected to be small. The primary cost

will be the cost of examining the returns for names of nonresident natural persons not filing individual income tax returns. There will be minimal costs associated with storing the returns and agreements signed by partners. In the future, there will be the cost of entering the information into the information data storage.

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

There should be no effect on revenue collections of local governmental units as a result of this proposed regulation. There should be some increase in revenue collections for the state. The size of that increase cannot be determined.

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

Partnerships and limited liability companies with nonresident partners or members that have business activities within the state will have cost of preparing the composite return or filing agreements from nonresident partners or members.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0106#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Inventory Tax Credit (LAC 61:I.1902)

Under the authority of R.S. 47:6006 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 47:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1902 relative to the application of inventory tax credits to different business associations.

Act 153 of the 1991 Regular Session of the Louisiana Legislature enacted R.S. 47:6005 to allow a credit against the corporate and personal income taxes and the corporation franchise tax for ad valorem taxes paid to political subdivisions on inventory held by manufacturers, distributors, and retailers. The section was redesignated as R.S. 47:6006 pursuant to the statutory revision authority of the Louisiana State Law Institute. This rule will clarify the application of inventory tax credits to different business associations.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions § 1902. Inventory Tax Credits

A. Tax Credits for Local Inventory Taxes Paid. R.S. 47:6006 allows a credit for ad valorem taxes paid to local governments on inventory held by manufacturers, distributors, and retailers.

B. Application to Corporations. All entities taxed as corporations for Louisiana income or corporation franchise tax purposes shall claim any credit allowable for inventory taxes paid by them on their corporation income and

corporation franchise tax return. This includes, but is not limited to:

1. S corporations;
2. partnerships taxed as corporations for income tax purposes;
3. limited liability companies (LLC's) taxed as corporations for income tax purposes.

C. Application to Individuals, Estates, and Trusts

1. All individuals shall claim on their individual income tax returns any credit allowable for inventory taxes paid by them.

2. Estates or trusts shall claim on their fiduciary income tax returns any credit allowable for inventory taxes paid by them.

D. Application to Partnerships. Any credit allowable for inventory taxes paid by partnerships not taxed as corporations shall be claimed on the returns of the partners as follows.

1. Corporation partners shall claim the credit on their corporation income or corporation franchise tax returns.

2. Individual partners shall claim the credit on their individual income tax returns.

3. Partners that are estates or trusts shall claim the credit on their fiduciary income tax returns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6006 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:

Family Impact Statement

The proposed adoption of LAC 61:I.1902, regarding inventory tax credits should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to William (Mac) E. Little, Attorney, Policy Services Division, in person to 330 North Ardenwood Drive, Baton Rouge, Louisiana, 70806, or by mail to P.O. Box 15409, Baton

Rouge, LA 70895-5409. All comments must be submitted no later than 4:30 p.m., July 26, 2001. A public hearing will be held on July 27, 2001, at 2:30 p.m. in the Secretary's Conference room on the second floor of 330 North Ardenwood Drive, Baton Rouge, Louisiana.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Inventory Tax Credit**

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

The implementation of this proposed Regulation, which clarifies the application of inventory tax credits to different business associations, will have no impact on the agency's costs.

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

There should be no effect on revenue collections for the state as a result of this proposed regulation.

There should be no effect on revenue collections of local governmental units as a result of this proposed regulation.

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

There should be no costs or economic benefits that directly affect persons or nongovernmental groups as a result of this proposed regulation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0106#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Wrap-Around Child Care (LAC 67:III.5202)

The Department of Social Services, Office of Family Support, proposes to amend Title 67, Part III of the Louisiana Administrative Code, the Wrap-Around Child Care Program.

In an effort to increase the availability of child care services to more low income families, the agency is making eligibility requirements less restrictive for full-day/full-year child care services. To remove the burden of receiving applications and verification from Head Start Grantees or other qualified providers, the agency assumes full responsibility for all Wrap-Around Child Care applications.

Title 67
SOCIAL SERVICES

Subpart 12. Child Care Assistance

Chapter 52. Wrap-Around Child Care Program

§5202. Definitions

Household-Ca group of individuals who live together consisting of the head of the household, the legal spouse of the head of the household or non-legal spouse if the parent of a child in the household, and all children under age 18, including the minor unmarried parent of dependent children who need child care services, unless the minor unmarried parent has been emancipated by law.

*Training and Employment Mandatory Participant-Ce*ach household member who is required to be employed or engaged in a combination of employment and job training or educational program. These members may include the head of household, the legal spouse of the head of household, the non-legal spouse of the head of household if the parent of a child in the home, and the minor unmarried parent of a child in need of Wrap-Around Child Care services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

§5203. Conditions of Eligibility

A. A household must meet all of the following eligibility criteria:

1. ...
2. effective May 1, 2001, a child may not receive child care services simultaneously from the Wrap-Around Child Care Program, the Family Independence Work Program (FW), or the Child Care Assistance Program (CCAP);

3. effective May 1, 2001, a household in which any member receives Food Stamps, Medicaid, LaCHIP, SSI, Free or Reduced School Lunch, or Kinship Care Subsidy will be categorically income-eligible and may receive Wrap-Around Child Care if otherwise eligible;

4. effective May 1, 2001, FITAP children who live with a qualified relative who is not a required member of the FITAP assistance unit may receive Wrap-Around Child Care if otherwise eligible;

5. the head of household, that person's spouse, or non-legal spouse if the parent of a child in the household, when a child in that household is in need of Wrap-Around Child Care services, must be:

a. effective May 1, 2001, employed a minimum average of 20 hours per week ; or

b. effective May 1, 2001, engaged in a combination of employment and job training or an educational program, for a combined average of at least 20 hours per week; or

c. if the household includes a minor unmarried parent who is not legally emancipated and whose child is in need of Wrap-Around Child Care services, the household must contain an adult household member who meets the 20-hour criteria. The minor unmarried parent is required to have some countable activity hours. If the adult household members do not meet the 20-hour criteria, the minor unmarried parent must meet the 20-hour criteria. In this situation the adults are not required to have any countable activity hours, unless they have children in need of care, then they are required to have some countable activity hours.

6. effective May 1, 2001, the number of hours that child care is provided must reasonably correspond to the number of activity hours of the parents and/or adult household members;

7. effective May 1, 2001, at the time of application the household must include at least one child with a need for Wrap-Around Child Care services defined as full-day/full-year child care, that is, full-time (30 or more hours per week) or part-time (less than 30 hours per week), or holiday care that is provided in conjunction with part-time care during the school year, who is;

a. under age 13; or

b. age 13 through age 17, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by receipt of SSI or a signed statement of disability from a physician or licensed psychologist;

8. the child needing care must customarily reside more than half of the time with the head of household who is applying for child care services, ensuring that only one household can receive child care services for that child;

9. the head of household or another adult household member must be responsible for the payment of child care costs for a child who lives in the household. A need for child care services does not exist if child care costs will be paid by a third party who is not a household member. However, this will not apply if a third party, not legally obligated to make child care payments, is temporarily doing so until payments begin.

B. - D. ...

E. The household must provide the information and verification necessary for determining eligibility and payment amount. Required verification includes:

1. ...

2. effective May 1, 2001, proof of age;

3. - 5. ...

F. - G ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:

§5205. Income Limits

A. Effective May 1, 2001, unless determined categorically income eligible, a household must have total countable income no greater than 130 percent of the Federal poverty level. These amounts are updated annually.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

§5209. Head Start Grantees and Other Qualified Providers

A. Effective May 1, 2001, the agency will provide services to eligible individuals through contracts with some Head Start Program grantees and other qualified providers who meet the standards and requirements set forth in Paragraphs C through E of this Section, for a designated number of slots. Available slots will be filled on a first-come, first-served basis.

B. Effective May 1, 2001, the contracted Head Start grantee or other qualified provider will establish a child care program that consists of full-day/full-year child care, that is,

full-time (30 or more hours per week) or part-time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year.

C. - E. ...

F. Effective May 1, 2001, the Head Start grantee or other qualified provider shall ensure that procedures are in place to prevent, identify, and report suspected abuse or neglect of children as required by Children's Code Articles 601-610 and 45 CFR 1301.31.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:

§5211. Payments Effective May 1, 2001

A. The Head Start grantee or other qualified provider will be paid a weekly rate of \$85 (\$17 per day) per child for full-day, full-time child care.

B. The Head Start grantee or other qualified provider will be paid \$2.12 per hour per child for part-time care up to a maximum of eight hours per day per child.

C. The Head Start grantee or other qualified provider will be paid \$2.12 per hour for up to a maximum of eight hours per day per child (\$17 per day) for allowable, holiday care provided in conjunction with part-time care during the school year.

D. Payment will not be made for a child who is absent from day care more than ten days in a calendar month or for an extended closure by a provider of more than five consecutive days in a calendar month.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:431 (March 2001), amended LR 27:

FAMILY IMPACT STATEMENT

I. What effect will this Rule have on the stability of the family? This Rule will have a positive effect on families, as child care services will be available to more low income working families.

II. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The relaxation of the requirements for Wrap-Around Child Care will allow more children to be eligible for this service.

III. What effect will this have on the functioning of the family? This Rule should have a positive effect on the functioning of the family as it will make available more quality child care for low income working families or those families working and attending a job training or educational program.

IV. What effect will this have on family earnings and family budget? This Rule should have a positive effect on family earnings as the entire cost of child care is paid by the agency.

V. What effect will this have on the behavior and personal responsibility of children? Quality child care helps children to be more socially and intellectually prepared and ready to learn. Studies show that high-quality child care may prevent children from committing crimes.

VI. Is the family or local government able to perform the function as contained in this proposed Rule? The function as contained in this proposed Rule can only be performed by the child care providers and the agency.

Interested persons may submit written comments by July 27, 2001, to: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, Louisiana, 70804-9065. She is the responding authority to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on July 27, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Wrap-Around Child Care

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

No expenditures outside of previously allocated TANF funds (\$24 Million) are expected. The cost of publishing the Rule, related policy, and forms are minimal and are included in the budget.

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

There is no impact on revenue collections of state or local governmental units.

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

There are no estimated costs to affected persons on Non-Governmental groups. However, these actions will increase the availability of child care services to more low income families. Newly eligible households will have total full-time and part-time child care costs paid for by the Wrap-Around Child Care Program. Head Start and other qualified providers will receive payments (income) from the Program for these children.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule could increase: participation by the Head Start Centers, year-round employment for employees, and hours of employment. It may also produce new employment for other qualified providers.

Vera W. Blakes
Assistant Secretary
0106#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Rehabilitation Services

Management Services Provided by the State Licensing
Agency (LAC 67:VII.517)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) is revising its Blind Enterprises Program Policy Manual, Section 517. Revision to the Management Services Provided by the State Licensing Agency is being made to provide the agency with a better means of ensuring accurate reporting by blind enterprise managers in vending facilities.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 5. Business Enterprises Program Manual

§517. Management Services Provided by the State

Licensing Agency

A. Overview of Management Services. Management services include inspection, quality control, consultation, accounting, annual fiscal accountability reviews, regulating, in-service training, and other related services on a systematic basis to support and improve vending facilities.

B. -H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:527 (March 1999), amended LR 27:

Family Impact Statement

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed Rules for the Business Enterprises Program policy manual to the Management Services Provided by the State Licensing Agency will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments for 40 days from the date of this publication on the proposed Rules to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806 - 4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed Rule.

Public Hearings will be conducted at 10 a.m. on Wednesday, July 25, 2001, as follows, Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS

Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-925-4131 or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Management Services Provided by the State Licensing Agency

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

There will be a one time cost to LRS of approximately \$12,000 for contract work to be performed by a certified public accountant to evaluate the fiscal records needed to be maintained by blind enterprise managers, develop an evaluation instruments for fiscal accountability reviews and train staff on how to access and compile needed information to complete the review form.

This is based on paying \$150 per hour for 80 hours to a certified public accountant.

The estimated impact of the proposed action will result in a slight workload adjustment and the introduction of one new form to be completed by the Randolph-Sheppard Management Analyst.

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

There is no anticipated increase or decrease in revenues.

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

The licensed blind managers would be directly affected by the proposed action. The licensed blind managers would be required to maintain and organize paperwork on a daily basis. At present the licensed blind managers submit biweekly reports to the agency. The main affect would be an expansion of the amount of documentation on a daily basis that would be required for review purposes. It is not anticipated that any additional staff would be required to maintain the daily records of blind managers business operations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact of the proposed action on competition and employment in either the public or private sector.

J. Renea Austin-Duffin
Secretary
0106#039

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Rehabilitation Services

Vocational Rehabilitation Services Program Methodology for Determining Need (LAC 67:VII. Chapter 1)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) proposes to amend its Vocational Rehabilitation Policy Manual, Section 115, Financial. The agency is amending the methodology to determine a consumer's financial need, for certain vocational rehabilitation services. The revised methodology consistently applies a financial need level of 250 percent of the 2001 U.S. Department of Health and Human Services (HHS) Poverty Guidelines as the basis for determining financial need. This proposed Rule does not change the vocational rehabilitation services that are based on financial need.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§115. Financial

A.1. - f. ...

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. Neither a financial needs test nor a budgetary analysis of assets, income, and disability-related expenses shall be applied as a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals and individuals who are under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

2.a. - 3.ii. ...

C. LRS shall use the following methodology to determine an individual's financial need for certain vocational rehabilitation services:

**LOUISIANA REHABILITATION SERVICES
Financial Need Analysis**

Consumer's Name : _____ Social Security Number: _____

Is the consumer currently receiving any of the following types of assistance?

	Yes*	No		Yes*	No
TANF (formerly AFDC)	_____	_____	SSI	_____	_____
Food Stamps	_____	_____	SSDI	_____	_____

If you answered **YES** to any of the above, the consumer is not expected to contribute to the cost of services on the Individualized Plan for Employment (IPE). Complete comparable services and benefits and have consumer/representative sign the form on page 3.

COMPARABLE SERVICES AND BENEFITS

- | | | | |
|------------------------------------|----------|------------------|----------|
| 1. Pell Grant | \$ _____ | 7. Other (List): | |
| 2. SEOG | \$ _____ | | |
| 3. VA Scholarship | \$ _____ | a. _____ | \$ _____ |
| 4. JTPA | \$ _____ | b. _____ | \$ _____ |
| 5. Scholarships, (i.e. TOPS, etc.) | \$ _____ | c. _____ | \$ _____ |
| 6. Stipends, Fellowships, etc. | \$ _____ | | |

INCOME DETERMINATION

1. Total Yearly Gross Income \$ _____

*Verification Source:

- _____ Federal tax return--1040, 1040A, 1040EZ (most current)
- _____ Pay stub showing gross income per _____ (month, week, etc.)
- _____ Employer's Statement
- _____ Other (specify) _____

2. Determine the Basic Living Requirement (BLR)

a. Check family size in appropriate box.

Persons	1	2	3	4	5	6	7	8	Other**
Check Family Size									
Allowable BLR**	\$21,475	\$29,025	\$36,575	\$44,125	\$51,675	\$59,225	\$66,775	\$74,325	

**For each additional person over 8, add \$3020.

b. Does income exceed the allowable Basic Living Requirement (BLR)? Yes _____ No _____

If you answered **NO** to 2.b., **STOP**. The consumer is not expected to contribute to the cost of services on the Individualized Plan for Employment (IPE).

If you answered **YES** to 2.b., **CONTINUE**.

* Verification must be filed in the consumer's case record.

3. Disability Related Expenses. List the YEARLY costs for necessary disability-related expenses for family members if such disability-related expenses are not covered by any other benefit or resource. (Do not include the costs of any disability related expenses that will be purchased or provided by LRS or any comparable service or benefit.)

Personal Care Attendant Services	\$ _____
Medications, medical supplies, prescriptions, non-prescription items, and special diet/food related to the disability.	\$ _____
Medical/health insurance premiums, if not already deducted from gross wages	\$ _____
Disability related clothing needs, devices, and adaptive equipment, including maintenance of such devices and equipment	\$ _____
Other (List): _____	\$ _____
	\$ _____
TOTAL ANNUAL DISABILITY RELATED EXPENSES*	\$ _____

4. Assets
- a. Liquid Assets - List the total value of any of the following assets owned by either the consumer, consumer's spouse, or consumer's family, as applicable:

Savings	\$ _____
Stocks/bonds	\$ _____
Certificates of Deposit	\$ _____
Other Liquid Assets	\$ _____

- b. Other Assets - List the total equity in any of the following other fixed or personal assets owned by the consumer, the consumer's spouse, or consumer's family, as applicable.
DO NOT INCLUDE THE VALUE OF EQUITY IN THE PRIMARY RESIDENCE OR AUTOMOBILES.

Land or buildings	\$ _____
Second/vacation homes	\$ _____
Rental property	\$ _____
Other Assets	\$ _____

- c. TOTAL ASSETS (Add 4. a. & b.) \$ _____

***Verification must be in the consumer's case record.**

NEED DETERMINATION

- Enter total yearly gross income from No. 1 on page 1 1. \$ _____
- Enter Total Disability Related Expenses from No. 3 on Page 2. 2. \$ _____
- Subtract Line 2 from Line 1 for **Net Income** 3. \$ _____

- Enter **Total Assets** from No. 4.c. on page 2. 4. \$ _____

- Add lines 3 and 4 above for **total available resources**. 5. \$ _____

- Enter amount of Basic Living Requirement (BLR) from chart on page 1. 6. \$ _____

Check applicable line:

_____ The amount (\$) on Line 5 is **equal to or less than the amount (\$) on line 6**.
The consumer **MEETS** Louisiana Rehabilitation Services financial need criteria.

_____ The amount (\$) on Line 5 is **greater than the amount (\$) on line 6**.
The consumer **DOES NOT MEET** Louisiana Rehabilitation Services financial need criteria.

I certify the information is correct and complete to the best of my knowledge. I understand that formal planning for services will be on my IPE and will document the application of comparable services and similar benefits to the cost of planned services.

Consumer's Signature

Date

Counselor's Signature

Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999), LR 27:212 (February 2001), LR 27:

Family Impact Statement

The Department of Social Services, Louisiana Rehabilitation Services hereby issues this Family Impact Statement: The proposed Rule for the Vocational Rehabilitation Policy Manual, Section 115, Financial, has no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Director, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed Rule.

Public Hearings will be conducted at 10 a.m. on Wednesday, July 25, 2001, as follows, Baton Rouge, LRS Regional Office, 3651 Cedarcrest Avenue; Alexandria, LRS Regional Office, 900 Murray Street, Shreveport, LRS Regional Office, 1525 Fairfield Avenue; New Orleans, LRS Regional Office, 3500 Canal Street.

Individuals with disabilities who require special services should contact Judy Trahan, Program Manager, Louisiana Rehabilitation Services, at least 14 working days prior to the hearing if special services are needed for their attendance. For information or assistance, call 225-925-4131 or 1-800-737-2958, or 1-800-543-2099 for voice and TDD.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Vocational Rehabilitation Services
ProgramC Methodology for Determining Need**

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

Based on \$2,198 as the average cost per client and 866 additional consumers being provided cost services, an additional \$1,903,468 will be needed. Funds will be appropriated when House Bill 1 of the 2001 regular session has been signed into law. The cost to implement this Rule is minimal and only involves the cost to promulgate. (Detailed information as to how these figures were calculated can be found in worksheets and Item III below.)

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

There is no anticipated increase or decrease for this proposed Rule change.

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

Listed below is information obtained from the 1990 Census which shows the various income levels in the State of Louisiana.

Income Range		Number	Percentage
Beginning	Ending		
0	22,499	765,770	51.11%
22,500	24,999	60,065	4.01%
25,000	27,499	65,292	4.36%
27,500	29,999	50,856	3.39%
30,000	32,499	61,674	4.12%
32,500	34,999	43,526	2.90%
35,000	39,999	86,623	5.78%
40,000	44,999	75,247	5.02%
45,000	49,999	57,964	3.87%
50,000	59,999	85,301	5.69%
60,000	74,999	68,564	4.58%
75,000	up	77,489	5.17%

Listed below is the 1998 National Census data with the Number of Household being listed in thousands.

Household of	Number of Household	Percentage
1	26,327	25.68%
2	32,965	32.15%
3	17,331	16.90%
4	15,358	14.98%
5	7,048	6.87%
6	2,232	2.18%
7+	1,267	1.24%

If an estimated 22,506 consumers could possibly receive cost services and 41% of these clients actually receive cost services, an estimated 9,928 consumers would be effected by the change in economic need. Based on the above two tables, the table listed below would be the percentage of change.

Household	Present	Proposed 250	Change
1	21,346	21,475	No change
2	24,146	29,025	7.50%
3	26,946	36,575	10.40%
4	29,746	44,125	17.80%
5	32,546	51,675	17.60%
6	35,346	59,225	20.00%
7+	38,146	66,775	19.20%

Listed below is a table which details the number of consumers in each household level with the last column reflecting the actual increase in the number of consumers.

Household	Present	Proposed 250
1	2,549	
2	3,192	239
3	1,678	175
4	1,487	265
5	682	120
6	216	43
7+	123	24

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact of the proposed action on competition and employment in either the public or the private sector.

May Nelson
Director
0106#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of the Secretary Bureau of Licensing

Class "B" Child Residential Care Licensing Standards
(LAC 48:I:Chapter 79)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to promulgate the following in Title 48, Part I, Subpart 3, Licensing and Certification.

This proposed Rule is authorized by Revised Statute 46:1410 et seq. which authorizes the Louisiana Committee on Private Child Care to develop minimum standards for licensure of Class "B" facilities. This proposed Rule establishes the regulations for Class "B" child residential facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 79. Child Residential Care

§7951. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in childcare facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7953. Authority

A. Legislative Provisions

1. The Louisiana Committee on Private Child Care is charged with the responsibility of developing standards for the licensing of Class "B" facilities.

2. The licensing authority of the Department of Social Services is established by LRS 46:1401 et seq. and LRS 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A Class "B" child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24-hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody, and no state or federal funds received for the care of the children.

B. Penalties

1. All childcare facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed.

2. As stipulated in LRS 46:1421, whoever operates any child care facility without a valid license shall be fined not less than \$75, nor more than \$250 for each day of such offense.

C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice, all child care facilities and child placing agencies subject to the provisions of the Chapter" (LRS 46:1417).

2. When the department is advised or has reason to believe that any person, agency or organization is operating a child residential facility without a license, the department shall make an investigation to ascertain the facts.

3. When the department is advised or has reason to believe that any person, agency or organization is operating in violation of the Class "B" Child Residential Care Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment received by the Department will be investigated.

D. The Louisiana Committee on Private Child Care (Class "B" Child Care Committee)

1. The Louisiana Committee on Private Child Care was created by Act 286 of 1985 to serve two functions.

a. Develop minimum standards for licensure of Class "B" facilities.

b. Consult with the department on matters pertaining to decisions to revoke or refuse to grant a Class "B" license.

2. The Committee is composed of seven members, elected by the Class "B" licensed facilities in the state, representing different types of Class "B" licensed facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7955. Procedures

A. Initial Application

1. New buildings shall be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located, considering such issues as scale, appearance, density and population. A child residential facility shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services, Bureau of Licensing. The following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances for the area in which you are planning to locate. Guidelines from the Office of Public Health, Sanitarian Services; the Office of State Fire Marshal, Code Enforcement and Building Safety; and the City Fire Department (if applicable) should be obtained.

b. After securing property, obtain an application form issued by Department of Social Services, Bureau of

Licensing, P.O. Box 3078, Baton Rouge, LA 70821-3078, phone: (225) 922-0015, fax: (225) 922-0014.

c. After the facility's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

- i. Office of Public Health, Sanitarian Services;
- ii. Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department (if applicable);
- iv. Zoning Department (if applicable); and
- v. City or Parish Building Permit Office.

d. Upon receipt of the facility's application by the Bureau of Licensing, a request will be made to the Office of State Fire Marshal, Code Enforcement and Building Safety; Office of City Fire Department (if applicable); Office of Public Health and any known required local agencies to inspect the location as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist shall visit the facility to conduct a licensing inspection.

e. A license will be issued on an initial application when the following requirements have been met and verification is received by the Bureau of Licensing:

- i. approval by the Office of Public Health, Sanitarian Services;
- ii. approval by the Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. approval by the City Fire Department (if applicable);
- iv. approval by the City or Parish Zoning (if applicable);
- v. approval by the City or Parish Building Permit (if applicable);
- vi. a completed licensure inspection verifying substantial compliance with these standards; and
- vii. full license fee paid.

3. When a facility changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §7955.A.2.e shall be in compliance for the new location.

4. When a facility changes ownership, a new application and fee shall be submitted. All approvals listed in §7955.A.2.e shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a facility requires approval from agencies listed in §7955A.2.c and the Bureau of Licensing.

6. The department is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked for the facility's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If an administrator or member of his immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal or

denial have been corrected and the administrator/facility is in substantial compliance with all minimum standards.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial license applications. This fee will be applied toward the license fee when the facility is licensed. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all changes of ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. However, Class "B" childcare facilities or agencies owned or operated by a church or religious organization are exempt from license fees. Fee schedules (based on licensed capacity) are listed below:

- a. 4 to 6 children - \$400;
- b. 7 to 15 children - \$500; and
- c. 16 or more children - \$600.

3. Other licensure fees include:

- a. replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. (There is no replacement charge when the request coincides with the regular renewal of a license.); and
- b. processing fee of five dollars for issuing a duplicate license with no changes.

C. Relicensing

1. A license shall be renewed on an annual basis. The month of issue of the initial license becomes the anniversary month for all renewals. Generally, all licenses expire on the last day of the month.

2. Approximately 90 days prior to the annual expiration of a license, a notice and an application form will be mailed to the licensee. The completed application along with the full license fee, if applicable, shall be returned prior to relicensure.

3. A relicensing inspection will be made by staff of the Bureau of Licensing to determine continued compliance with licensing regulations.

4. A current approval from the Office of State Fire Marshal, Code Enforcement and Building Safety; the City Fire Department (if applicable); and the Office of Public Health, Sanitarian Services shall be received by the Bureau of Licensing. It is the responsibility of the licensee to obtain these inspections and approvals.

5. The Department of Social Services, Bureau of Licensing, shall be notified prior to making changes which might have an effect upon the license, i.e., age range of children served, usage of indoor and outdoor space, administrator, hours/months/days of operation, ownership, location, etc.

D. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied for any of the following reasons:

- a. failure to meet any of the minimum standards for licensure; or
- b. conviction of a felony by any of these persons, as shown by a certified copy of the record of the court of conviction:
 - i. the applicant;
 - ii. any members or officers if the applicant is a firm or corporation; or

iii. any staff providing care, supervision, or treatment to a resident of the facility.

2. A license may be revoked or renewal denied for any of the following reasons:

a. cruelty or indifference to the welfare of the children in care;

b. violation of any provision of the minimum standards, Rules, regulations, or orders of the Department of Social Services;

c. disapproval from any agency whose approval is required for licensure;

d. nonpayment of licensure fee or failure to submit a licensure application;

e. any validated instance of child abuse, corporal punishment, physical punishment, or cruel, severe or unusual punishment may result in revocation, denial or nonrenewal of the license if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure; or

g. any act of fraud such as falsifying or altering documents required for licensure.

E. Appeal Procedure. If the license is refused or revoked because the facility does not meet minimum requirements for licensure, the procedure is as follows:

1. The Department of Social Services, Bureau of Licensing, by certified letter, shall advise the licensee or applicant of the reasons for the denial or revocation and the right of appeal.

2. The administrator or owner may appeal this decision by submitting a written request with the reasons to the Secretary of the Department of Social Services, Bureau of Appeals, P.O. Box 2944, Baton Rouge, LA 70821. This written request shall be postmarked within 30 days of the receipt of the notification in §7955.E.1 above.

3. The Bureau of Appeals shall set a hearing to be held within 30 days after receipt of such a request.

4. An Appeals Hearing Officer shall conduct the hearing. Within 90 days after the date the appeal is filed, the Hearing Officer shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the facility shall terminate operation immediately.

5. If the facility continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7957. Definitions

Abuse and Neglect Reporting—Any suspected abuse and/or neglect of a child in a childcare center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's

operation. The Administrator shall have a Bachelor's degree in a social services field and four years of experience in a similar type of child care facility, or a Master's degree and two years of related experience.

Bedroom Space—a distinct area used as a sleeping area for clients; a dormitory-style bedroom may be broken into several bedroom spaces by the use of partitions. A facility shall have a minimum of 60 square feet of floor area per child in living areas accessible to children and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

Client—a person who receives service from a provider.

Client's Service Plan—a daily care plan based on the assessment of a client's psychological, social and educational evaluations.

Curator—a person appointed by the court when an individual is interdicted to act as guardian with either limited or full powers over the individual's estate and/or person, depending upon the needs of the individual interdicted.

DSSC—Department of Social Services.

Discipline—a system of rules governing conduct which usually prescribes consequences for the violation of particular rules.

Direct Service Management—the act of controlling the various aspects of a provider involving direct services to clients in order to ensure effective care and treatment.

Direct Service Worker—any employee of a provider who works directly with clients as a major function of his/her job.

Family—the natural or adoptive father, mother, brother(s) and sister(s), but "family" may be interpreted broadly to include any person, whether related to the client by blood or not, who resides in the client's home and takes part in the client's family life.

Governing Body—a person or persons with the ultimate responsibility for conducting the affairs of a provider as, for example, the Board of Directors.

Legally Responsible Person—as appropriate, the parent(s) or tutor of a minor or the curator of an interdicted client.

License—a written certification, whether provisional, extended or regular, of a provider's authorization to operate under State Law.

Living Unit—an integral living space utilized by a particular group of clients who reside in that space.

Parent(s)—natural or adoptive mother and father of a client.

Passive Physical Restraint—the least amount of direct physical contact required on the part of a staff member to prevent a client from harming himself/herself or others.

provider—any 24-hour residential facility, whether public or private, that services clients.

Psychotropic Medication—prescription medication given for the purpose of producing specific changes in mood, thought processes, or behavior. They exert specific effects on brain function and can be expected to bring about specific clinically beneficial responses in clients for whom they are prescribed. The term as used in this policy does not include all drugs which affect the central nervous system or which may have behavioral effects; i.e., anticonvulsants or hormones.

Restraint—the extraordinary restriction of a client's freedom or freedom of movement.

*Service Plan*Ca comprehensive, time-limited goal-oriented, individualized plan for care, treatment and education of a client in the care of a provider. The service plan is based on a current comprehensive evaluation of the client's needs.

*Social Worker*Ca Master's level professional.

*Time-Out Procedure*Cthe isolation of a client for a period of less than 30 minutes in an unlocked room.

*Training*Cany activity outside the normal routine of the provider which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

*Treatment Strategy*Can orientation or set of clinical techniques included in a particular therapeutic model and used to meet a diagnosed need of a client in care over and above the provisions of basic care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7959. Administration and Organization

A. Class "B" facilities must comply with all regulations set by the Office of the State Fire Marshall, the Office of Public Health, local zoning laws and all laws regarding child abuse or neglect. Client-staff ratios and minimum space requirements will be enforced by the Department of Social Services. Class "B" facilities must comply with regulations restricting hiring felons, prohibiting racial discrimination and prohibiting the use of corporal punishment without parental permission. Class "B" facilities must comply with additional regulations promulgated by the Louisiana Committee on Private Child Care. Core regulations must promote safe physical facilities, adequate supervision and qualified staff, healthful food service, procedures for nighttime care, and procedures for the disposition of complaints.

B. General Requirements

1. A provider shall follow federal and state laws on client civil rights. No residential facility shall discriminate based on race, color, creed or national origin or ancestry. However, this shall not restrict the hiring or admission policies of a church or religious organization which may give preference in hiring or admission to members of the church or denomination.

2. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department and without previous notice, all residential child care facilities subject to the provisions of Chapter 14 of Title 46. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. The facility shall be open to inspection only during working hours by parents or legal guardians of clients in care and by authorized inspection personnel.

3. The provider is required to show evidence of compliance with the regulations set by the Louisiana Committee on Private Child Care. Documentation indicating compliance with a standard will not be required when it is obvious that the standard is met.

C. Other Jurisdictional Approvals. The provider shall show appropriate evidence of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including DSS Licensing Bureau, Office of Health Services, Office of the State Fire Marshal, City Fire Marshal's Office (if applicable), applicable local zoning ordinances (if applicable) and Department of Education (if applicable).

D. Governing Body

1. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the provider.

2. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership, if applicable; officers of the governing body, if applicable; and terms of office of all officers, if applicable.

3. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year. A provider shall have written minutes of all formal meetings of the governing body, and by-laws specifying the frequency of meetings and quorum requirements.

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. ensure that the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;

6. designate a person to act as Chief Administrator and delegate sufficient authority to this person to manage the provider;

7. formulate and annually review, in consultation with the Chief Administrator, policies concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

8. annually evaluate the Chief Administrator's performance;

9. have the authority to dismiss the Chief Administrator;

10. meet with representatives of DSS whenever required to do so;

11. inform representatives of DSS prior to initiating any substantial changes in the program, services, or physical plant of the provider.

F. Accessibility of Executive. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff or representatives of DSS at all times.

G. Documentation of Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.

2. A privately owned provider shall have documents identifying the names and addresses of owners.

3. A corporation, partnership or association shall identify the names and addresses of its members and officers

and shall, where applicable, have a charter, partnership agreement, constitution, articles of association or by-laws.

H. Statement of Philosophy and Goals. A provider shall have a written statement describing its philosophy and both long-term and short-term goals.

I. Program Description. A provider shall have a written program plan describing the services and programs offered by the provider.

J. Accounting and Recordkeeping

1. A provider should establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

2. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

3. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state and federal laws.

K. Confidentiality and Security of Files

1. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and the provider, as custodian, shall secure records against loss, tampering or unauthorized use.

2. A provider shall maintain the confidentiality of all clients' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly or indirectly, to any unauthorized person.

3. A provider shall obtain written authorization of the client and the client's parent(s), tutor or curator, as applicable, prior to releasing the client's confidential records to anyone other than authorized state or federal agencies or another provider to whom the client may be released.

4. A provider shall, upon request, make available information in the case record to the client, the legally responsible person or legal counsel of the client. If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be damaging to a client, then that information may be withheld except under court order.

5. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that the client's name and other identifying information is disguised or deleted.

L. Administrative File. A provider shall have an administrative file including:

1. documents identifying the governing body;
2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;
3. documentation of the provider's authority to operate under state law;
4. organizational chart of the provider;
5. insurance policies; and
6. master list of all consulting professional providers used by the provider.

M. Client's Case Record. A provider shall have a written record for each client which shall include administrative, treatment, and educational data from the time of admission

until the time the client leaves the provider. A client's case record shall include:

1. name, sex, race, religion, birth date and birthplace of the client;
2. other identification data including court status, legal status, who is authorized to give consents;
3. client's history including, if applicable, family data, educational background, employment record, prior medical history and prior placement history;
4. copy of the client's individual service plan and any modifications thereto, and an appropriate summary to guide and assist direct service workers in implementing the client's program; and
5. findings made in periodic reviews of the plan, including summary of the successes and failures of the client's program and recommendations for any modifications deemed necessary.

N. Medical and Dental Records

1. A provider shall maintain complete health records of a client including:

- a. report of admission physical examination;
- b. complete record of all immunizations provided;
- c. record of medications;
- d. records of vision, physical or dental examinations;
- e. complete record of any medical treatment provided for specific illness or medical emergencies; and,
- f. authorization signed by the parent or legal guardian for medical care, immunizations and hospitalization, when indicated.

2. Upon discharge the provider shall provide a summary of the client's health record to the person or agency responsible for the future planning and care of the client.

3. A provider shall make every effort to compile a complete past medical history on every client. This history shall, whenever possible, include:

- a. allergies to medication;
- b. immunization history;
- c. history of serious illness, serious injury or major surgery;
- d. developmental history;
- e. current use of prescribed medication;
- f. current use of alcohol or nonprescribed drugs; and
- g. medical history.

O. Personnel File

1. A provider shall have a personnel file for each employee which shall contain:

- a. application for employment and/or resume';
- b. three reference letters from former employer(s) and personal references or phone notes on such references;
- c. any medical examinations required by the provider;
- d. criminal record and fingerprinting report (LA 15.587.1) and citizenship report (I-9). No felon shall be employed in a Class "B" facility unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer;
- e. evidence of applicable professional credentials/certifications according to state law;

- f. annual performance evaluations;
- g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility; and
- h. employee's starting and termination dates.

2. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. A provider shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

P. Fund Raising and Publicity

1. A provider shall have a policy regarding participation of clients in activities related to fund raising and publicity.

2. Consent of the client and, if applicable, the legally responsible person shall be obtained prior to participation in fund raising activities.

3. A provider shall have policies and procedures regarding the photographing and audio or audio-visual recording of clients.

4. The written consent of the client and, if applicable, the legally responsible person shall be obtained before the client is photographed or recorded for research or program publicity purposes.

5. All photographs and recordings shall be used in a manner which respects the dignity and confidentiality of the client.

Q. Representation at Hearings. A provider shall, when allowed by law, have a representative present at all judicial, educational or administrative hearings which address the status of the client in care of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7961. Human Resources

A. Staff Plan. A provider should have a policy for recruitment, supervision and training.

1. Screening

a. A provider's screening procedures should address the prospective employee's qualifications, ability, related experience, character, and social skills as related to the appropriate job description.

b. Prior to employing any person and upon obtaining a signed release and the names of references from the potential employee, a provider shall obtain written references or phone notes on oral references from three persons.

c. All center staff shall be required to obtain within two weeks before or 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is:

- i. in good health and physically able to care for clients; and
- ii. free from infectious and contagious diseases.

d. Prior to or 30 days after the time of employment all persons shall be free of tuberculosis in a communicable state as evidenced by a negative skin test or a negative chest x-ray. Evidence that an employee is free of active tuberculosis is required on an annual basis thereafter.

e. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

f. A provider shall not knowingly hire, or continue to employ, any person whose health impairs his/her ability to properly protect the health and safety of the clients or is such that it would endanger the physical or psychological well being of the clients. This requirement is not to be interpreted to exclude the hiring or continued employment of persons undergoing temporary medical or emotional problems if the health and safety of the clients can be assured through reasonable accommodation of the employee's condition.

2. Orientation. A provider's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the facility, and shall include instruction in safety and emergency procedures and in the specific responsibilities of the employee's job.

3. Training

a. A provider is encouraged to provide in-service training each year. Orientation training and activities related to routine supervision of the employee's task shall not be considered as in-service training.

b. All staff are to maintain a current certification of CPR training. New employees will have 90 days to comply. Documentation will be a copy of certificates on file at the facility.

4. Evaluation

a. A provider should undertake an annual performance evaluation of all staff members.

b. For any person who interacts with clients, a provider's evaluation procedures shall address the quality and nature of a staff member's relationships with clients.

B. Personnel Practices. A provider shall have written personnel policies and written job descriptions for each staff position.

C. Number and Qualifications of Staff

1. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the responsibilities the provider undertakes are carried out and to adequately perform the following functions:

- a. administrative functions;
- b. fiscal functions;
- c. clerical functions;
- d. housekeeping, maintenance and food service functions;
- e. direct client service functions;
- f. supervisory functions;
- g. record keeping and reporting functions;
- h. social service functions; and
- i. ancillary service functions.

2. A provider shall ensure that all staff members are properly certified and/or licensed as legally required.

3. A provider shall ensure that an adequate number of qualified direct service staff are present with the clients as necessary to ensure the health and well-being of clients. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider and the ages, needs and functioning levels of the clients.

4. A provider shall ensure that direct services staff who perform client-living services are administratively responsible to a person whose training and experience is appropriate to the provider's program.

D. External Professional Services. A provider shall obtain any required professional services not available from employees.

E. Volunteers/Student Interns. A provider which utilizes volunteers or student interns on a regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall be:

1. directly supervised by a paid staff member;
2. oriented and trained in the philosophy of the facility and the needs of clients and the methods of meeting those needs;
3. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student; and
4. aware of and briefed on any special needs or problems of clients.

F. Staff Communications

1. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the client. This system of communication shall include:

- a. a regular review of individual and aggregate problems of clients including actions taken to resolve these problems;
- b. sharing of daily information, noting unusual circumstances, and other information requiring continued action by staff; and
- c. records maintained of all accidents, personal injuries and pertinent incidents related to implementation of clients' individual service plans.

2. Any employee of a provider working directly with clients in care shall have access to information from clients' case records that is necessary for effective performance of the employee's assigned tasks.

3. A provider shall establish procedures which facilitate participation and feedback by staff members in policymaking, planning and program development for clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7963. Quality of Life

A. Family Involvement

1. A provider should create a policy that encourages ongoing positive communication and contact between clients and their families, their friends and others significant in their lives.

2. A provider should discuss the following with the client's family, other legally responsible persons and significant others, when appropriate:

- a. the philosophy and goals of the provider;
- b. behavior management and disciplinary practices of the provider;
- c. any specific treatment or treatment strategy employed by the provider that is to be implemented for a particular client;
- d. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with clients by mail or telephone;

e. the name, telephone number and address of a staff person who may be contacted by the legally responsible person to ask questions or register concerns on an ongoing basis;

f. a procedure for registering complaints concerning the client's care or treatment. All cases of client abuse or neglect or suspicion of abuse or neglect must be reported to the Child Protection Agency in the DSS Office of Community Services for investigation.

3. Visits to parents and relatives in their own homes should be encouraged, unless they are not of benefit to the client, in order to maintain not only family ties but also ties in the neighborhood and community.

4. A written description of these family involvement strategies is suggested.

B. Normalization. A provider shall ensure that:

1. clients of grossly different ages, developmental levels and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together.

2. clients who are nonambulatory, deaf, blind, epileptic, etc., shall be integrated with peers of comparable social and intellectual development and shall not be segregated on the basis of their handicaps.

C. Community Involvement

1. The client should have opportunities to participate in community life when individual treatment has progressed, so that community activities can become part of the treatment plan.

2. The client might participate in activities sponsored by school, church, and national and local youth agencies (Girl Scouts, Boy Scouts, 4-H Clubs, etc.).

3. The client should have help, when necessary, to conform to community standards.

4. Mass excursions, transportation in vehicles labeled with the name of the center, wearing of uniforms, etc., are undesirable if they call attention to the clients and make them feel different from others.

5. Community interest in clients and efforts in their behalf (parties, entertainment, invitations to visit other families, etc.) should be carefully evaluated to ascertain that they are of benefit to the clients and do not exploit their dependency status.

D. Communication and Visits

1. Telephone Communication

a. A provider shall allow a client to receive and originate telephone calls, subject only to reasonable rules and to any specific restriction in the client's service plan.

b. Any restriction on telephone communication in a client's service plan must be formally approved and shall be reviewed every 30 days.

2. Mail

a. A provider shall allow clients to send and receive mail unopened and unread by staff, unless contraindicated by a restriction in the client's service plan which shall be reviewed every 30 days.

b. A provider shall ensure that clients have access to all materials necessary for writing and sending letters and shall, when necessary, ensure that clients who wish to correspond with others are given any required assistance.

3. Visits

a. A provider shall allow a client to visit or be visited by family and friends, subject only to reasonable rules and to any specific restrictions in the client's service plan.

b. Special restrictions shall be imposed only to prevent serious harm to the client. The reasons for any special restrictions shall be recorded in the client's service plan.

c. Special restrictions must be reviewed every 30 days. If restrictions are renewed, the reasons for renewal shall be recorded in the client's service plan.

d. A written description of these rules and procedures is suggested.

E. Routines

1. A provider shall have a written set of daily routines for clients that are designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to clients and in the provision of adequate periods of recreation, privacy, rest and sleep.

2. Routines should be determined in relation to needs and convenience of both clients and adults living together.

3. Routines should be sufficiently adaptable to a particular client's physical and emotional capacity to conform to them or to allow for special situations.

F. Money and Personal Belongings

1. A provider shall permit and encourage a client to possess his/her own money, either by giving an allowance and/or providing opportunities for paid work, unless otherwise indicated.

2. Money earned, received as a gift or received as allowance by a client shall be deemed to be that client's personal property.

3. Limitations may be placed on the amount of money a client may possess or have unencumbered access to when such limitations are considered to be in the client's best interests.

4. A provider should, as appropriate to the client's age and abilities, provide training in budgeting, shopping and money management.

5. A provider shall allow a client to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the client's service plan. However, the provider shall, as necessary, limit or supervise the use of these items while the client is in care. When extraordinary limitations are imposed, the client shall be informed by staff of the reasons.

6. The security of having and keeping possessions of one's own contributes to a sense of autonomy and identity. Clients should have a safe place for their belongings. Individual storage space should be provided for their collections, play equipment, and other "treasures." Clients with particularly valuable keepsakes may need staff help to keep them safe.

G. Work

1. Each client should be assigned daily or weekly chores that provide opportunities to learn to assume responsibility and to get satisfaction from contributing to work that must be done, according to age, health, interest, ability, and readiness.

2. The chores should be similar to those of family members in the neighboring community. Clients should not be depended upon to do work for which staff should be

employed. There should be a limit on the amount of work expected.

3. Staff should approve and supervise all chore assignments. Clients should be encouraged to complete chores, but not forced. Policy for this situation should be covered under the provider's behavior management practices.

4. Clients may be given jobs for which they receive payment, which should be clearly differentiated from duties expected of any client in the course of daily living.

5. When a client engages in off-grounds work, the provider should ensure that:

a. such work is voluntary and in accordance with the client's abilities;

b. the work has been approved by staff;

c. such work is supervised by qualified personnel;

d. the conditions and compensation of such work are in compliance with applicable State and Federal laws; and

e. such work does not conflict with the client's service plan.

H. Recreation and Activities

1. Recreation cannot be separated from the total living experience of the client. Play is a learning experience as important as formal education. A recreation program should offer indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs.

2. A provider should provide recreational services based on the individual needs, interests and functioning levels of the clients served.

3. A provider should utilize the recreational resources of the community whenever appropriate. The provider should arrange the transportation and supervision required for maximum usage of community resources.

4. Exercise promotes health and physical development. When clients improve in fitness, their self-concept also improves. Active group play and competitive activities can be balanced by quiet or independent pursuits.

5. A residential care provider should provide adequate recreational equipment and yard space to meet the needs and abilities of its clients. Recreational equipment should be selected in accordance with the number of clients, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. Clients should have time to be alone and to engage in solitary activities that they enjoy, such as reading, drawing, playing with dolls, puppets and other toys, working on collections, roller-skating and bicycling. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Use of television may have to be governed by rules about hours when viewing is allowed and about choice of programs.

I. Birthdays. Each client's birthday should be celebrated individually in an appropriate manner in the group living unit.

J. Religion

1. A provider should clearly explain its religious orientation, particular religious practices which are observed, and any religious restrictions on admission. This description shall be provided to the client; the legally

responsible person, when appropriate; and the responsible agency.

2. The nonsectarian agency has responsibility to provide opportunities for the client who wants to have an appropriate religious affiliation and religious experiences in accordance with the religious preferences of the parents.

3. The agency under religious auspices, whose religious program is an integral part of its service, should make it clear that its service is so based. Clients whose parents want them to make use of such a service should be able to do so.

4. Clients and families who do not choose to participate in religious activities should not be expected to do so in any residential center.

K. Clothing

1. A provider shall ensure that clients are provided with clean, well-fitting clothing appropriate to the season and to the client's age, sex and individual needs. Clothing shall be maintained in good repair.

2. All clothing provided to a client shall go with the client at discharge.

3. Clothing shall belong to the individual client and not be shared in common.

4. Clothing contributes to the client's feeling of worth and dignity. It represents being valued by adults, respect for individuality and having someone who cares for him or her. Clothing should be provided in a manner that helps the client develop self-esteem and a sense of personal responsibility.

L. Personal Care and Hygiene

1. A provider shall establish procedures to ensure that clients receive training in good habits of personal care, hygiene and grooming, appropriate to their age, sex, and race.

2. Each client should have the personal help that all persons need at times, regardless of age, in waking, dressing, deciding what to wear, combing hair, caring for clothing, grooming, getting ready for meals or school, keeping appointments, going to bed, etc.

M. Food Services

1. It is preferable to have one person in charge of food service who is familiar with nutrition, food service and management. The person responsible for food service should be aware of clients with special nutritional needs, and manage the resources of the dietary services to achieve effective food delivery.

2. A provider shall ensure that a client is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day. Meal times shall be comparable to those in a normal community home.

3. A provider should develop written menus at least one week in advance.

4. Records of foods purchased shall be maintained on file for 30 days. Menus should provide for a sufficient variety of foods and shall vary from week to week.

5. No client shall be denied a meal for any reason except according to a doctor's order.

6. No client shall be forced-fed or aggressively coerced to eat against his/her will except by order of a doctor.

7. When meals are provided to staff, a provider shall ensure that staff members eat substantially the same food

served to clients in care, unless age differences or special dietary requirements dictate differences in diet.

8. A provider shall purchase and provide to clients only food and drink of safe quality, and the storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented.

9. Milk and milk products shall be Grade A and pasteurized.

N. Health Care

1. A provider shall ensure the availability of a comprehensive program of preventive, routine and emergency medical and dental care, as appropriate, for all clients.

2. The provider shall show evidence of access to the following health care aspects:

a. ongoing appraisal of the general health of each client;

b. provision for health education, as appropriate;

c. establishment of an ongoing immunization program;

d. approaches that ensure that any medical treatment administered will be explained to the client in language suitable to his/her age and understanding;

e. an ongoing relationship with a licensed physician and dentist to advise the provider concerning medical and dental care;

f. availability of a physician or fully equipped clinic on a 24-hour a day, seven-day a week basis;

g. provision for a dental examination as soon as practical after acceptance of the client for care and for treatment, including necessary prophylaxis, orthodontia, repairs and extractions when indicated, and for annual reexaminations; and

h. access to psychiatric and psychological resources, on both an emergency and ongoing bases, as appropriate to the needs of clients.

O. Medical Care

1. A provider shall arrange a general medical examination by a physician for each client within two weeks of admission unless the client has received such an examination within 30 days before admission and results of this examination are available to the provider. This examination shall include:

a. an examination of the client for physical injury and disease;

b. vision and hearing screening; and

c. a current assessment of the client's general health.

2. Each client taken into care should be immunized against common contagious diseases, including vaccination for smallpox and immunization against diphtheria, tetanus, poliomyelitis, whooping cough, measles and rubella.

3. Whenever indicated, the client shall be referred to an appropriate medical specialist for either further assessment or treatment, i.e., if indicated, neurological examination and psychiatric evaluation, and tuberculin test, including chest x-ray.

4. A provider must ensure that a client receives competent medical care in keeping with community standards of medical practice when he/she is ill. A physical examination shall be arranged when poor health is indicated.

5. When there has been insufficient time to prepare a client for placement, and if an adequate medical history can

be obtained, the routine physical examination, as well as routine medical procedures, such as immunization, may be postponed.

P. Dental Services

1. A provider should have an organized system for providing comprehensive diagnostic dental services for all clients, which includes a complete extra- and intra-oral examination, utilizing all diagnostic aids necessary to properly evaluate the client's oral condition within a period of one month following admission, unless such an examination is in the client's case record.

2. A provider shall have access to comprehensive dental treatment services for all clients which include:

- a. provision for dental treatment;
- b. provision for emergency treatment on a 24-hour, seven-day-a-week basis by a qualified dentist;
- c. a recall system that will assure that each client is reexamined at specified intervals in accordance with his/her needs, but at least annually.

3. A copy of the permanent dental record shall be provided to a provider when a client is transferred.

Q. Mental Health Services

1. A provider shall have access to the following services in accordance with the needs of clients:

- a. psychological services;
- b. psychiatric services; and
- c. social work services.

2. A provider shall ensure that all providers of professional and special services:

- a. provide services directly through personal contact with the client;
- b. provide services indirectly through contact with staff members and others working with the client;
- c. develop and record appropriate plans, goals and objectives for the client and, as appropriate, the client's family;
- d. record all significant contacts with the client;
- e. periodically provide written summaries of the client's response to the service, the client's current status relative to the service, and the client's progress, to be maintained in the client's case record;
- f. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;
- g. provide services appropriately integrated into the overall program.

3. A provider shall ensure that any professional or special service provided by the provider has:

- a. adequately qualified and, when appropriate, appropriately licensed or certified staff according to state or federal law;
- b. adequate space and facilities;
- c. appropriate equipment;
- d. adequate supplies; and
- e. appropriate resources.

4. A provider shall ensure that any professional or special service provided by a person or agency outside the provider meets all relevant requirements contained herein.

R. Psychological Services

1. A provider should provide psychological services, as appropriate, to the needs of the clientele, including strategies to maximize each client's development of *Louisiana Register Vol. 27, No. 6 June 20, 2001*

perceptual skills, sensorimotor skills, self-help skills, communication skills, social skills, self-direction, emotional stability, effective use of time (including leisure time), and cognitive skills.

2. Psychologists providing services to the provider shall have at least a Master's degree from an accredited program and appropriate experience or training.

S. Psychiatric Services

1. The services of a psychiatrist should be available for diagnosis, consultation and treatment of clients with mental health needs.

2. Psychiatric consultation should be available to other staff members working with clients in developing a program that promotes mental health and in helping all appropriate staff members understand and use mental health concepts in working with clients and their families.

3. Use should be made of mental health services and client guidance facilities in the community, whenever they are available, for clients and parents.

T. Social Work Services

1. Social services as part of an interdisciplinary spectrum of services shall be provided to the clients through the use of social work methods directed toward:

- a. maximizing the social functioning of each client;
- b. enhancing the coping capacity of the client's family; and
- c. asserting and safeguarding the human and civil rights of clients and their families and fostering the human dignity and personal worth of each client.

2. During the evaluation process, which may or may not lead to admission, social workers shall help the client and family to consider alternative services and make a responsible choice as to whether and when placement is indicated.

3. During the client's admission to and residence in the provider, or while the client is receiving services from the provider, social workers shall, as appropriate, provide liaison between the client, the provider, the family and the community in order to:

- a. assist staff in understanding the needs of the client and his/her family in relation to each other;
- b. assist staff in understanding social factors in the client's day-to-day behavior, including staff-client relationships;
- c. assist staff in preparing the client for changes in his/her living situation;
- d. help the family to develop constructive and personally meaningful ways to support the client's experience in the provider through counseling concerned with problems associated with changes in family structure and functioning and referral to specific services, as appropriate; and
- e. help the family to participate in planning for the client's return to the home or other community placement.

4. After the client leaves the provider, the provider's social workers should provide systematic follow-up to assure referral to appropriate community providers, when possible.

U. Medications

1. A provider shall ensure that no medication is given to any client except in accordance with the written order of a physician.

2. There shall be no standing orders for prescription medications.

3. All orders for prescribed drugs shall terminate after a period not to exceed 90 days.

4. All orders for non-prescription drugs shall terminate after a period not to exceed one year.

5. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff or of any medication errors.

6. A provider supervising the self-administration of psychotropic medications shall have a written description of the use of psychotropic medications except when supervised directly by the prescribing certified clinical professional or his agent, i.e., clinical social worker.

7. A provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

8. A medication shall not be administered to any client for whom the medication has not been ordered.

9. Medications shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

10. All medications, prescription and non-prescription, should not be accessible to clients and should be administered by qualified persons according to state law.

V. Grievance Procedure for Clients

1. A provider should create a positive climate and opportunities for clients to make complaints without fear of retaliation.

2. The provider should make every effort to ensure that all clients and their legally responsible person are aware of and understand the grievance procedure.

W. Abuse and Neglect. A provider shall have comprehensive, written procedures concerning client abuse, including:

1. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, current reporting requirements and applicable laws;

2. a procedure ensuring immediate reporting of any suspected incident to the chief administrator or his/her designee and mandating an initial written summary on the incident to the chief administrator or his/her designee within 24 hours;

3. a procedure for ensuring that the client is protected from potential harassment during the investigation; and

4. a procedure for disciplining staff members who abuse or neglect clients.

X. Reports on Critical Incidents

1. A provider shall require Social Service staff to report and document deaths of clients, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients.

2. Such procedures shall ensure verbal and written reports to the chief administrator.

3. When an incident involves abuse or neglect of a client, death of a client, or entails any serious threat to the client's health, safety or well-being, a provider shall:

a. ensure immediate verbal reporting to the chief administrator or his/her designee and a preliminary written report within 24 hours of the incident;

b. ensure immediate notification of representatives of DSS and other appropriate authorities, according to state law;

c. ensure immediate, documented attempts to notify the legally responsible person of the client;

d. ensure immediate attempts to notify other involved agencies and parties, as appropriate; and, ensure follow-up written reports to all appropriate persons and agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7965. Direct Service Management

A. Admission Policies

1. A provider shall have a written description of admission policies and criteria which shall include the following information:

a. the age and sex of clients in care;

b. the needs, problems, situations or patterns best addressed by the provider's program;

c. any other criterion for admission;

d. criteria for discharge;

e. any preplacement requirements on the client, the legally responsible person, DSS, or other involved agencies;

f. procedures for ensuring that placement within the program is the least restrictive alternative appropriate to meet the client's needs.

2. The provider shall, when applicable, have policies and procedures governing self-admission. Such policies and procedures shall include procedures for notification, as appropriate, of the legally responsible person.

3. A provider shall not refuse admission to any client on the grounds of race or ethnic origin.

4. A provider shall not admit more clients into care than the number specified on the provider's license.

5. A provider shall not accept any client for placement whose needs cannot be adequately met by the provider's program.

6. A provider shall ensure that the client; the legally responsible person, when appropriate; and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

7. When such involvement of the legally responsible person is not possible or not desirable, the reasons for their exclusion shall be recorded in the admission study.

B. Intake Evaluation

1. The provider shall accept a client into care only when a current comprehensive intake evaluation has been completed, including health and family history and medical, social, psychological and, as appropriate, developmental or vocational or educational assessment.

2. In emergency situations necessitating immediate placement into care, the provider shall:

a. gather as much information as possible about the client to be admitted and the circumstances requiring placement;

b. formalize this in an "emergency admission note" within two days of admission; and,

c. proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

C. Clarification of Expectations to Client. The provider shall, consistent with the client's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the client referred for placement with an explanation of the provider's criteria for successful participation in and completion of the program.

D. Placement Agreement

1. The provider shall ensure that a written placement agreement is completed. A copy of the placement agreement, signed by all parties involved in its formulation, shall be kept in client's record.

2. A provider shall not admit any client into care whose presence will be seriously damaging to the ongoing functioning of the provider or to clients already in care.

3. The placement agreement should be developed with the involvement of the client and the legally responsible person. The placement agreement shall include, by reference or attachment, at least the following:

- a. discussion of the client's and the family's expectations regarding family contact and involvement;
- b. nature and goals of care, including any specialized services to be provided;
- c. religious orientation and practices of the client;
- d. anticipated discharge date and aftercare plan;
- e. delineation of the respective roles and responsibilities of all agencies and persons involved with the client and his/her family;
- f. authorization to care for the client;
- g. authorization to obtain medical care for the client;
- h. arrangements regarding visits, vacation, mail, gifts and telephone calls;
- i. arrangements as to the nature and frequency of reports to and meetings involving the legally responsible person and referring agency;
- j. provision for notification of the legally responsible person in the event of unauthorized absence, illness, accident or any other significant event regarding the client.

4. The provider shall ensure that each client upon placement is checked for illness, fever, rashes, bruises and injury. The client shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the client's record.

5. The provider shall assign a staff member to orient the client and, where available, the family to life at the provider.

E. Discharge and After Care

1. Prior to planned discharge of a client, the provider's staff should formulate an aftercare plan discussing the supports and resources to be provided to the client and the legally responsible person.

a. Prior to discharge, the provider's staff should ensure that the client is aware of and understands his/her aftercare plan.

b. When a client is being placed in another program following discharge, representatives of the staff shall confer with representatives of that program prior to the client's discharge to share information concerning the client.

2. The provider shall have a written policy concerning unplanned discharge. This policy shall ensure that emergency discharges initiated by the provider take place only when the health and safety of a client or other clients might be endangered by the client's further placement at the agency.

a. The provider shall give immediate notice of unplanned discharge to the legally responsible person and shall promptly notify appropriate education authorities.

b. When arranging for placement following an emergency discharge, a provider shall consult with the receiving provider to ensure that the client is placed in a program that reasonably meets the client's needs, if possible.

c. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

3. Within 30 days of discharge of a client, a provider shall compile a written discharge summary to be included in the client's record. When the client is discharged to another agency, this summary should accompany the client. This summary should include:

- a. name and home address of the client and, when appropriate, the legally responsible person;
- b. name, address, telephone number of the provider;
- c. summary of services provided during care;
- d. summary of growth and accomplishments during care;
- e. assessed needs which remain to be met, and alternate service possibilities which might meet those needs; and
- f. statement of an aftercare plan and identification of who is responsible for follow-up services and aftercare.

F. Individual Service Planning

1. A provider shall ensure that a direct service staff who is an appropriately qualified professional is assigned to each client and given responsibility for and authority over:

- a. supervision of the implementation of the client's service plan;
- b. integration of the various aspects of the client's program;
- c. recording of the client's progress as measured by objective indicators;
- d. reviewing the client's service plan on a quarterly basis; and
- e. monitoring any extraordinary restriction of the client's freedom, including use of any form of restraint, any special restriction on a client's communication with others and any potentially harmful treatment or behavior management technique applied to the client.

2. Service Plan

a. A provider shall, within 30 days of admitting a client, ensure that a comprehensive written psychological, social and, as appropriate, educational assessment of the client has been completed and, on the basis of this assessment, shall develop a comprehensive, time-limited, goal-oriented individual service plan addressing the needs identified by the assessment.

b. Unless it is clearly not feasible to do so, a provider shall ensure that the service plan and any subsequent revisions are explained to the client and, where appropriate, the legally responsible person in language understandable to these persons.

c. The social service staff shall review each plan at least annually and shall evaluate the degree to which the goals have been achieved.

d. The social service worker shall prepare quarterly status reports on the progress of the client relative to the goals and objectives of the service plan. These reports shall be prepared by designated staff and reviewed and approved.

e. A social service worker shall ensure that all persons working directly with the client are appropriately informed of the service plan.

3. Education

a. A provider should ensure that each client has access to appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning.

b. All clients of school age must either be enrolled in a school system or a program approved by the Department of Education.

G. Arrangement of Clients into Groups. A provider should conscientiously consider the manner in which clients are arranged into groups within the provider, and document that this manner of arranging clients into groups effectively addresses the needs of clients. This statement should be in accordance with the following guidelines.

1. All clients must have privacy and a place to go for periods of relative quiet and inactivity.

2. All clients must have an opportunity to build relationships within small groups.

3. Clients must have an opportunity to form relationships with a consistent group of direct service staff.

H. Behavior Management

1. Clients should be given opportunities to learn gradually to assume responsibilities and make decisions for phases of daily living that they are able to carry out by themselves. They should have the assistance and guidance of workers whom they trust and respect, and with whom they have a positive relationship, while learning self-control and self-direction in a widening sphere of daily life.

a. Discipline is the educational process by which professionals help a client have the experiences that enable the client to learn to live in reasonable conformity with accepted standards of social behavior and to do so by progressively acquiring and applying self-control rather than relying on external pressures.

b. Every provider should develop policies and procedures to govern all disciplinary actions. Staff should be fully aware of these policies and their implications through staff development and written materials.

c. Each client should know the basic rules that include not hurting others, not destroying things and not disrupting ongoing activities.

d. Good discipline involves being clear and specific as to limits on behavior, showing the client what is permitted and what is not, and giving feedback on actions that are right or wrong.

e. Responsibility for discipline should be given to the worker who takes care of the clients and supervises their daily activities.

2. Punishment

a. Punishment should be used only in situations where other means are ineffective and when clients can benefit from the experience of facing the consequences of

unacceptable behavior not as an end in itself, but as a part of a learning process.

b. Punishment is one form of intervention by the staff in situations in which the client fails to behave as expected or required, or fails to maintain self-control. The staff should have clear reasons for choosing punishment. It is usually more effective to offer an intervention activity that can be positively enforced rather than an intervention that could prove to be a negative reinforcement to a client.

c. Timing or any punishment should be related to the occurrence of the offense and should not extend over so long a period that it loses meaning for the client.

d. Group punishment for misbehavior of one or more members is not desirable. It can have the negative long-range effect of embittering the clients who are unfairly punished and may disturb group cohesiveness. The group may become hostile to the individual client who may feel alone and rejected by them. The group may also direct its hostility to the staff member. Humiliating or degrading punishment, which undermines the client's respect (including ridicule, sarcasm, shaming, scolding or punishment in the presence of the group or another staff member), should be avoided.

i. Corporal punishment, including slapping, spanking, paddling, belting, hitting or forcing the client to march, stand or kneel rigidly in one spot, or causing any kind of physical discomfort, shall not be used other than when approved by the client's parent or guardian in writing. All state laws must be followed when approved corporal punishment is administered.

ii. Physical restraint of a client by a worker is at times necessary for the protection of the client or others.

3. Misbehavior

a. To be effective, worker intervention should be determined by an understanding of the particular client, the immediate situation, the particular living group of the client, the client's capacity at the time to learn from the experience and the treatment plan.

b. Some situations require purposeful noninterference, i.e., nothing should be done. Others call for active intervention, such as reasoning and discussion of the incident, changing the situation, disapproval, physical restraint or punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7967. Physical Environment

A. Accessibility. A provider's building, parking lots and facilities shall be accessible to and functional for clients, staff members and the public, as required by applicable federal and state laws and regulations.

B. Exterior Space

1. A provider shall ensure that all structures on the grounds of the facility accessible to clients are maintained in good repair and are free from any excessive hazard to health or safety.

2. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

- a. Garbage and rubbish that is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis.
 - b. Trash collection receptacles and incinerators shall be stored separate from the play area, and be located as to avoid being a nuisance to neighbors.
 - c. Fences shall be in good repair.
 - d. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters or high-speed roads, shall be fenced off or have natural barriers to protect clients.
 - e. Playground equipment shall be so located, installed and maintained as to ensure the safety of clients.
3. A provider shall have access to outdoor recreational space and suitable recreational equipment.

C. Interior Space

- 1. Each living unit of a provider should contain a space for the free and informal use of clients. This space shall be constructed and equipped in a manner consistent with the programmatic goals of the provider.
- 2. A provider shall provide an appropriate variety of interior recreational spaces.
- 3. A provider shall ensure the immediate accessibility of appropriate first aid supplies in the living units.
- 4. Dining Areas
 - a. A provider shall provide dining areas which permit clients, staff and, as appropriate, guests to eat together in small groups.
 - b. A provider shall provide dining areas which are clean, well-lighted, ventilated and attractively furnished.
- 5. Sleeping Accommodations
 - a. A provider should ensure that each client has a safe and comfortable bedroom space appropriate to age, mental health and supervision requirements. Floor space should provide appropriate freedom of movement. In evaluating bedroom floor space, easy access to large adjoining areas should be considered.
 - b. A provider shall not use a room with a ceiling height of less than seven feet as a bedroom space, except in a room with varying ceiling height in which the portions of the room where the ceiling is at least seven feet allow a useable space.
 - c. A provider should not permit more than four clients to occupy a designated bedroom space, unless necessitated by supervision requirements.
 - d. No client over the age of five years shall occupy a bedroom with a member of the opposite sex, unless the persons occupying the bedroom are a married couple, or properly documented medical reasons require it.
 - e. A provider shall not use any room which does not have a window as a bedroom space.
 - f. Each client in care of a provider shall have his/her own bed. A client's bed shall be no shorter than the client's height and no less than thirty inches wide, and shall have a clean, comfortable, non-toxic, fire-retardant mattress.
 - g. A provider shall ensure that sheets, a pillow, a bedspread and blankets are provided for each client.
 - i. Enuretic clients shall have mattresses with moisture-resistant covers.
 - ii. Sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

- h. A provider shall provide clients with solidly constructed beds. Cots or other portable beds are not to be used on a routine basis.
 - i. A provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.
 - j. A provider shall provide each client in care with his/her own dresser or other adequate storage space for private use, and designated space for hanging clothing in proximity to the bedroom occupied by the client.
 - k. Each client in care of a provider shall have his/her own designated area for rest and sleep.
 - l. The decoration of sleeping areas for clients shall allow some scope for the personal tastes and expressions of the clients.

6. Bathrooms

- a. A provider shall have an adequate number of washbasins with hot and cold water, flush toilets and bath or shower facilities with hot and cold water, according to client care needs.
 - i. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.
 - ii. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.
 - iii. Tubs and showers shall have slip-proof surfaces.
- b. A provider shall provide toilets and baths or showers which allow for individual privacy, unless clients in care require assistance.
- c. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold running water. This water shall be potable.
- d. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights, and other furnishings necessary to meet the clients' basic hygienic needs.
- e. A provider shall ensure that bathrooms are equipped to facilitate maximum self-help by clients. Bathrooms shall be large enough to permit staff assistance of children if necessary.
- f. Toilets, washbasins and other plumbing or sanitary facilities in a facility shall at all times be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

7. Kitchens

- a. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and cleanup of all meals for all the clients and staff regularly served by such kitchen. All equipment shall be maintained in working order.
 - b. A provider shall not use disposable dinnerware at meals on a regular basis, unless the facility documents that such dinnerware is necessary to protect the health or safety of clients in care.
 - c. A provider shall ensure that all dishes, cups and glasses used by clients in care are free from chips, cracks or other defects.
- 8. Staff Quarters. A provider utilizing live-in staff shall provide adequate, separate living space with private bathroom for these staff.

9. Administrative and Counseling Space

a. A provider shall provide a space that is distinct from the clients' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

b. A provider shall have a designated space to allow private discussions and counseling sessions between individual clients and staff.

10. Furnishings

a. A provider shall have comfortable, customary furniture as appropriate for all living areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of these clients.

b. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the provider.

c. A provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

11. Doors and Windows

a. A provider shall ensure that any designated bedroom in which the bedroom space is not equipped with a mechanical ventilation system is provided with windows that have an openable area at least 5 percent as large as the total floor area of the bedroom space.

b. A provider shall provide insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

c. A provider shall ensure that all closets used by clients, and bedrooms and bathrooms which have doors, are provided with doors that can be readily opened from both sides.

12. Storage

a. A provider shall ensure that there are sufficient and appropriate storage facilities.

b. A provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

13. Electrical Systems

a. A provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

b. A provider shall ensure that any room, corridor or stairway within a facility is sufficiently illuminated.

c. A provider shall provide adequate lighting of exterior areas to ensure the safety of clients and staff during the night.

14. Heat

a. A provider shall take all reasonable precautions to ensure the heating elements, including exposed hot water pipes, are insulated or installed in a manner that ensures the safety of clients.

b. A provider shall maintain the spaces used by clients at reasonable temperatures.

c. A provider shall not use open flame heating equipment.

15. Water. A provider shall ensure that hot water accessible to clients is regulated to a temperature not in excess of 110 degrees F., unless a variance is granted.

16. Finishes and Surfaces

a. A provider shall not utilize any excessively rough surface or finish where this surface or finish may present a safety hazard to clients.

b. A provider shall not have walls or ceilings surfaced with materials containing asbestos.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

§7969. Emergency and Safety

A. Emergency and Safety Plan

1. A provider should have a plan for emergency and safety procedures.

2. The plan should provide for the evacuation of clients to safe or sheltered areas.

3. The plan should include provisions for training of staff and, as appropriate, clients in preventing, reporting and responding to fires and other emergencies.

4. The plan should provide means for an ongoing safety program including continuous inspection of the provider for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies.

B. Emergency Drills

1. A provider shall conduct emergency drills at least once every three months and at varying times of the day.

2. A provider shall make every effort to ensure that staff and clients recognize the nature and importance of such drills.

C. Access to Emergency Services

1. A provider shall have access to 24-hour telephone service.

2. The provider shall either have posted telephone numbers of emergency services, including fire department, police, medical services, poison control and ambulance, or be able to show evidence of an alternate means of immediate access to these services.

D. General Safety Practices

1. A provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. A provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of clients, staff and visitors.

3. A provider should ensure that an appropriately equipped first-aid kit is available in the provider's building.

4. Every required exit, exit access and exit discharge in a provider's building shall be continuously maintained free of all obstructions or impediments to immediate use in the case of fire or other emergency.

5. A provider shall prohibit the use of candles in sleeping areas of the clients.

6. Power-driven equipment used by a provider shall be kept in safe and good repair. Such equipment shall be used by clients only under the direct supervision of a staff member and according to State Law.

7. A provider shall have procedures to prevent insect and rodent infestation.

E. Transportation

1. The provider shall ensure that each client is provided with the transportation necessary for implementing the client's service plan.

2. The provider shall have means of transporting clients in case of emergency.

3. Any vehicle used in transporting clients in care of the provider, whether such vehicle is operated by a staff member of any other person acting on behalf of the provider, shall be properly licensed and inspected in accordance with State Law.

4. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats in the vehicle.

5. All vehicles used for the transportation of clients shall be maintained in a safe condition and be in conformity with all applicable motor vehicle laws.

6. Identification of vehicles used to transport clients in care of a provider shall not be of such nature to embarrass or in any way produce notoriety for clients.

7. The provider shall ascertain the nature of any need or problem of a client with might cause difficulties during transportation, such as seizures, a tendency towards motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting clients in care.

8. The following additional arrangements are required in all vehicles except automobiles for a provider serving handicapped, non-ambulatory clients:

a. A ramp device to permit entry and exit of a client from the vehicle must be provided for all vehicles that are normally used to transport physically handicapped clients. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency.

b. Wheelchairs used in transit shall be securely fastened to the vehicle.

c. The arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:

Interested persons may submit written comments by April 24, 2001 to Felix Schmidt, Program Manager, Department of Social Services, Bureau of Licensing, Box 3078, Baton Rouge, LA 70821. He is the responding authority to inquiries regarding this proposed Rule.

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This proposed Rule to adopt minimum standards for the licensure of Class "B" child residential care facilities will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule is not anticipated to have any effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This proposed Rule is not anticipated to have any effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? The family or local government is not able to perform the function contained in this proposed Rule.

J. Renea Austin-Duffin
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Class "B" Residential Care Licensing Standards

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

There will be a minimal cost for printing the new regulations. There are no other implementation costs to state or local governmental units associated with this proposed Rule to adopt minimum licensing standards for Class "B" child residential care facilities. Currently there is only one facility in Louisiana licensed as a Class "B" child residential care facility at a licensing fee of \$600.

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

The Department of Social Services will collect licensing fees from facilities that are licensed under this category. depending on the capacity of the facility, the fee could be as much as \$600. This amount would be collected annually from any facility requesting such a license.

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

The estimated costs to directly affected persons would be the licensing fee charged to individuals, which could range from \$400 to \$600 depending upon the capacity of the facility, that choose to open a Class "B" child residential facility. There will be no costs or economic benefit to non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment.

Thalia Stevenson
Director
0106#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office