

# Potpourri

## POTPOURRI

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

#### Advanced Notice of Proposed Rulemaking Public Notification of Contamination (LAC 33:I.Chapter 1)(OS042)

The Louisiana Department of Environmental Quality is requesting comments on the following draft proposed regulation that will establish procedures for notifying those members of the public that the department determines are likely to be adversely affected by a release of hazardous substances or other pollutants.

It is the department's intent to incorporate the proposed regulations into the Office of the Secretary Regulations. This is a preliminary step in the rulemaking process. Official rulemaking will be initiated after review and consideration of the comments received on this advanced notice.

In addition to the technical content of the proposed regulation, for the purpose of preparing a Fiscal and Economic Impact Statement as required by law, we specifically request comments on the estimated cost to the public, particularly to property owners, lending institutions, real estate professionals, investors, and other interested parties who could be affected by this rule.

All interested persons are encouraged to submit written comments on the draft proposal. Comments are due by September 30, 2002, and must be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884; hand delivered to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge; sent to FAX number (225) 765-0389; or sent by email to patsyd@deq.state.la.us. Persons commenting should reference this document as Log #OS042.

If you have any questions regarding this document please contact Lou Buatt at (225) 765-0252 or Patsy Deaville at (225) 765-0399.

### Title 33

### ENVIRONMENTAL QUALITY

#### Part I. Office of the Secretary

#### Subpart 1. Departmental Administrative Procedures

#### Chapter 1. Public Notification of Contamination

#### §101. Purpose

A. The purpose of this Chapter is to establish procedures for notifying those members of the public that the department determines are likely to be adversely affected by a release. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in Louisiana Administrative Code, Title 33. Furthermore, nothing in this Chapter shall prevent the responsible party, or the department, from providing additional means for public information and participation consistent with the provisions

of this Chapter or any other chapter of the Louisiana Administrative Code, Title 33.

**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 28:

#### §103. Applicability

A. This Chapter applies to releases that exceed the applicable federal or state health and safety standard and pose a risk of adverse human health effects.

**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 28:

#### §105. Effective Date

A. These regulations shall become effective on [upon promulgationCdate to be inserted]. These regulations are only applicable to releases that occur on or after [insert effective date of regulations].

**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 28:

#### §107. Definitions

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

*Applicable Federal or State Health and Safety Standard*Csuch standards the department, based on its knowledge and expertise, determines are applicable to the release site.

*Corrective Action*Cactivities conducted to protect human health and the environment.

*Department*Cthe Department of Environmental Quality.

*Offsite*Careas beyond the property boundary of the release site.

*Person*Cany individual, municipality, public or private corporation, partnership, firm, the state of Louisiana, political subdivisions of the state of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

*Release*Cthe accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

*Release Site*Carea within the property boundary of the site where the release has occurred.

*Responsible Party*Cany person required by law or regulation to undertake corrective action at a site.

**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 28:

**§109. Notification Requirements**

A. The department shall provide notification to the public for sites within the department's regulatory jurisdiction, as reasonably determined by the department to be appropriate in accordance with the considerations identified in this Chapter.

B. The department shall issue notice of a release to persons to whom the department determines that the release poses a risk of adverse health effects.

C. The department may prioritize sites for provision of notice, as appropriate, according to the factors identified in this Section, although notice should in all events be given as soon as reasonably practicable.

D. The following chart provides the content and time frame for providing notification.

| Public Notice Number | Triggering Event   | When to Provide Notice to the Public  | Contents of the Public Notice  |
|----------------------|--|---|--|
| 1                    | When the department becomes aware of information and determines that a release is likely to have adverse offsite impacts that exceed the applicable federal or state health and safety standard                  | When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or otherwise, within 30 days of the triggering event | Physical address of the release site<br>Description of the contaminant<br>Corrective action efforts<br>Name, phone number, and address of contact person for both the responsible party and the department<br>Other information the department determines is necessary to protect human health and the environment   |
| 2                    | When the department confirms offsite impact that exceeds the applicable federal or state health and safety standard and the department determines that the offsite impact poses a risk of adverse health effects | When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or otherwise, within 30 days of the triggering event | Physical address of the release site<br>Description of the contaminant<br>Corrective action efforts<br>Any potential adverse health effects<br>Name, phone number, and address of contact person for both the responsible party and the department<br>Other information the department determines is necessary to protect human health and the environment |

E. Procedure for Providing Notice to the Public

1. The public notice required by this Chapter must be:
  - a. communicated in plain language;
  - b. printed and formatted in a manner that promotes the purpose of the notice when the notice is printed or posted;
  - c. free of language that nullifies the purpose of the notice;
  - d. displayed in a conspicuous way when printed or posted; and
  - e. sized 3 inches x 5 inches, at a minimum, in newspapers, parish journals, etc., when published in such publications.
2. The public notice shall be provided by means reasonably calculated to reach those members of the public directly affected by the release, as determined by the department, and may include, but not be limited to:
  - a. public notice in local newspapers;
  - b. block advertisements;
  - c. public service announcements;
  - d. direct mailings;
  - e. personal contacts;
  - f. press releases;
  - g. press conferences; and
  - h. posting on the department's website.

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 28:

James H. Brent, Ph.D.  
Assistant Secretary

0207#038

**POTPOURRI**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e., holiday, weather).

The Board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the

National Board Examination Committee (NBEC), as follows:

**Test Window Date**                      **Deadline To Apply**  
 November 18 through                      Tuesday, September 17, 2002  
 December 14, 2002

The Board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows:

**Test Date**                                      **Deadline To Apply**  
 Friday, January 17, 2003                      Friday, November 22, 2002

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at lbvm@eatel.net; application forms and information are also available on the website at www.lsbvm.org.

Kimberly B. Barbier  
 Administrative Director

0207#010

**POTPOURRI**

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

Private Intermediate Care Facilities  
 for the Mentally Retarded  
 New Reimbursement Rates

Effective for dates of service July 1, 2002 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement rates for private intermediate care facility services for the mentally retarded.

| Level of Care | 1-8 Beds per Diem Rate | 1-8 Beds Monthly Rate | 9-32 Beds per Diem Rate | 9-32 Beds Monthly Rate | 33+ Beds per Diem Rate | 33+ Beds Monthly Rate |
|---------------|------------------------|-----------------------|-------------------------|------------------------|------------------------|-----------------------|
| 2             | \$120.51               | \$3,665.51            | \$ 98.03                | \$2,981.75             | \$ 87.12               | \$2,649.90            |
| 3             | \$130.04               | \$3,955.38            | \$105.60                | \$3,212.00             | \$ 93.74               | \$2,851.26            |
| 4             | \$134.88               | \$4,102.60            | \$113.83                | \$3,462.33             | \$100.94               | \$3,070.26            |
| 5             | \$141.66               | \$4,308.83            | \$122.78                | \$3,734.56             | \$108.77               | \$3,308.42            |
| 6             | \$145.08               | \$4,412.85            | \$132.51                | \$4,030.51             | \$126.85               | \$3,858.35            |
| 7             | \$158.83               | \$4,831.08            | \$156.37                | \$4,756.25             | \$136.12               | \$4,140.32            |

It should be noted that these rates include a provider fee of \$10.93.

Inquiries regarding these rates may be directed to the Director of the Rate and Audit Review Section, Bureau of

Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood  
 Secretary

0207#058

**POTPOURRI**

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

Private Nursing Facilities  
 New Reimbursement Rates

Effective for dates of service July 1, 2002 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement rates for private nursing facility services.

| Level of Care                               | Daily    | Monthly    |
|---|----------|------------|
| Skilled Nursing                             | \$ 88.71 | \$2,698.26 |
| Intermediate Care I                         | \$ 84.63 | \$2,574.16 |
| Intermediate Care II                        | \$ 84.63 | \$2,574.16 |
| Skilled Nursing C Infectious Disease        | \$267.63 | \$8,140.41 |
| Skilled Nursing C Technology Dependent Care | \$223.25 | \$6,790.52 |

It should be noted that the above rates include a provider fee of \$6.27.

Inquiries regarding these rates may be directed to the Director of the Rate and Audit Review Section, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood  
 Secretary

0207#059

**POTPOURRI**

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

Public Hospitals  
 Reimbursement Methodology  
 Upper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994, which established a prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a Rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*,

Volume 22, Number 1). The January 1996 Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

The bureau adopted an Emergency Rule to utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c) which stated that "the aggregate Medicaid payments may not exceed 150 percent of a reasonable estimate of the amount that would be paid for the services furnished by the non-state government-operated hospitals under Medicare payment principles in Subchapter B of this Chapter" (*Louisiana Register*, Volume 27, Number 7). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services subsequently adopted a Rule effective May 14, 2002 to reduce the maximum aggregate Medicaid payments from 150 percent to 100 percent of a reasonable estimate of the amount that would be paid for the services furnished by the non-state government-operated hospitals under Medicare payment principles. As a result of the change in federal regulations and the allocation of funds by the legislature during the 2002 Regular Session, the bureau proposes to amend the definition of qualifying hospitals for enhancement pool payments contained in the Medicaid State Plan. This action is being taken to maximize the intergovernmental transfers generated for state fiscal year 2002-2003.

Effective July 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will submit an amendment to the Louisiana Medicaid State Plan to the Centers for Medicare and Medicaid Services amending the definition of qualifying hospitals for enhancement pool payments. A qualifying hospital for enhancement pool payments is a hospital that:

- a) is not recognized as a small rural hospital as defined in Section D.3.b. of the State Plan; and
- b) has the largest volume of Medicaid inpatient days of all non-state public hospitals per the hospital's latest filed cost report.

Implementation of this definition for a qualifying hospital shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood  
Secretary

0207#060

**POTPOURRI**

**Department of Insurance  
Property and Casualty Division**

Advisory Letter Number 02-01  
June 24, 2002

To: All Property and Casualty Insurers Approved to Issue Policies Insuring Risks in Louisiana  
Re: Notice of Cancellation  
Notice of Nonrenewal

Statute And Regulation References: Title 22 of the Louisiana Revised Statutes §§2, 1211 et seq., and 1262.1

It has come to the attention of the Commissioner that surplus lines insurers are canceling and/or non-renewing insurance policies with little or no notice to the insured. Please be advised that the Commissioner finds that such conduct is not in the best interest of the policyholders or the citizens of Louisiana.

Pursuant to R.S. 22:1262.2, a surplus lines insurer may be removed from the list of approved unauthorized insurers if the Commissioner finds that it is not in the best interest of policyholders or the citizens of Louisiana for the insurer to be allowed to continue to do business in this state.

Unapproved insurers doing business in Louisiana should take note that the surplus lines market in the state is much broader than in other states. Indeed, the surplus lines market competes directly with the admitted market for many lines and/or classes of business. Therefore, the manner in which such insurers conduct business is of greater concern than might otherwise exist if the market were more limited in scope.

Surplus lines insurers are hereby advised that they should make every effort to give reasonable notice to their policyholders prior to canceling or non-renewing an insurance policy or risk removal from our white list. It is the opinion of the Commissioner that a minimum of 30 days is reasonable, unless the cancellation is for non-payment of premium, in which case notice of not less than 10 days would be reasonable as called for in R.S. 22:636 for admitted insurers.

Any questions regarding this Advisory Letter may be directed to Ms. Kathlee Hennigan, Director of the Property and Casualty Division, at khennigan@ldi.state.la.us or by telephone at 225-342-0073 or to C. Noël Wertz, Chief Attorney, Property and Casualty Section at nwertz@ldi.state.la.us. or by telephone at 225-342-4632.

J. Robert Wooley  
Acting Commissioer

0207#033

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

**Orphaned Oilfield Sites**

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

| Operator        | Field             | District | Well Name     | Well Number | Serial Number |
|-----------------|-------------------|----------|---------------|-------------|---------------|
| Smith Resources | Caddo Pine Island | S        | Dickson Heirs | 1           | 049611        |
| Smith Resources | Caddo Pine Island | S        | Glassell      | 1           | 050494        |
| Smith Resources | Caddo Pine Island | S        | Glassell      | 3           | 050814        |
| Smith Resources | Caddo Pine Island | S        | Washington    | 1           | 051432        |
| Smith Resources | Caddo Pine Island | S        | Washington    | 2           | 051433        |

|                 |                   |   |                    |    |        |
|-----------------|-------------------|---|--------------------|----|--------|
| Smith Resources | Caddo Pine Island | S | Washington         | 3  | 051550 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 2  | 051561 |
| Smith Resources | Caddo Pine Island | S | Glassell           | 2  | 051823 |
| Smith Resources | Caddo Pine Island | S | Glassell           | 4  | 052063 |
| Smith Resources | Caddo Pine Island | S | Washington         | 4  | 052784 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 3  | 052882 |
| Smith Resources | Caddo Pine Island | S | Glassell           | 5  | 053852 |
| Smith Resources | Caddo Pine Island | S | Glassell           | 6  | 053853 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 14 | 054058 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross U2 SWD | 1  | 059734 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 4  | 076940 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 5  | 076941 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 6  | 076942 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 7  | 076943 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 8  | 076944 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 9  | 076945 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 10 | 076946 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 11 | 076947 |
| Smith Resources | Caddo Pine Island | S | W E Logan          | 1  | 080444 |
| Smith Resources | Caddo Pine Island | S | W E Logan          | 2  | 081059 |
| Smith Resources | Caddo Pine Island | S | W E Logan          | 3  | 081397 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross U2     | 3  | 085115 |
| Smith Resources | Caddo Pine Island | S | W E Logan          | 5  | 086447 |
| Smith Resources | Caddo Pine Island | S | W E Logan          | 6  | 089798 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 12 | 096563 |
| Smith Resources | Caddo Pine Island | S | Dickson Heirs      | 13 | 115041 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross B      | 5  | 135276 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross B      | 6  | 135277 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross B      | 7  | 135278 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross B      | 8  | 135279 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross B      | 4  | 135719 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross B      | 3  | 135720 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross B      | 2  | 135721 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross B      | 1  | 135722 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross U2     | 2  | 140171 |
| Smith Resources | Caddo Pine Island | S | Bessie Ross U2     | 1  | 140172 |

|                                 |                      |   |                          |      |        |
|---------------------------------|----------------------|---|--------------------------|------|--------|
| Air Lift Oil Company            | Tullos Urania        | M | Harper                   | 18   | 043326 |
| Charles W. Anderson             | Monroe               | M | Anderson Et Al           | A003 | 108477 |
| Charles W. Anderson             | Monroe               | M | Anderson Et Al           | A007 | 118015 |
| La-La Oil Company               | Tullos Urania        | M | King                     | A-5  | 036255 |
| Leon Ramsey                     | Monroe               | M | L Ramsey                 | 2    | 142853 |
| Otto Smith                      | Tullos Urania        | M | Urania LBR Co.           | 1    | 109314 |
| United Production Company, Inc. | Valentine            | L | Warren Harang Et Al      | 1    | 212865 |
| United Production Company, Inc. | Valentine            | L | Warren Harang Et Al      | 2    | 212993 |
| United Production Company, Inc. | Valentine            | L | Warren Harang Et Al      | 3    | 213022 |
| United Production Company, Inc. | Valentine            | L | Warren Harang Et Al      | 4    | 213222 |
| United Production Company, Inc. | Valentine            | L | Warren Harang Et Al      | 5    | 213451 |
| Wesla Oil & Gas Co., Inc.       | Spider               | S | Olinkraft                | 1    | 157137 |
| Wesla Oil & Gas Co., Inc.       | Red River-Bull Bayou | S | Lafitte RA SUT; Hunter A | 1    | 185454 |
| Wesla Oil & Gas Co., Inc.       | Red River-Bull Bayou | S | Carmel Catholic Church   | 1    | 187263 |
| Wesla Oil & Gas Co., Inc.       | Gahagan              | S | Drake                    | 1    | 202587 |
| Wesla Oil & Gas Co., Inc.       | Gahagan              | S | Drake                    | 2    | 203832 |
| Wesla Oil & Gas Co., Inc.       | Longwood             | S | VUL; Mitchell-Williams   | 2    | 212494 |
| Wesla Oil & Gas Co., Inc.       | Longwood             | S | VUL; Mitchell-Williams   | 4    | 212659 |
| Wesla Oil & Gas Co., Inc.       | Longwood             | S | VUM; Mitchell-Williams A | 2    | 212824 |
| Wesla Oil & Gas Co., Inc.       | Longwood             | S | VUM; Mitchell-Williams A | 4    | 212826 |
| Wesla Oil & Gas Co., Inc.       | Longwood             | S | VUN; Mitchell-Williams B | 2    | 212496 |
| Wesla Oil & Gas Co., Inc.       | Longwood             | S | VUN; Mitchell-Williams B | 3    | 212633 |

James H. Welsh  
Commissioner

0207#034