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Executive Orders

EXECUTIVE ORDER MJF 98-49

Bond Allocation—Parish of East Baton Rouge

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the parish of East Baton Rouge, state of Louisiana, has requested an allocation from the 1998 Ceiling to be used in connection with financing the replacement of a carbon monoxide furnace to reduce emissions in accordance with anticipated Environmental Protection Agency standards for Exxon Company, U.S.A., at the Baton Rouge refinery, parish of East Baton Rouge, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$9,000,000	Parish of East Baton Rouge State of Louisiana	Exxon Company, U.S.A.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

SECTION 5: The undersigned certifies, under penalty of

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#012

EXECUTIVE ORDER MJF 98-50

Bond Allocation—Parish of Jefferson Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Parish of Jefferson Home Mortgage Authority has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing certain qualifying mortgage loans for single family, owner-occupied residences throughout the parish of Jefferson (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$6,000,000	Parish of Jefferson Home Mortgage Authority	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#013

EXECUTIVE ORDER MJF 98-51

Bond Allocation—East Baton Rouge
Mortgage Finance Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and

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

WHEREAS, the East Baton Rouge Mortgage Finance Authority has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences in the parish of East Baton Rouge, by low and moderate income home buyers (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$6,000,000	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#014

EXECUTIVE ORDER MJF 98-52

Bond Allocation—Industrial Development Board of the Parish of Calcasieu, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter “the Act”) and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter “MJF 96-25”) was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter “the 1998 Ceiling”);
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Calcasieu, Inc., has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction and installation of certain wastewater treatment facilities for CITGO Petroleum Corporation, located at 4401 Highway 108, Lake Charles, parish of Calcasieu, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$10,000,000	Industrial Development Board of the Parish of Calcasieu, Inc.	CITGO Petroleum Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#015

EXECUTIVE ORDER MJF 98-53

Bond Allocation—Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter “the Act”) and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter “MJF 96-25”) was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter “the 1998 Ceiling”);
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction, and equipping of an asphalt manufacturing plant for Barriere Construction Company, L.L.C., located at 1327 Esperanza Plantation Road, Boutte, parish of St. Charles, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$2,950,000	Louisiana Public Facilities Authority	Barriere Construction Company, L.L.C.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general

purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#016

EXECUTIVE ORDER MJF 98-54

Bond Allocation—Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has

requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction, and equipping of a pipe mill for AMS Tube Corporation, located at 40529 Pumpkin Center Road, Hammond, parish of Tangipahoa, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$1,200,000	Louisiana Public Facilities Authority	AMS Tube Corporation

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#017

EXECUTIVE ORDER MJF 98-55

Bond Allocation—Industrial Development Board of the Parish of Calcasieu, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter “the Act”) and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter “MJF 96-25”) was issued on August 27, 1996, to establish:

- 1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter “the 1998 Ceiling”);
- 2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
- 3. a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Calcasieu, Inc., has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction and equipping of certain sewerage and solid waste treatment and disposal facilities for HydroServe Westlake, L.L.C., located within the parish of Calcasieu, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$9,445,200	Industrial Development Board of the Parish of Calcasieu, Inc.	HydroServe Westlake, L.L.C.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#018

EXECUTIVE ORDER MJF 98-56

Bond Allocation—Parish of Ascension

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter “the Act”) and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter “MJF 96-25”) was issued on August 27, 1996, to establish:

- 1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter “the 1998 Ceiling”);
- 2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
- 3. a system of central record keeping for such allocations; and

WHEREAS, the parish of Ascension, state of Louisiana, has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction and installation of certain solid waste and sewerage disposal facilities for BASF Corporation, located at 8404 Highway 75, Geismar, parish of Ascension, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$14,000,000	Parish of Ascension State of Louisiana	BASF Corporation

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general

purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#019

EXECUTIVE ORDER MJF 98-57

Bond Allocation—Parish of DeSoto

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the parish of DeSoto, state of Louisiana, has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction and installation of certain sewerage and solid waste disposal facilities at the Mansfield pulp and paper mill of International Paper Company, located approximately 4 miles west of La. Highway 1 on the north side of Highway 509, approximately

17 miles east of Mansfield, parish of DeSoto, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$8,000,000	Parish of DeSoto State of Louisiana	International Paper Company

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#020

EXECUTIVE ORDER MJF 98-58

Bond Allocation—Industrial Development Board
of the Parish of Caddo, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act Number 51 of the 1986 Regular

Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Caddo, Inc., has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction and installation of certain solid waste disposal and sewerage treatment facilities for Atlas refinery owned by Pennzoil Products Company, located at 3333 Midway, Shreveport, parish of Caddo, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,000,000	Industrial Development Board of the Parish of Caddo, Inc.	Pennzoil Products Company

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and

caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#021

EXECUTIVE ORDER MJF 98-59

Bond Allocation—Industrial District Number 3 of the Parish of West Baton Rouge

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Industrial District Number 3 of the parish of West Baton Rouge, state of Louisiana, has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction and installation of certain water pollution control facilities at the chemical plant complex of The Dow Chemical Company, located at the corner of Woodland Road and the east side of La. Highway Number 1, Frontage Road, north of Plaquemine, parish of West Baton Rouge, state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$9,000,000	Industrial District Number 3 of the Parish of West Baton Rouge State of Louisiana	The Dow Chemical Company

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a

Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#022

EXECUTIVE ORDER MJF 98-60

Bond Allocation—Louisiana Housing Finance Agency

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling");
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Housing Finance Agency has requested an allocation from the 1998 Ceiling to be used in connection with a program of financing mortgage loans for single family, owner-occupied residences owned by low and moderate income home buyers throughout the state of Louisiana (hereafter "Project"), in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$9,050,000	Louisiana Housing Finance Agency	Single Family Mortgage Revenue Bond Program

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before December 28, 1998.

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

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of October, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#023

EXECUTIVE ORDER MJF 98-61

Shrimp Industry Review Panel II

WHEREAS, through Senate Concurrent Resolution Number 11 of the 1997 Regular Session of the Louisiana Legislature, the Louisiana Legislature created a Select Council on Shrimp Management (hereafter "Council") to study the current and future management of Louisiana's shrimp resources and make recommendations for Louisiana's

future shrimp resources management objectives, and designated a Shrimp Industry Review Panel to review the Council's recommendations; and

WHEREAS, in August 1998, the Council submitted a final report to the Senate and the House Natural Resources Committees¹ which contained recommended prioritized objectives for the management of Louisiana's shrimp fishery, and recommended methods to achieve those objectives;

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

SECTION 1: The Shrimp Industry Review Panel II (hereafter "Panel") is established in the executive department, Office of the Governor.

SECTION 2: The duties of the Panel shall be limited to the following:

A. Evaluating the recommendations set forth in the final report of the Select Council on Shrimp Management (hereafter "final report");

B. Preparing recommended legislative initiatives for the 1999 Regular Session of the Louisiana Legislature which are based on information obtained from the final report.

SECTION 3: The Panel shall prepare a comprehensive report which contains the Panel's evaluation of the final report and drafts of the legislative initiatives that the Panel recommends implementing. The report shall be submitted to the governor, the secretary of the Department of Wildlife and Fisheries, and the Senate and the House Natural Resources Committees by March 1, 1999.

SECTION 4: The Panel shall be composed of twenty-one (21) members selected as follows:

A. Fifteen (15) members employed and/or in the business of at least one (1) sector of Louisiana's shrimp industry, such as the harvesting, processing, and/or marketing, shall be appointed by and serve at the pleasure of the governor; and

B. Six (6) members shall be selected as follows:

1. the governor, or the governor's designee;

2. the secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

3. the chair of the House Natural Resources Committee, or the chair's designee, and one (1) additional member of the House Natural Resources Committee selected by the chair; and

4. the chair of the Senate Natural Resources Committee, or the chair's designee, and one (1) additional

member of the Senate Natural Resources Committee selected by the chair.

SECTION 5: The governor shall select the chair and a meeting facilitator from the membership of the Panel. All other officers shall be elected by the membership of the Panel.

SECTION 6: The meeting facilitator shall call all meetings, issue meeting agendas, and serve as parliamentarian at all meetings.

SECTION 7: Support staff for the Panel and facilities for its meetings shall be provided by the Department of Wildlife and Fisheries.

SECTION 8: The members of the Panel selected pursuant to Subsection 4(A) shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, said members may receive reimbursement from the Office of the Governor for actual mileage, in accordance with state guidelines and procedures, with prior written approval from the Office of the Governor and the approval of the commissioner of Administration.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivisions thereof, are authorized and directed to cooperate with the Panel in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until March 1, 1999, unless amended, modified, terminated, or rescinded by the governor, or terminated by operation of law prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 6th day of November, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9811#065

¹The Council also submitted its report to the eighty-three (83) member Shrimp Industry Review Panel (hereafter "SIR Panel") that was created pursuant to Senate Concurrent Resolution No. 11 of the 1997 Regular Session of the Louisiana Legislature (hereafter "SCR No. 11"), as required by SCR No. 11. The SIR Panel, composed of fifteen (15) members representing the shrimp industry and sixty-eight (68) Louisiana Legislators, has had insufficient attendance at its meeting(s) to constitute a quorum. Therefore, the SIR Panel has been unable to conduct business and/or fulfill the duties that SCR No. 11 requires the SIR Panel to perform.

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students
(TOPS) (LAC 28:IV.301, 701-705, 1703)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (R.S. 17:3048.1).

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs, provide transition for recipients of the Honors Scholarship and Tuition Assistance Plan to TOPS and for deferment of the TOPS award by eligible recipients. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective October 13, 1998, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

ACT Score—the highest composite score achieved by the student on the official American College Test (including National, International, Military or Special test types) on or before the official April test date in the academic year in which the student graduates from high school or an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before May 1 of the academic year in which the student graduates from high school. ACT or SAT test scores which are unofficial, including so-called *residual* test scores, are not acceptable for purposes of determining program eligibility. For 1997 and 1998 high school graduates who have not previously taken an ACT test, the ACT Score shall include those scores obtained from a national ACT test taken not later than the October 1998 national test date.

* * *

Louisiana Resident—

1. any student or at least one parent or legal guardian of any dependent student who has resided in the state for a minimum of 24 consecutive months immediately preceding a

certain date or the date of a specified event that is further defined by the programs found in Part IV of these rules, or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student or the parent(s) or legal guardian of a dependent applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- a. if registered to vote, a Louisiana voters registration card; and
- b. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- c. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- d. if earning a reportable income, a Louisiana tax return;

2. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with §301.1.d above.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§701. General Provisions

A. - E.7. ...

8. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship program during the 1997-98 award year, who lost eligibility due to their failure to maintain the required grade point average, shall be continued as TOPS Opportunity or Performance recipients, respectively; however, their eligibility for an award shall be suspended pending their satisfaction of the continuation requirements of §705.A.8 and 9. If a student satisfies the applicable requirements of §705.A.8 and 9 no later than the end of the 2000 Spring semester, he/she shall be eligible for reinstatement of the award in accordance with §705.B, for the semester following the satisfaction of the requirements of §705.A.8 and 9.

9. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of TOPS Performance award; however, they are not eligible to receive the stipend that normally accompanies that award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:

§703. Establishing Eligibility

A. - 4.e. ...

f. High school graduates of 1997 and 1998 who are otherwise eligible applicants attending ineligible schools for the 1998-99 academic year, may request a waiver from LASFAC to enroll in an eligible school and accept the award no later than the 1999 Fall Semester by establishing, to the satisfaction of LASFAC, that his/her failure to accept the award for the 1998-99 academic year was due to circumstances which could not be changed without the student or his family experiencing a significant, negative financial impact or which establish that it was not otherwise feasible to enroll in an eligible school due to the timing of the notification to the student of his/her eligibility for a TOPS award. To apply for a waiver from LASFAC, the student must submit a written request addressed to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and submit documentation which clearly establishes the hardship which would have resulted had the student not attended the out-of-state college or university.

A.5. - C. ...

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall choose the award they wish to receive and thereafter must meet the renewal requirements of the award chosen. This choice, once made, is irrevocable. If the student fails to choose an award within 30 days by completing the acceptance form sent by LASFAC and indicating an appropriate award choice, the student shall be awarded the lowest award for which the student is eligible, and thereafter, the student must meet the renewal requirements of the award made.

E. ...

F. In the event that a student applicant was determined ineligible by the administering agency for an award under this program or for a higher level award than that initially offered the student and such determination was based upon data that was subsequently found to be in error, then the student's eligibility shall be reevaluated based upon the corrected data and, if found eligible, the student shall be offered the award for which he qualifies. The award shall begin with the academic year during which the reevaluation occurred and eligibility first established. The requirement that a student be a first-time freshman shall be waived for those students who are determined eligible under these circumstances subsequent to the commencement of their postsecondary education.

G.1. A student who enters a college or university under an early admissions program prior to completion of four years of high school will be eligible for an appropriate award under the following conditions.

a. The college early admissions program is one that meets the requirements of the Louisiana Department of Education as set forth in the latest edition of Bulletin 741.

b. The student has satisfied all core curriculum requirements not completed in high school by making passing scores on equivalent college courses.

c. The college courses taken to satisfy core curriculum requirements and the grades reported on those courses are reflected on the student's high school transcript. The student is awarded a high school diploma and the grade point average and core curriculum are certified to LASFAC by the high school in the same manner as that of other high school graduates.

d. The student's core curriculum requirements are completed no later than the conclusion of the first two semesters or three quarters of college attendance following entrance into the college early admissions program.

2. Students entering a college or university under an early admissions program shall not be considered *First-Time Freshman*, as defined in §703, until the semester following the conclusion of the first two semesters or three quarters of college attendance following entrance into the college early admissions program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:

§705. Maintaining Eligibility

* * *

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. To be reinstated, the student must request reinstatement for the semester following the lifting of academic probation and/or the achievement of the required GPA by submitting a written request to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and enclosing a certified original transcript from the school attended. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or legal guardian or incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If it is further determined that the administrative error or incorrect certification was not due to an intentional misrepresentation by the student or the student's parent(s) or legal guardian, the administering agency may elect not to pursue recoupment from the student of funds that were awarded. If an intentional misrepresentation by the student or the student's parent(s) or legal guardian is suspected and the misrepresentation resulted in an award being made to the student, then the administering agency shall refer the case to the Attorney General for

investigation and prosecution. If a student or the student's parent(s) or legal guardian is suspected of having intentionally misrepresented the facts which were provided to the administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:

§1703. High School's Certification of Student Achievement

- A. - B.3.b.i. - iii. ...
- B.4.a. - d. Repealed.
- C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:

Jack L. Guinn
Executive Director

9811#024

DECLARATION OF EMERGENCY

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

Lead-Based Paint Activities
(LAC 33:III.2807)(AQ179E1)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because the current rule LAC 33:III.Chapter 28 does not adequately provide for those persons who were trained and/or worked previously in lead-based paint activities to receive accreditations, based on their previous training and/or work experiences. The purpose of the lead program is to reduce exposure to lead paint hazards, especially in young children who are the most seriously affected by such exposures, in the environment of the state of Louisiana. Since the program is a new program, implemented as of March 20, 1998, there are insufficient courses available to the regulated community to become trained, and the "grandfather" provisions in the rule are too restrictive to allow experienced individuals to receive accreditations based on prior training and experience. Without this emergency rule individuals and companies are unable to become accredited and licensed to mitigate lead-based paint hazards properly. Failure to adopt this rule through emergency procedures will

delay the beginning of federally funded projects by public entities and abatement contractors that are designed to mitigate lead paint hazards in housing where families with young children reside. This will result in continued and unnecessary exposure to the at-risk population.

This emergency rule is effective on November 10, 1998, and shall remain in effect for a maximum of 120 days or until the final rule is promulgated, whichever comes first.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

**Chapter 28. Lead-Based Paint Activities—
Recognition, Accreditation, Licensure,
and Standards for Conducting
Lead-Based Paint Activities**

§2807. Accreditation of Individuals

* * *

[See Prior Text in A-A.3]

4. After November 30, 1998, individuals seeking accreditation in the lead inspector, risk assessor, lead project supervisor, or lead project designer disciplines must pass the applicable state examination given by the department or its proxy. Individuals must pass the state examination, with a score of 70 or above, within 30 days of receiving a course completion certificate. Individuals who fail the state exam will be allowed to take the exam a second time within the 30-day period. Individuals who fail the state examination twice must retake the initial course before they will be allowed to retake the state examination. Anyone who fails the test three times within a six-month period may not apply for testing in that category for 90 days.

* * *

[See Prior Text in A.5-B.1.c.ii.(e)]

iii. lead project supervisor: either one year of experience as an accredited lead-based paint worker or at least two years of experience in lead, asbestos, or environmental remediation work or in the building trades;

* * *

[See Prior Text in B.1.c.iv-C]

1. Individuals in all disciplines who received training in a lead-based paint activity between January 1, 1995, and March 20, 1998, shall be eligible for accreditation by completing the following procedures:

* * *

[See Prior Text in C.1.a]

- b. submit the appropriate certificate from an EPA-authorized state accredited training program; or
- c. submit documentation to demonstrate the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity, and submit evidence of completion of an approved refresher training course for the appropriate discipline;
- d. submit a 1" x 1¼" photograph of the applicant;
- e. meet the education and/or experience requirements listed in Subsection B of this Section; and
- f. submit the appropriate fees as required under LAC 33:III.223.

2. Individuals have until November 30, 1998, to apply for accreditation under the procedures in Subsection C.1 of this Section. After that date all individuals wishing to obtain

accreditation must do so through the procedures described in Subsection A of this Section.

* * *

[See Prior Text in D-D.4]

5. Any applicant who was accredited initially in accordance with Subsection C of this Section or prior to November 30, 1998, must pass the appropriate state examination prior to being reaccredited by the department.

* * *

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 25:

AQ179E1 is a renewal of AQ179E, which was effective on July 13, 1998. The department has begun regular rulemaking with AQ179, which was proposed on August 20, 1998. For more information concerning AQ179E1, contact Department of Environmental Quality, Investigations and Regulation Development Division (225) 765-0399.

J. Dale Givens
Secretary

9811#068

diabetes, and non-insulin using diabetes, when such self-management training and education is provided by a licensed health care professional with demonstrated expertise in diabetes care and treatment who has completed an educational program required by the appropriate licensing board in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association, and only as follows:

a. a one-time evaluation and training program for diabetes self management, conducted by the health care professional in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association, upon certification by the health care professional that the covered person has successfully completed the program, such benefits not to exceed \$500;

b. additional diabetes self-management training required because of a significant change in the covered person's symptoms or conditions, limited to benefits of \$100 per year and \$2,000 per lifetime;

* * *

Jack W. Walker, Ph.D.
Chief Executive Officer

9811#039

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

Diabetes Self-Management Program

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on October 29, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend the Plan Document to implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.18), regarding benefits for diabetes self management training. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section I, Subsection F, by adding a new paragraph, 36, to read as follows:

36. outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State Employees Group
Benefits Program**

Plan Document—Cancer Screening and Detection

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This rule shall become effective on October 29, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The Board finds that it is necessary to amend the Plan Document to implement the provisions of Act Number 1439 of the 1997 Regular Session of the Louisiana Legislature (R.S. 22:215.11), regarding benefits for mammography, Pap tests, and prostate examination and testing. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section I, Subsection F, Paragraph 29, to read as follows:

F. Eligible Expenses

The following shall be considered eligible expenses, subject to applicable limitations of the Fee Schedule and the Schedule

of Benefits, under the Comprehensive Medical Benefits when prescribed by a *physician* and *medically necessary* for the *treatment* of a *covered person*:

* * *

29. Not subject to the annual deductible, one Pap test for cervical cancer per calendar year and screening mammographic examinations performed according to the following schedule:

- a. one baseline mammogram during the five-year period a person is 35-39 years of age;
- b. one mammogram every two calendar years for any person who is 40-49, or more frequently if recommended by a physician;
- c. one mammogram every twelve months for any person who is 50 years of age or older;

* * *

Amend Article 3, Section I, Subsection F, by adding a new Paragraph, designated as Paragraph 37, to read as follows:

* * *

37. Not subject to the annual deductible, testing for detection of prostate cancer, including digital rectal examination and prostate-specific antigen testing, once every twelve months for men over the age of fifty years, and as medically necessary for men over the age of forty years;

* * *

Jack W. Walker, Ph.D.
Chief Executive Officer

9811#038

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
State Land Office**

Wax Lake Waterfowl Hunting Season—1998-1999

The Division of Administration, State Land Office, has adopted the following emergency rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., which emergency rule will be effective November 15, 1998 and remain in effect for 120 days or until finalized as a rule, whichever comes first.

Emergency adoption is necessary because of a dispute between the State of Louisiana and Miami Corporation over the ownership of waterbottoms and accretion areas generally between the north end of Wax Lake and the mouth of Little Wax Bayou. Miami Corporation has previously granted hunting leases to various parties in this area; and the State previously posted signs in this area evidencing the State's claims, leading some members of the public to assume that the area was open to unlimited hunting and other access, including the right to construct permanent hunting blinds in the area. Problems exist with enforcement of trespass laws in that portion of the Wax Lake Area claimed by Miami Corporation and the State during duck hunting season, therefore both Miami Corporation and the State are united in their efforts to avoid any confrontation among armed hunters in this area, and

deem it advisable to create a uniform set of rules for use of the area during the opening hunting season.

Emergency Rule

Effective November 15, 1998 and therefore, the State Land Office adopts the following rules to govern use of the area of Wax Lake claimed by the State for hunting during the duration of the 1998-1999 waterfowl hunting season.

1. For purposes of these regulation, "Wax Lake Area" shall include lands and waterbottoms within Section 34, 35, 44 and 45, Township 16 South, Range 10 East, St. Mary Parish, said area generally lying between the north limit of Wax Lake and the mouth of Little Wax Bayou. The lands and waterbottoms within the Wax Lake Area are subject to competing claims of the State and private landowners.

2. No one shall use marsh buggies within the Wax Lake Area. Air boats shall be allowed within the channel of Wax Lake Outlet only.

3. Certain improvements have been placed on the area by parties claiming through private landowners. Pending resolution of the title disputes between the State and those landowners, those improvements may remain in place, and any new permanent improvements shall be spaced a minimum of 500 feet from any existing or newly constructed improvements. All blinds, stands, or other improvements placed on the lands or waterbottoms for use in hunting shall be removed upon termination of the legal hunting seasons. Other than such temporary hunting blinds as may be constructed for personal use, no party shall construct any buildings, levees, dams, fences, or other structures or facilities on the lands or waterbottoms within the Wax Lake Area, nor dredge or dig any additional canals, ditches, or ponds thereon or otherwise change or alter the premises in any manner.

4. No member of the public is allowed to "stake a claim" to any particular location within areas owned or claimed by the State of Louisiana for any purpose. Construction of permanent blinds shall not give such party any right to exclude others.

Mark C. Drennen
Commissioner

9811#044

DECLARATION OF EMERGENCY

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

Ketamine—Usage and Storage
(LAC 46:LXXXV.704)

The Board of Veterinary Medicine has adopted the following Emergency Rule, effective October 16, 1998, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and the Veterinary Practice Act, La. R.S. 37:1518 et seq., and it shall be in effect for the maximum period allowed by law.

By act of the legislature, effective June 16, 1998, ketamine hydrochloride is a schedule III controlled dangerous substance in Louisiana. Prior to this act, ketamine was a drug available

to and used by animal control personnel to immobilize aggressive and dangerous animals. As a scheduled drug, only licensed practitioners who hold a valid controlled dangerous substances license may administer or dispense ketamine. Under current law and regulations, an animal control agency must have a licensed veterinarian readily available and on-site to administer ketamine to dangerous animals. Many parishes of the state are unable to obtain the services of a veterinarian for this purpose. Therefore, feral, diseased, and vicious animals which pose a risk to public health and safety may escape capture. In the case of some animals, ketamine (sometimes in combination with non-controlled drugs) is the preferred drug for restraint or capture. In addition, animal control agency personnel may be placed at greater risk from dangerous animals because of their lack of access to ketamine.

To protect the public health and safety, the board has amended LAC 46.LXXXV.704.B to include ketamine hydrochloride as a controlled substance which an animal control agency may use for the sole purpose of animal capture and restraint, so long as a licensed veterinarian who possesses a state controlled dangerous substance license at the shelter location where the drugs will be stored and administered agrees to be responsible for the ketamine used. Section 704.B prescribes the conditions under which ketamine is used and stored.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§704. Consulting and Providing Legend and Certain Controlled Substances

A.1. - 5. ...

B. Telazol (Tiletamine HCL and Zolazepam HCL) and Ketamine (Ketamine HCL)

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local governmental agency to perform animal control services on behalf of the local governmental agency seeks to administer the controlled substances Telazol (tiltamine HCL and zolazepam HCL) or Ketamine (ketamine HCL), to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine, and who is registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered, who obtains and who is responsible for the Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL) used.

2. A storage and use plan for Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) which meets or exceeds the requirements of all federal or state drug enforcement agencies (including storage of controlled substances in a securely locked, substantially constructed cabinet and the keeping of a perpetual inventory as required by LAC 48:Chapter 39) and the record keeping requirements of

this chapter shall be submitted to the Board of Veterinary Medicine for approval.

a. This usage plan shall include a requirement that each use of Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) shall be documented for review by the licensed veterinarian responsible for the purchase and inventory of that drug.

b.i - vi. ...

c. This usage plan shall include a requirement that a review of each use of Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL) shall be made by the responsible veterinarian and that said veterinarian shall initial the usage log entries to indicate this review. A review of the usage plan shall be made at least quarterly and the quantities of the drug used and on hand shall be tallied and authenticated. Any variance shall be noted in the log and steps should be taken and documented to correct the problem.

d. This usage plan shall include a requirement that any removal of Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL) from the securely locked, substantially constructed cabinet shall be in minimal amounts, shall be maintained in a locked container when not in use, and shall be documented in a manner to include, but not be limited to:

i. - iv. ...

C. ...

D. Section 704 does not pertain to any controlled substances listed in any DEA classification schedule or state of Louisiana classification schedule, except Telazol (tiletamine HCL and zolazepam HCL) and Ketamine (ketamine HCL). This section specifically does not apply to sodium pentobarbital, which is regulated for animal control agency use in R.S. 37:1551-1558.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 20:666 (June 1994), amended LR 24:334 (February 1998), LR 25:

Charles B. Mann
Executive Director

9811#002

DECLARATION OF EMERGENCY

Department of Revenue Tax Commission

Ad Valorem Tax
(LAC 61:V.303, 703, 907, 1103, 1305, 1307, 1503, 2301,
2303, 2503, 2703-2707, 3101-3105, 3501, and 3503)

The Louisiana Tax Commission, at its meeting of November 5, 1998, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This emergency rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 1999. Cost indexes required to finalize these assessment tables are not available to this office until late October, 1998. The effective date of this emergency rule is January 1, 1999.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 3. Real and Personal Property

§303. Real Property

* * *

C. The Louisiana Tax Commission has ordered all property to be reappraised in all parishes for the 2000 tax year. Property is to be valued as of January 1, 1999, in Orleans Parish the same as applies to property in all other parishes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1998	1.000	1	94	.94
1997	1.009	2	87	.88
1996	1.025	3	80	.82
1995	1.041	4	73	.76
1994	1.078	5	66	.71
1993	1.108	6	58	.64
1992	1.130	7	50	.57
1991	1.144	8	43	.49
1990	1.167	9	36	.42
1989	1.198	10	29	.35
1988	1.262	11	24	.30
1987	1.316	12	22	.29
1986	1.335	13	20	.27

B. Floating Equipment—Barges (Nonmotorized)

Floating Equipment—Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1998	1.000	1	97	.97
1997	1.009	2	93	.94
1996	1.025	3	90	.92
1995	1.041	4	86	.90
1994	1.078	5	82	.88
1993	1.108	6	78	.86
1992	1.130	7	74	.84
1991	1.144	8	70	.80
1990	1.167	9	65	.76
1989	1.198	10	60	.72
1988	1.262	11	55	.69
1987	1.316	12	50	.66
1986	1.335	13	45	.60
1985	1.348	14	40	.54
1984	1.368	15	35	.48
1983	1.405	16	31	.44
1982	1.430	17	27	.39
1981	1.497	18	24	.36
1980	1.652	19	22	.36
1979	1.817	20	21	.38
1978	1.986	21	20	.40

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 and 10:925 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:

Chapter 9. Oil and Gas Properties

§907. Tables—Oil and Gas

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of

evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A-1 Oil, Gas and Associated Wells Region 1—North Louisiana				
Producing Depths	Cost—New by depth, per foot		15 percent of Cost—New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
	0 - 1,249 ft.	8.05	9.33	1.21
1,250 - 2,499 ft.	8.52	8.36	1.28	1.25
2,500 - 3,749 ft.	10.50	9.78	1.58	1.47
3,750 - 4,999 ft.	12.50	13.62	1.88	2.04
5,000 - 7,499 ft.	18.30	20.16	2.75	3.02
7,500 - 9,999 ft.	20.58	31.09	3.09	4.66
10,000 -12,499 ft.	28.53	38.51	4.28	5.78
12,500 -Deeper ft.	N/A	89.26	N/A	13.39

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A-2 Oil, Gas and Associated Wells Region 2—South Louisiana				
Producing Depths	Cost—New by depth, per foot		15 percent of Cost—New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
	0 - 1,249 ft.	35.01	53.46	5.25
1,250 - 2,499 ft.	24.47	52.50	3.67	7.88
2,500 - 3,749 ft.	24.98	43.97	3.75	6.60
3,750 - 4,999 ft.	34.58	39.64	5.19	5.95
5,000 - 7,499 ft.	26.82	41.09	4.02	6.16
7,500 - 9,999 ft.	34.09	38.90	5.11	5.84
10,000 -12,499 ft.	40.36	46.76	6.05	7.01
12,500 -14,999 ft.	59.15	66.20	8.87	9.93
15,000 -17,499 ft.	81.39	83.76	12.21	12.56
17,500 -19,999 ft.	98.40	128.14	14.76	19.22
20,000 -Deeper ft.	80.94	161.47	12.14	24.22

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A-3 Oil, Gas and Associated Wells Region 3—Offshore State Waters*				
Producing Depths	Cost—New by depth, per foot		15 percent of Cost—New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
	0 - 1,249 ft.	N/A	137.38	N/A
1,250 - 2,499 ft.	196.33	283.36	29.45	42.50
2,500 - 3,749 ft.	77.19	238.19	11.58	35.73
3,750 - 4,999 ft.	158.19	126.88	23.73	19.03
5,000 - 7,499 ft.	113.26	121.29	16.99	18.19
7,500 - 9,999 ft.	96.21	112.60	14.43	16.89
10,000 -12,499 ft.	99.01	115.66	14.85	17.35
12,500 -14,999 ft.	120.69	129.02	18.10	19.35
15,000 -17,499 ft.	180.07	130.22	27.01	19.53
17,500 -Deeper ft.	393.40	157.21	59.01	23.58

*As classified by Louisiana Office of Conservation.

A.4. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B-2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
1998	221596	Higher	96
1997	220034	221595	92
1996	218653	220033	88
1995	217588	218652	84
1994	216475	217587	80
1993	215326	216474	76
1992	214190	215325	72
1991	212881	214189	68
1990	211174	212880	64
1989	209484	211173	60
1988	207633	209483	56
1987	205211	207632	52
1986	202933	205210	48
1985	197563	202932	44
1984	189942	197562	40
1983	184490	189941	36
1982	179370	184489	32
1981	Lower	179369	29*
VAR.	900000	Higher	50

*Reflects residual or floor rate.

Note: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

3. Adjustments for Allowance of Economic Obsolescence

a. All wells producing 10 bbls oil or 250 mcf gas, or less, per day, as well as all active service wells (i.e. injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with the proper Louisiana Office of Conservation forms to document claim for such reduction.

b. All inactive (shut-in) wells shall be allowed a 70 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. All oil and gas property assessments may be based on an individual cost basis.

e. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

C.1. - 3. ...

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B-2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

**Table 907.C-1
Surface Equipment**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:

**Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables**

A.1. Land Rigs

Table 1103.A Land Rigs		
Depth 0 to 7,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
3,000	\$ 141,400	\$ 21,200
4,000	186,200	27,900
5,000	226,500	34,000
6,000	266,800	40,000
7,000	298,500	44,800
Depth 8,000 to 10,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
8,000	\$ 327,200	\$ 49,100
9,000	360,000	54,000
10,000	405,600	60,800
Depth 11,000 to 15,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
11,000	\$ 451,100	\$ 67,700
12,000	503,000	75,400
13,000	556,800	83,500
14,000	719,400	107,900
15,000	708,100	106,200
Depth 16,000 to 20,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
16,000	\$ 796,900	\$ 119,500
17,000	851,600	127,800
18,000	895,100	134,200
19,000	948,300	142,200
20,000	1,030,500	154,600
Depth 21,000 + ft.		
Depth (ft.)	Fair Market Value	Assessment
21,000	\$ 1,112,700	\$ 166,900
25,000 +	1,441,400	216,200

* * *

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0 - 199 ft.	\$ 10,330,000	\$ 1,549,950
	200 - 299 ft.	17,500,000	2,625,000
	300 - up ft.	35,300,000	5,295,000
IS	0 - 199 ft.	4,500,000	675,000
	200 - 299 ft.	8,000,000	1,200,000
	300 - up ft.	13,510,000	2,026,500
MC	0 - 100 ft.	1,975,000	296,250
	101 - 199 ft.	1,625,000	243,750
	200 - 250 ft.	20,670,000	3,100,500
MS	0 - 250 ft.	700,000	105,000
	250 - up ft.	20,670,000	3,100,500

IC - Independent Leg Cantilever
 IS - Independent Leg Slot
 MC - Mat Cantilever
 MS - Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0 - 800 ft.	\$ 45,700,000	\$ 6,855,000
801 - 1,800 ft.	81,875,000	12,280,000
1,801 - 2,500 ft.	120,000,000	18,000,000
2,501 - up Ft.	150,000,000	22,500,000

D. Well Service Rigs—Land Only (Good Condition)

Table 1103.C Well Service Rigs—Land Only (Good Condition)		
Engine Rated H.p.	Fair Market Value	Assessment
220	\$ 88,000	\$ 13,200
300	99,000	14,800
400	126,500	18,900
500 +	165,000	24,700

* * *

E. Consideration of Obsolescence

1. Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence may be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:

Chapter 13. Pipelines

§1305. Reporting Procedures

* * *

E. Refer to current cost tables (1307.A and 1307.B) and depreciation guidelines (Table 1307.C) adopted by the Louisiana Tax Commission. Yearly depreciation will be allowed, according to actual age, on an economic life of 25 years, however, as long as pipeline is in place and subject to operation, the remaining percent good shall not be lower than the percentage for an actual age of 18 years.

F. Assessment will be based on fair market value (refer to column on LAT Form 14) unless taxpayer provides evidence that conditions exist that warrant change. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence may be given.

G. Economic obsolescence may be recognized with a service factor calculated using the following formula and table:

$$Service\ Factor = \left(\frac{Actual\ Throughput}{Rated\ Capacity} \right)^{0.6}$$

This service factor represents remaining utility for the pipeline and may be applied in addition to normal depreciation.

Table 1305 Service Factor (Remaining Utility) Conversion Chart		
Throughput/Capacity Percentage	Obsolescence Percentage	Service Factor Percentage
95	3	97
90	6	94
85	9	91
80	13	87
75	16	84
70	19	81
65	23	77
60	26	74
55	30	70
50	34	66
45	38	62

40	42	58
35	47	53
30	51	49
25	56	44
20	62	38
15 or less	65*	35*

*Reflects residual or floor rate.

1. First, divide Actual Throughput by Rated Capacity to determine the percentage.

2. Then, find that percentage in Column 1 (round to nearest five percent) and multiply the depreciated cost-new assessed value of the pipeline by the percentage indicated in Column 3 to allow the amount of economic obsolescence indicated in Column 2.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 25:

§1307. Pipeline Transportation Tables

* * *

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	Percent Good

* * *

18 and older	29*
--------------	-----

*Reflects residual or floor rate.

Note: See §1305.G for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1998	1.000	1	92	.92
1997	1.009	2	84	.85
1996	1.025	3	76	.78
1995	1.041	4	67	.70
1994	1.078	5	58	.63
1993	1.108	6	49	.54
1992	1.130	7	39	.44
1991	1.144	8	30	.34
1990	1.167	9	24	.28
1989	1.198	10	21	.25
1988	1.262	11	20	.25

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:

Chapter 23. Insurance Companies

§2301. Guidelines for Ascertaining the Fair Market Value of Insurance Companies

A. The Tax Commission will assess insurance companies with a taxable situs within the state of Louisiana at 15 percent of the average monthly amount of direct premiums written during the previous year.

B. Credit assessments of insurance companies shall be allocated to the parish where the company's official domicile is registered and/or recorded or, lacking same, to the parish of

domicile of its designated principal agent pursuant to R.S. 47:1952(C).

C. ...

AUTHORITY NOTE: Promulgated in accordance with La. Constitution of 1974, Article VII, Section 21, R.S. 47:1709, R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 25:

§2303. Exemption of Life Insurance Companies and Other Insurance Premiums

Life insurance companies and accident and health premiums are exempted from ad valorem taxation by Louisiana statute. In addition, national flood plan and multiple peril crop premiums are exempt by virtue of their being programs underwritten by the United States government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1954.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended by the Department of Revenue, Tax Commission, LR 25:

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

* * *

B. Cost Indices

Table 2503.B Cost Indices		
Year	National Average 1926 = 100	January 1, 1998 = 100*
1998	1061.8	1.000
1997	1052.7	1.009
1996	1036.0	1.025
1995	1020.4	1.041
1994	985.0	1.078
1993	958.0	1.108
1992	939.8	1.130
1991	928.5	1.144
1990	910.2	1.167
1989	886.5	1.198
1988	841.4	1.262
1987	806.9	1.316
1986	795.4	1.335
1985	787.9	1.348
1984	776.4	1.368
1983	755.8	1.405
1982	742.4	1.430
1981	709.2	1.497
1980	642.8	1.652
1979	584.4	1.817

1978	534.7	1.986
1977	497.1	2.136
1976	472.1	2.249
1975	444.3	2.390
1974	398.4	2.665
1973	344.1	3.086

*Reappraisal Date: January 1, 1998 - 1061.8 (Base Year)

* * *

D. Composite Multipliers

Table 2503.D Composite Multipliers 1999 (2000 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.49	.70	.80	.85	.88	.91	.94	.96
3	.35	.53	.69	.78	.82	.87	.92	.95
4	.21	.35	.56	.70	.76	.82	.90	.94
5		.25	.46	.63	.71	.79	.88	.94
6		.22	.37	.54	.64	.75	.86	.93
7			.29	.44	.57	.70	.84	.92
8			.25	.34	.49	.63	.80	.89
9			.23	.28	.42	.57	.76	.88
10				.25	.35	.52	.72	.85
11				.25	.30	.47	.69	.86
12					.29	.41	.66	.84
13					.27	.35	.60	.80
14						.31	.54	.75
15						.29	.48	.71
16						.28	.44	.67
17							.39	.63
18							.36	.58
19							.36	.56
20							.38	.55
21							.40	.52
22								.49
23								.47
24								.48
25								.53
26								.62

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of

Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:

Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible To Be Assessed At Use Value

§2703. Eligibility Requirements and Application for Use Value Assessment

* * *

**Form 2703
Application For
Use Value Assessment**

Name: _____
Address: _____
Description: _____

Application is hereby made for a Use Value Assessment on the above land, which is at least three acres in size or has produced an average annual gross income of at least \$2,000 in one or more of the designated classifications for four years preceding this application.

I hereby certify that this land is (mark type(s) of use):

_____ devoted to production for sale of agricultural or horticultural products in reasonable commercial quantities, or under contract with a government agency restricting its use for such production.
_____ acreage

_____ devoted to production of timber or timber products in reasonable commercial quantities, or has had forest tree cover within the last three years and is not developed or devoted to a non-forest use, or is under contract with a government agency restricting its use for timber production.
_____ acreage

_____ marshland is wetland not devoted to agricultural, horticultural or timber purposes.
salt water marsh _____ acreage
brackish water marsh _____ acreage
fresh water marsh _____ acreage

This application shall apply for the following four year period:

In the event this land ceases to meet the requirements for a Use Value assessment, I will so notify the assessor of this parish within 60 days.

Landowner

To Be Completed by Assessor:
Class _____ Acres _____

Approved By: _____
Assessor _____
Parish of _____
Date _____

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:

§2705. Classification

* * *

Acadia	Grant	Sabine
Allen	Iberia	St. Bernard
Ascension	Iberville	St. Charles
Assumption	Jefferson	St. Helena
Avoyelles	Lafayette	St. James
Bossier	Lafourche	St. John
Caddo	LaSalle	St. Landry
Calcasieu	Lincoln	St. Martin
Caldwell	Livingston	St. Mary
Cameron	Madison	St. Tammany
Catahoula	Morehouse	Tangipahoa
Claiborne	Natchitoches	Tensas
Concordia	Orleans	Terrebonne
DeSoto	Ouachita	Union
East Baton Rouge	Pointe Coupee	Vermilion
East Carroll	Rapides	Washington
Evangeline	Red River	West Baton Rouge
Franklin	Richland	West Carroll

* * *

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:

§2707. Map Index Table

Table 2707 Map Index Listing of General Soil Maps and Modern Soil Surveys For The State of Louisiana Published By U.S. Dept. of Agriculture, Natural Resources Conservation Service In Cooperation With Louisiana Agricultural Experiment Station			
Parish	Date (General)	Map Number (General)	Date Published or Status (Modern)

* * *

Sabine	Apr. 1970	4-R-29238	July 1997
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* * *

Union	Nov. 1971	4-R-17133-A	Nov. 1997
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* * *

Washington	Nov. 1971	4-R-17437-A	Sept. 1997
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* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:

Chapter 31. Public Exposure of Assessments; Appeals
§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

* * *

D. Each assessor will make any determined changes to the assessment list during the public exposure period, and shall certify the assessment lists to the parish Board of Review within three business days of the final exposure date. The Orleans Parish Assessors shall certify their assessment lists to the Board of Review on or before the tenth business day after August 15.

* * *

J. The determination of the Board of Review shall be final unless appealed, in writing, to the Tax Commission within 10 business days after notice of the determination is postmarked or is delivered by hand to the taxpayer and/or to the assessor. Either or both parties may appeal the Board of Review decision to the Tax Commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:

§3103. Appeals to the Louisiana Tax Commission

A. The Tax Commission or its designated representative, as provided by law, shall consider the appeal of any taxpayer or assessor dissatisfied with the determination of the local Board of Review hearing. The appeal shall be filed with the commission within 10 business days after the Board of Review's written decision is postmarked or delivered by hand. The assessor shall confirm to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office, as required in §3101.I.

B. ...

1. Filing of written appeals (Form 3103.A) to the Tax Commission may be submitted by facsimile transmission within the 10 day filing period. Such filing shall be deemed complete at the time that the facsimile transmission is received, provided that the Tax Commission's staff acknowledges receipt of same, by way of facsimile return to the sender on the same day that the said appeal transmission

has been received. The facsimile filing shall not include any exhibits associated with the filing. The original appeal form with all required copies and required exhibits shall be submitted to the Tax Commission within five business days, exclusive of legal holidays, after the Tax Commission has received the facsimile appeal form; otherwise the facsimile filing shall have no force or effect.

C. All pleadings shall be limited to the assessment/fair market values appealed to the Board of Review and shall contain four sets of the following documents and shall be submitted to the commission, with a copy to the assessor or taxpayer 10 days prior to the scheduled appeal hearing:

1. name under which the property is assessed;
2. description of the property;
3. determination of the Board of Review;
4. a prayer stating the type of relief, action or order desired by the pleader;
5. documents of evidence presented to the Board of Review supporting the claim; and
6. a list of witnesses who may be called and the anticipated time of presentation of the case.

* * *

M. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer ____" and shall be consecutively numbered. The taxpayer shall, at the time an exhibit is offered, state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor ____" and shall be consecutively numbered. Four copies of all exhibits shall be provided to the commission, with a copy to the opposing party, 10 days prior to the scheduled appeal. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission ____" and shall be consecutively numbered.

N. At the close of evidence, each side will be allowed a reasonable amount of time to argue its case. This time will be allotted by the chairman or hearing officer.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:

§3105. Practice and Procedure For Public Service Properties Hearings

* * *

C. Ten days prior to said hearings, the protesting taxpayer shall file a signed, written statement (Form 3105.A), specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and four copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer ____" and shall be consecutively numbered.

* * *

O. A protesting taxpayer, with leave of the commission or hearing officer, may present prepared deposition testimony of a witness upon direct examination, either narrative or questions and answers form; which shall be incorporated into the record as if read by the witness being sworn and identifying the same. Such witness shall be subject to cross-examination. Four copies of the prepared deposition shall be filed with the commission, as required in §3105.C.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 1996, and ending on June 30, 1999, in connection with services performed by the Tax Commission as follows:

A.1. - D. ...

1. A \$75 fee to be levied for the receipt of a printed copy of the Louisiana Tax Commission Real/Personal Property Rules and Regulations manual to be paid by the requesting party.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:

§3503. Homestead Exemptions

A. - C.5.a. ...

b. A residential lessee shall be entitled to a credit against any ad valorem tax imposed relative to the residence property, in an amount equal to the amount of tax applicable on property with an assessed valuation of \$7,500 or the actual amount of tax, whichever is less, provided the residential lessee is not otherwise entitled to the homestead exemption (R.S. 47:1710).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1064 (December 1990), amended LR 17:611 (June 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:

Malcolm B. Price, Jr.
Chairman

9811#069

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamps—Collection Methods and Penalties (LAC 67:III.2005)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to correct an error in LAC 67:III. 2005.B.4 effective November 18, 1998.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, set forth guidelines concerning the ineligibility of certain individuals making fraudulent statements with respect to identity *or* residence. When the rule was promulgated by Office of Family Support (OFS), it incorrectly stated identity *and* residence which is more restrictive than provided by the law. Therefore, this emergency rule is necessary to avoid federal sanctions or penalties which could be imposed as a result of that error.

It is necessary to extend the original emergency rule of July 20, 1998 since it is effective for a maximum of 120 days and will expire before the final rule takes effect.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

A. - B.1.- 3. ...

4. An individual shall be ineligible to participate for 10 years if found to have made a fraudulent statement or representation with respect to identity or residence in order to receive multiple benefits simultaneously.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273, 276 and 277, P.L. 103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:899 (August 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997), LR 25:

Madlyn B. Bagneris
Secretary

9811#067

Rules

RULE

**Department of Agriculture and Forestry
Forestry Commission
and
Department of Revenue
Tax Commission**

Timber Stumpage (LAC 7:XXXIX.101-111)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, and the Department of Revenue, Tax Commission, adopt regulations under the authority of R.S. 3:4274 and R.S. 47:1837 for the purpose of implementing the provisions of R.S. 47:633 which require the two commissions to jointly determine annually on the second Monday of December the then current average stumpage market value of trees and timber and of pulpwood; which valuation becomes effective, by law, on the first day of January of the following year and continuing until the next succeeding January.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 1. Timber Stumpage

§101. Authority

A. The Louisiana Forestry Commission and the Louisiana Tax Commission adopt these regulations under the authority of LA R.S. 3:4274 and R.S. 47:1837 for the purpose of implementing the provisions of LA. R.S. 47:633 which require the two commissions to jointly determine annually on the second Monday of December the then current average stumpage market value of trees and timber and of pulpwood; which valuation becomes effective, by law, on the first day of January of the following year and continuing until the next succeeding January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), LR 21:1069 (October 1995), amended by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), LR 24:2075 (November 1998).

§103. Calculation of Current Average Stumpage Market Value

A. The current average market value of timber and

pulpwood, unless otherwise provided by law, shall be based exclusively on sales of timber and pulpwood in the first two quarters of the year in which the Commissions are to meet and in the last two quarters of the preceding year as reported to the Louisiana Department of Revenue and Taxation and as published in the "Quarterly Report of Forest Products" by the Louisiana Department of Agriculture and Forestry.

B. The current average market value of both timber and pulpwood shall be calculated by use of generally accepted statistical methods that take into account both quantity and price paid for the various forest products.

C. Upon receipt and verification of the sales of timber and pulpwood for the second quarter of the year in which the Commissions are to meet the Louisiana Department of Agriculture and Forestry, Office of Forestry shall prepare a recommendation to the commissions as to the current average stumpage market value of each category and subgroup of timber and pulpwood based on the date and method of calculation authorized by Subsections A and B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998).

§105. Notice

A. The Office of Forestry shall annually publish in the November issue of the *Louisiana Register* a notice of the date, time and place of the joint meeting of the Commissions required by law to be held on the second Monday of December together with the recommendations of the Office of Forestry and the data used to determine such recommendations.

B. The Office of Forestry upon completion of its recommendations, shall send a copy of its recommendations and the data used as the basis for the recommendations to all interested parties who have requested a copy of the recommendation.

C. Notice of the commissions' determination of the market value of trees, timber and pulpwood shall be immediately sent to all interested parties who have requested notice or who are required by law to receive notice and shall be published in the next available edition of the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998).

§107. Annual Determination of Current Average Stumpage Market Value

A. At the annual meeting held by the commissions to determine the current average stumpage market value of timber and pulpwood the commissions shall jointly determine the stumpage market value based exclusively on the sales of timber as reported to the Louisiana Department of Revenue and as published in the *Quarterly Report of Forest Products* by the Louisiana Department of Agriculture and Forestry. All

comments and input submitted by interested parties at this meeting shall be considered by the commissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998).

§109. Product Categories

A. The following categories and subgroups are to be used in determining the timber stumpage values based on current average stumpage market values to be used for severance tax computation:

1. Pine Trees and Timber;
2. Hardwood Trees and Timber;
3. Pine Chip and Saw;
4. Pine Pulpwood;
5. Hardwood Pulpwood.

B. No forestry product shall be moved from the trees and timber category to the pulpwood category or vice versa by the commissions without a prior adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2076 (November 1998).

§111. Stumpage Values

A. The Louisiana Forestry Commission, and the Louisiana Tax Commission, as required by R.S. 47:633, determined the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1998:

1. Pine Sawtimber	\$ 392.40/MBF	\$ 49.05/Ton
2. Hardwood Sawtimber	\$ 207.96/MBF	\$ 21.89/Ton
3. Pine Chip and Saw	\$ 89.53/Cord	\$ 32.16/Ton
4. Pine Pulpwood	\$ 25.46/Cord	\$ 8.89/Ton
5. Hardwood Pulpwood	\$ 15.79/Cord	\$ 5.28/Ton

B. All values for future years shall be determined in accordance with prevailing law in these regulations; which values will be published in the *Louisiana Register* as provided for in these rules.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2076 (November 1998).

Burton D. Weaver, Jr., Chairman
Forestry Commission

Malcolm Price, Chairman
Tax Commission

9811#034

RULE

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Advisory Commission on Pesticides**

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is adopting the following rules and regulations for the implementation of regulations governing the use of pesticides in Ward 3 of Evangeline Parish.

The adoption of these regulations is necessary in order that the department may immediately prohibit the current application of certain pesticides which is causing substantial economic and environmental injury.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to prevent the aforesaid substantial economic and environmental adverse injury.

The effective date of these rules and regulations is June 19, 1998, and shall remain in effect 120 days or until these rules are adopted through the normal promulgation process.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on 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:

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

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

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), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:2076 (November 1998).

Bob Odom
Commissioner

9811#035

RULE

Department of Civil Service Civil Service Commission

Commission Member Election—Classified Employee (LAC 8:I.101)

In accordance with the provisions of R.S. 42:1357(B), the director of State Civil Service has adopted the following rules affecting the election of the employee member of the State Civil Service Commission, the call for which election is to go out in the first week of January 1999.

Title 8

CIVIL SERVICE

Part I. Civil Service Commission

Subpart 1. Public Officials and Employees

Chapter 1. Classified Employee Commission Member

§101. Election of Employee Member of the State Civil Service Commission

A. Qualifications: Term of Office

1. The classified employee member of the State Civil Service Commission shall be a full-time, permanent employee in the classified state service for a period of one year prior to the date on which he qualifies as a candidate and shall serve a term of six years unless serving to fill the unexpired term of a vacancy.

2. The classified employee eligible to fill an unexpired term will take office after notification of a vacancy by the director of Civil Service to the secretary of state and upon certification by the secretary of state, who shall certify in accordance with law. That employee will serve until a new regular election is conducted to elect a successor.

B. Call for Election

1. The director of State Civil Service shall post on the date it is issued the call for election on bulletin board(s) at the office of the director of State Civil Service and on the web site maintained by the Department of State Civil Service. It shall remain posted until the final day for qualification as a candidate has passed. A copy of the call shall be delivered to the secretary of state for publication in the official state journal.

C. Nominations

1. Candidates for election to the office of Classified Employee Member of the State Civil Service Commission must

include on the nomination petition their name as it is to appear on the ballot, their position classification (job), the department, agency, board or commission at which employed, their home address, and their Social Security Number.

2. The nominating petition shall include the signature, printed name, Social Security Number, and the department, agency, board or commission of each employee signing the petition.

3. The director of State Civil Service, or his designated representative, shall examine the nominating petition of each candidate on receipt, determine whether the person nominated is eligible or ineligible and that the petition is valid or invalid on its face, and so notify the candidate of his decision within 24 hours of the receipt of the petition by mailing such notification to the candidate's home address.

4. A candidate may withdraw his name from nomination by notifying the director of State Civil Service in writing prior to the end of the qualifying period.

D. Conduct of Election

1. All eligible candidates shall have their names listed on the ballot in alphabetical order of their last name, exactly as it appears on the nominating petition. A number, in consecutive order, shall be assigned to each candidate in the order listed on the ballot.

2. Ballots will contain the final date on which the ballots must be received by the director of State Civil Service in order to be counted in the election.

3. Ballots shall be delivered to each appointing authority or its designee(s) for further immediate delivery to employees.

4. Ballot envelopes actually received by the director of State Civil Service either at the address on the preprinted return envelope or at his office will be examined by the ballot oversight committee to be accepted or rejected as provided by law by majority vote of the committee.

5. The director shall fix a date on which the ballot oversight committee shall hold its initial meeting. Decisions of the ballot oversight committee shall be made by a majority vote of a quorum. The ballot oversight committee shall elect a chairperson at its first meeting.

6. Candidates will not be allowed in the rooms where ballots are stored, reviewed or counted on the dates when those activities are taking place.

7. Accepted unopened ballot envelopes will be placed in specifically provided ballot boxes for opening at the designated time and place for counting of ballots.

8. Rejected unopened ballot envelopes shall be grouped together and retained separately in specifically provided ballot boxes.

9. Ballots that are rejected for cause after removal from the sealed ballot envelope by majority vote of the ballot oversight committee will be grouped together and retained separately from the counted ballots.

10. All ballots, accepted and rejected, and the unopened but rejected ballot envelopes will be retained by the director of State Civil Service in the specially provided ballot boxes together with all tally sheets and other working papers for a period defined by law but which in no case shall be less than 30 days following the promulgation of the results of the

election by the secretary of state and will then be destroyed unless otherwise ordered by appropriate authority.

11. Ballots may be returned to the director within the time required by law either by the voting employee in person or by someone acting on his behalf, or via U.S. Mail received by the director within the time required by law. Ballots shall be considered returned when they are received at the address on the preprinted return envelope or at the office of the director.

E. Report of Results

1. The ballot oversight committee shall examine each ballot and record the vote for each ballot and record the vote for each candidate. The results of their count shall be certified to the director of State Civil Service who shall cause a report of the results to be prepared and submitted to the secretary of state.

2. A copy of the report shall be posted at the office of the director of State Civil Service and on the Department of State Civil Service web site for five consecutive working days following submission of the report to the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1357(B).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Civil Service Commission, LR 24:2077 (November 1998).

Allen H. Reynolds
Director

9811#040

RULE

Board of Elementary and Secondary Education

Bulletin 746—Certification
in Dance (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The amendment adds requirements for certification in Dance.

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

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 24:2078 (November 1998).

**Bulletin 746—Teacher Certification Standards
and Regulations**

* * *

Dance

The minimal requirements for certification in dance are a total of 30 semester hours.

- 1. Dance Techniques (selected from ballet, folk, ethnic, jazz, modern dance, social, and tap) 12 semester hours
- 2. Choreography and Composition 3 semester hours
- 3. Dance Pedagogy 3 semester hours
- 4. Dance History 3 semester hours
- 5. Movement Science (selected from anatomy, biomechanics, kinesiology, or exercise physiology) 3 semester hours
- 6. Dance Electives (selected from technical production, dance performance, dance aesthetics/criticism, dance accompaniment/rhythmic analysis, movement analysis/dance somatics, creative/children's dance, dance philosophy, and arts appreciation courses in dance, music, theatre, visual arts or fine arts survey) 6 semester hours

Note: Any teacher who holds a valid Louisiana teaching certificate may have dance education added to his/her certificate upon completion of the Specialized Academic Education Requirements in Dance listed above with the exception of six hours of Dance Electives.

* * *

Weegie Peabody
Executive Director

9811#075

RULE

Board of Elementary and Secondary Education

Bulletin 746—Elementary Teacher
Certification Requirements
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 746, Louisiana Standards for State Certification of School Personnel, referenced in LAC 28:I.903.A. The amendment adds the Minimal Requirements for Approved Teacher Education Programs for Elementary Teachers, Grades 1-8. The new requirements will be mandatory September 1, 2003. Both the current and the proposed requirements will remain in Bulletin 746 until the current requirements are removed in 2003.

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

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:183 (April 1975); LR 24:1091 (June 1998); LR 24:2078 (November 1998).

Part IV—Elementary Teachers Minimal Requirements for Approved Teacher Education Programs for Elementary Teachers (Grades 1-8)

According to Item (6)(a) of R.S. 17:7 as cited in the House of Representatives Database (August 1996), it is the responsibility of the Board of Elementary and Secondary Education to:

prescribe the qualifications and provide for the certification of teachers in accordance with applicable law, which qualifications and requirements shall be such to insure that certification shall be a reliable indicator of the minimum current ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned.

Listed below are the 96 semester hours of minimum requirements for certification as an elementary-level teacher in grades 1-8 in the State of Louisiana. These requirements are to be included in either the baccalaureate degree path or the alternate post-baccalaureate path leading to certification.

General Knowledge: 54 semester hours. These requirements are to provide the prospective elementary-level teacher with basic essential knowledge and basic functioning skills. For persons who have completed an undergraduate degree, the hours required under General Knowledge in the area of the college major shall be waived.

Arts: three semester hours.

Speech: three semester hours to stress oral communication skills.

English: 12 semester hours, of which six semester hours must be in grammar/composition.

Mathematics: 12 semester hours. Must include three semester hours in college algebra and three semester hours in geometry. May include three semester hours in computer and technology utilization.

Science: 15 semester hours. Must include three semester hours in biological science, three semester hours in physical science, and three semester hours in health science/education.

Social Studies: nine semester hours. Must include three semester hours in geography and three semester hours in Louisiana History. The remaining three semester hours must be selected from economics, history, and political science.

Knowledge of the Learner and the Learning Environment: 15 semester hours. These requirements are to provide the prospective elementary-level teacher with a fundamental understanding of the learner and the teacher/learning process.

Child Psychology: Three semester hours.

Educational Psychology: Three semester hours.

The Learner with Special Needs: Three semester hours.

Classroom Management: Three semester hours.

Multicultural Education: Three semester hours.

Teaching, Assessment, and the Application of Technology: 27 semester hours. These requirements are established to provide the prospective elementary-level teacher with fundamental pedagogical skills including assessment and the application of technology to be included in each of the courses listed below.

Reading: Nine semester hours to include the recognition and correction of reading problems of the learner.

Content Methodology: nine semester hours to include mathematics, science, social studies, and language arts.

Student Teaching: nine semester hours to include a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. Persons who have completed a baccalaureate degree and have not successfully completed three years of teaching at the elementary level may complete either student teaching or a one-year internship under the supervision of the college/university.

The student teaching shall be under the control and supervision of the institution in which the student teacher is enrolled. Whether or not the school in which the student teaching is done is administered by the institution, the regular teacher under whose direction the student teaching takes place shall be a representative of or approved by the school of education or department of education of the institution and shall be certified as a supervisor of student teaching. Student teaching in the summer shall be permitted only if the school has a 12-month school year or a bona fide full school year.

The application for certification shall indicate that the applicant has earned credit in student teaching. The applicant shall have spent a minimum of 270 clock hours in student teaching with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis. The teacher education program shall include (1) practical experience in actual classroom situations during a student's sophomore year, and (2) field experiences in schools with varied socioeconomic and cultural characteristics.

Weegie Peabody
Executive Director

9811#074

RULE

Board of Elementary and Secondary Education

Bulletin 746—Employing Noncertified Personnel
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved the proposed rule which extends until July 1, 1999, the current policy which allows noncertified school personnel to be employed by local school systems when there is no certified teacher available. The revision is a change to LAC 28:I.903.I. There is no change proposed in the content of the current policy. The change extends the date only.

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

* * *

I. Noncertified Personnel

* * *

This interim Emergency Policy will remain in effect until July 1, 1999.

This policy does not apply to university laboratory schools.
* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:183 (April 1975); amended LR 24:1091 (June 1998), LR 24:2079 (November 1998).

Weegie Peabody
Executive Director

9811#077

RULE

Board of Elementary and Secondary Education

Bulletin 1443—Proprietary School
Commission—Student Protection Fund

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 1443, Proprietary School Commission, Rules and Regulations. The amendment revises the specific procedure to provide for the cessation and resumption of payments into the Student Protection Fund as stated in R.S. 17:3141.18F, the Proprietary Schools Law.

**Bulletin 1443. Proprietary School Commission
Rules and Regulations**
* * *

Chapter 5. License

Section 503. Student Protection Fund

A. Initial (new) schools and change-of-ownership schools that apply for licensure shall be required to submit their first payment of \$1,000 with their application payable to the "Student Protection Fund" and mailed to the executive secretary of the Proprietary School Commission.

B. After July 1, 1997, those licensed proprietary schools who are submitting yearly license renewal information shall not be required to submit a Student Protection Fund payment with their renewal.

C. Resumption of payments into the Fund shall occur whenever the Fund balance is less than \$1 million (R.S. 17:3141.16F).

D. Yearly Student Protection Fund payments will begin again with those schools initially licensed after July 1, 1997. Those with licensure dates nearest to July 1, 1997, will begin the payments one year "after licensure by the Board" (R.S. 17:3141.16B(2)).

E. The payments will be a part of the yearly renewal process as established by statute and will be based upon the assessment/payment schedule provided in R.S. 17:3141.16B(2).

F. The payments shall cease again when the Fund accumulates to a minimum of \$1 million, and payments will begin again, if applicable, with those schools who have not

paid a yearly renewal contribution as described in the above section.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 16:604 (July 1990), amended LR 19:1556 (December 1993), LR 24:2080 (November 1998).

Weegie Peabody
Executive Director

9811#072

RULE

Board of Elementary and Secondary Education

Bulletin 1525—LA Components of Effective Teaching
(LAC 28:I.917)

In accordance with R.S. 49:950, et. seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved amendments to the Louisiana Components of Effective Teaching. The Louisiana Components of Effective Teaching have been revised to incorporate effective teaching practices related to the Louisiana Department of Education initiatives on technology, student assessment, and school improvement. The Components are referenced as LAC 28:I.917.A and B.

**Title 28
EDUCATION**

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

Subchapter A. Bulletins and Regulations

§917. Personnel Evaluation Standards and Regulations

A. Bulletin 1525

* * *

B. Teacher Assessment and Evaluation

* * *

Component A. The teacher plans effectively for instruction

Attributes:

1. Specifies learner outcomes in clear, concise objectives.

It is not necessary to specify different objectives for each child or groups of children.

2. Includes activity/activities that develop objectives.

A required number of activities is not specified because this decision must be made by the teacher.

3. Identifies and plans for individual differences.

It is not necessary to specifically describe ways individual differences are to be met in written plans. This will be discussed in the pre-conference.

4. Identified materials, other than standard classroom materials, as needed for lesson.

Standard classroom materials include such things as textbooks, chalkboard, pencils, paper, etc.

5. State method(s) of evaluation to measure learner outcomes.

Evaluation may be formal or informal.

6. Develops an individual education plan (IEP), ITP, and/or IFSP*.

The Individual Education Plan (IEP), Individual Transition Plan (ITP), and/or Individual Family Service Plan (IFSP) will meet state guidelines.

* For special education teachers only.

Domain II. Management

* * *

Domain III. Instruction

* * *

Component B. ...

Attributes:

1. - 4. ...

5. The teacher integrates technology into instruction.

* * *

Component D. The teacher demonstrates ability to assess and facilitate student academic growth.

1. Consistently monitors ongoing performance of students.

2. Uses appropriate and effective assessment techniques.

* * *

3. Provides timely feedback to students.

4. Produces evidence of student academic growth under his/her instruction.

Domain IV. Professional Development (Non-Performance)

* * *

Domain V. School Improvement

Component A. The teacher takes an active role in building-level decision making.

Attributes:

1. Participates in grade level and subject area curriculum planning and evaluation.

2. Serves on task forces and decisions making committees when appropriate.

3. Implements school improvement plan.

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

1. Provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning.

2. Encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom.

3. Seeks community involvement in instructional program.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881-3884, R.S. 17:3891-3896, R.S. 17:3901-3904, and R.S. 17:3882(6)(a).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 22:99 (February 1996), amended LR 22:277 (April 1996), LR 24:2080 (November 1998).

Weegie Peabody
Executive Director

9811#076

RULE

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression and Remedial Education—1998 (LAC 28:I.907)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 1566—Guidelines for Pupil Progression. The Guidelines, to be implemented with the 1998-99 school session, were revised to incorporate changes in state legislation, R.S. 17:24.4, and changes in the state's educational assessment program—LEAP for the 21st Century. Bulletin 1566 is referenced in LAC 28:I.907.A.

Title 28 EDUCATION

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

Subchapter A. Bulletins and Regulations

§907. Pupil Progression and Remedial Education

A. Bulletin 1566

1. Bulletin 1566 (Revised 1998), Guidelines for Pupil Progression, which includes regulations for the implementation of state-funded education remedial programs, is adopted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 7:24.4 and R.S. 17:394-400.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 6:144, 539, 651 (April, September, November 1980); LR 8:216, 323, 510 (June, July, October 1982); LR 11:685 (July 1985); LR 12:420 (July 1986); LR 15:622 (August 1989); amended LR 16:297 (April 1990); amended LR 16:766 (September 1990); LR 19:1417 (November 1993); amended LR 24:2081 (November 1998).

Preface

"The goal of the public educational system is to provide learning environments and experiences, at all stages of human development, that are humane, just and designed to promote excellence in order that every individual may be afforded an equal opportunity to achieve his full potential" (Preamble to Article VIII, Louisiana Constitution). This goal statement from the Constitution suggests that public elementary and secondary education is only a part of a continuum of services that should be available to assist each individual to identify and reach his/her own educational or training goals as quickly and effectively as possible.

The amendment and enactment of the Louisiana Competency-Based Education Program, Act 750, (R.S. 17:24.4) by the Louisiana State Legislature in Regular Session during the summer of 1997, was the result of an ever-increasing demand by Louisiana's taxpayers for a better accounting of their educational dollars. A forerunner of Act 750 was Act 621, the public school Accountability Law. This far-reaching statute called for the establishment of a program for shared educational accountability in the public educational system of Louisiana; the provision for a uniform system of evaluation of the performance of school personnel; the attainment of established goals for education; the provision of

information for accurate analysis of the costs associated with public educational programs; the provision of information for an analysis of the effectiveness of instructional programs; and the annual assessment of students based on state content standards.

The Louisiana Competency-Based Education Law evolved from the Accountability Law into a unique program that encompasses all recent educational statutes, providing opportunities for students to learn systematically and opportunities for educators to gear instructional programs to achievement based on specific objectives.

The Louisiana Competency-Based Program is based on the premise that the program must provide options to accommodate the many different learning styles of its students. Every effort is being made to tailor the curriculum to the needs of the individual student, including the student with special instructional needs who subsequently needs curricular alternatives. Such a practice enhances the probability of success, since the student is provided with an instructional program compatible with his individual learning styles as well as with his needs.

The Louisiana State Legislature in Regular Session during the summer of 1997 amended and reenacted R.S. 17:24.4 (F) and (G)(1), relative to the Louisiana Competency-Based Education Program, to require proficiency on certain test as determined by the State Board of Elementary and Secondary Education (SBESE) for student promotion and to provide guidelines relative to the content of Pupil Progression Plans.

The amended sections relate to statewide content standards for required subjects, to the Louisiana Educational Assessment Program (LEAP), and to the comprehensive Pupil Progression Plans of each of the 66 local educational agencies.

A "Pupil Progression Plan" is a comprehensive plan developed and adopted by each parish or city school board; it shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives that are compatible with the Louisiana Competency-Based Education Programs and that supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain tests as determined by the SBESE before he or she can be recommended for promotion.

The revised Section G of the Competency-Based Education Program, Act 750, addresses the Pupil Progression Plan as follows:

Each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Each committee shall participate and have input in the development of the pupil progression plans provided for in this Section. Each parish or city school board shall have developed and shall submit to the State Department of Education a Pupil Progression Plan which shall be in accordance with the requirements of this section and be based upon student achievements, performance, and proficiency on tests required by this section. Each parish or city school board plan for pupil progression shall be based on local goals and objectives

which are compatible with the Louisiana Competency-Based Education Program numerated in R.S. 17:24.4 (B), which comply with the provisions of R.S. 17:24.4 (A) (3), and which supplement the performance standards approved by the State Board of Elementary and Secondary Education. Each local school board shall establish a policy regarding student promotion or placement which shall comply with the provisions of this Section, including the requirements for pupil progression plans. Based upon the local school board policy, which policy shall be developed with the participation and input of the committee provided for in this Subsection G, each teacher shall, on an individualized basis, determine promotion or placement of each student. Each local school board may review promotion and placement decisions in order to insure compliance with the established policy. Review may be initiated by the local board, superintendent, or parent or guardian. Those students who fail to meet required proficiency levels on the state administered criterion-referenced test of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

Those persons responsible for developing local pupil progression plans must build their plans on a broad-based instructional program fluid enough to accommodate the individual student's previous experience, his acquired skills and abilities, and his deficiencies and disabilities, while at the same time maintaining a balance in the student's curricular experiences.

Section I

General Procedure for Development, Approval and Revision of a Pupil Progression Plan

A. Development of a Local Plan

1. Committee of Educators. The SBESE and the LDE require assurances that the LEA Supervisors of Elementary and Secondary Education, Special Education, Vocational Education, Adult Education, Chapter I, teachers and principals and other individuals deemed appropriate by the local Superintendent are included in the development of the parish pupil progression plan.

2. Committee of Parents

a. Act 750 of the 1979 Louisiana Legislature state that "each city and parish school board shall appoint a committee which shall be representative of the parents of the school district under the authority of such school board. Such committees shall participate and have input in the development of the pupil progression plan."

b. A committee representing the parents of the school district shall be appointed by each city and parish school board. Procedures shall be established whereby this committee shall be informed of the development of the pupil progression plan. Opportunities shall be provided for parents to have input into the development of the local plan.

c. Due process and equal protection considerations require the local board to include on the parent committee representatives of various disability groups, racial, socio-economic, and ethnic groups from the local district.

d. The local board shall provide staff support to the parent committee.

B. Description of Committees

The local school system shall keep on file a written description of the method of selection, composition, function and activities of the local committees.

C. Public Notice

1. Meetings of the local committees shall be conducted within the legal guidelines of Louisiana's Open Meetings Law. (R.S. 42.4.2(A) (2); Attorney General's Opinion Number 79-1045).

2. The local Pupil Progression Plan shall be adopted at a public meeting of the local board, notice of which shall be published pursuant to the Open Meetings Law. It shall be stated that once the plan is adopted, it will be submitted to the SBESE for approval pursuant to Act 750. Once the plan is approved by the SBESE, the policies in the local plan shall be incorporated into the policies and procedures manual of the local school board.

3. The statement defining the committee-selection process and the Pupil Progression Plan are public documents and must be handled within the guidelines of the Public Records Act (R.S. 44:1-42).

D. Approval Process

1. State Department of Education/State Board of Elementary and Secondary Education Approval. Upon adoption for submission by the local school board, the plan along with a formal submission statement shall be submitted annually to the Office of Student and School Performance for review by the LDE.

2. Review and Revision

a. Local Pupil Progression Plans must be accompanied by a completed checklist.

b. Local systems will be informed in writing of approval.

c. Local systems whose plans need revision will be informed of needed changes.

d. Local systems are to resubmit revised plans for final approval, following the procedures outlined in Part B under Public Notice.

Section II

Placement Policies: State Requirements

Each local Pupil Progression Plan shall contain written policies relative to regular placement and alternatives to regular placement. Such policies must conform to the requirements of these guidelines.

Based upon local school board policy pursuant to these guidelines, each teacher shall, on an individualized basis, determine promotion or placement of each student (Act 750, R.S. 17:24.4G). Local School Board policies relative to pupil progression will apply to students placed in regular education programs as well as to exceptional students in specially designed regular instructional programs and to students placed in alternative programs. Placement decisions for exceptional students must be made in accordance with the least restrictive environment requirements of state and federal laws (Act 754 regulations, subsection 443).

No school board member, school superintendent, assistant superintendent, principal, guidance counselor, other teacher, or other administrative staff members of the school or the central staff of the parish or city school board shall attempt,

directly or indirectly, to influence, alter, or otherwise affect the grade received by a student from his teacher (R.S. 17:414.2).

A. Regular Placement*

1. Promotion: Grades K-12. Promotion from one grade to another shall be based on the following statewide evaluative criteria:

a. Requirements in Bulletin 741, *Louisiana Handbook for School Administrators*

(1) Each plan shall include the school attendance requirements;

(2) Each plan shall include the course requirements for promotion by grade levels;

(3) Each plan shall include other applicable requirements.

b. Requirements of the Louisiana Educational Assessment Program

(1) Each plan shall include the statement that individual student scores reported by the LEAP shall be the principal criterion for student promotion.

(2) Each plan shall include the statement that, in addition to completing a minimum of 23 Carnegie units of credit as presented by SBESE, the student shall be required to pass all components of the Graduation Exit Examination in order to receive a high school diploma.

(3) Each plan shall include the function of the school building level committee/student assistance team as it relates to student promotion.

2. Retention: Grades K-12. Retention of a student shall be based upon the student's failure to meet the criteria established by local board for promotion and other criteria contained in these guidelines.

* Schools can only make recommendations to parents regarding student enrollment in kindergarten, since kindergarten is not mandatory.

3. Exceptional Students: Specially Designed Regular Instructional Program

a. The Specially Designed Regular Instructional Program will be for those students able to address state content standards with significant modifications in time, method and materials designed to assist them in mastery of these standards. Specially designed instruction may take place in regular classrooms, resource rooms, self-contained rooms special schools, homebased or hospital settings. The decision for placement in this program must be reflected in the student's Individual Educational Plan (IEP).

b. The Specially Designed Regular Instructional Program is expected to lead to a regular high school diploma.

c. Students in the Specially Designed Regular Instructional Program must demonstrate reasonable and continuous progress as determined by the following criteria:

(1) State Criteria

(a) Requirements of Louisiana Educational Assessment Program.

(2) Local Criteria

(a) Local options concerning accomplishments of IEP objectives written in accordance with Bulletin 1706 (subsections 440-459).

4. Acceleration

a. Grades K-8. The local school board shall establish written policies and procedures for the placement of students

who evidence that they will benefit more from the instructional program at an advanced grade level.

b. Grades 9-12. The local school board shall follow the policies and procedures established in Bulletin 741, *Louisiana Handbook for School Administrators*, and other local requirements for student acceleration.

5. Transfer Students. The local school board shall establish written policies for the placement of students transferring from all other systems and home study programs (public, nonpublic, (both in and out-of-state), and foreign countries).

B. Alternatives to Regular Placement. The local school board shall establish written policies for all alternatives to regular placement, including those for exceptional students, using state approved alternative curricula. Prior to a student's being removed from the regular program and being placed in an alternative program, written informed consent by the student's parents or guardians must be obtained.

1. Exceptional Students in Alternative to Regular Placement Programs

a. The Alternative to Regular Placement Program is for the exceptional student who is unable to meet state grade level standards. Instruction for the student may take place in a regular classroom, resource room, self-contained classroom, special school, homebased or hospital setting. The decision for placement in this program must be reflected in the student's IEP.

b. The Alternative to Regular Placement Program course of study is expected to lead to a Certificate of Achievement. Local systems shall apply to the Office of Special Educational Services for approval of commercially developed or a locally developed alternative curricula.

c. The student in the Alternative to Regular Placement Program must demonstrate reasonable and continuous progress as determined by the following evaluative criteria:

1. State Criteria

(a) Bulletin 741 requirements.

2. Local Criteria

(a) Local options concerning accomplishments of IEP objectives written in accordance with Bulletin 1706 (subsections 440-459);

(b) other local criteria.

C. Alternative Schools/Programs. The local school board may establish alternative schools/programs which shall respond to particular educational need(s) within the community.

D. Review of Placement

1. Review of promotion and placement decisions may be initiated by the local school board, superintendent and/or parent or guardian (Act 750; R.S. 17:24.4(G)).

2. Each local school board may adopt policies whereby it may review promotion and placement decisions in order to insure compliance with its local plan (Act 750; R.S. 17:24.4(G)).

E. Policies on Records and Reports

1. Local school systems shall maintain permanent records of each student's placement, K-12. Each record shall be maintained as a part of the student's cumulative file.

2. Student records for the purposes of these Guidelines shall include:

a. course grades;

b. scores on the Louisiana Educational Assessment Program;

c. scores on local testing programs and screening instruments necessary to document the local criteria for promotion;

d. information (or reason) for student placement (see definition of placement);

e. documentation of results of student participation in remedial and alternative programs;

f. special education documents as specified in the approved IDEA-Part B, LEA application;

g. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial program.

h. a copy of the parent's written consent for either the placement of a student in or the removal of a student from an alternative to regular placement program.

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

F. Policies on Due Process. 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 exceptional students as defined in the IDEA-Part B.

Section III

Placement Policies: Local Option

In addition to the statewide mandatory criteria for student placement in Section II of these Guidelines, local school boards, by written local policies, may also establish local criteria to be used in determining student placement. Such criteria shall be compatible with the statewide criteria established in Section II and shall be submitted to the LDE as part of the local Pupil Progression Plan.

Local option criteria for Pupil Progression Plans shall conform to the following guidelines. Additionally, at the option of local school systems, the plans may include other factors to be considered in pupil placements.

A. Legislative Guidelines

1. Local school systems are encouraged to develop local criterion-referenced testing programs for local assessment use (Act 621; R.S. 17:391.7(G) and Act 750; R.S. 17:24(H)).

2. Local criteria for K-12 must supplement the grade level standards approved by the SBESE (Act 750; R.S. 17:24(G)).

3. Local criteria must be coordinated with statewide curricular standards for required subjects, to be developed as part of the competency-based education plan (Act 750; R.S. 17:24.4(E) and (G)).

B. Departmental Guidelines

1. Student scores on local testing programs may be used as additional criteria for determining pupil progression. Additional skills may be specified and tested for mastery at the local level as additional criteria for placement.

2. With reference to pupil placement, the local school system shall state the name of the instrument and publisher of

other testing and screening programs to be used locally in grades K-12 for regular and exceptional students.

C. Other Local Option Factors. In conjunction with the enumerated legislated guidelines and LDE directives, local school systems may include evaluative criteria in their local Pupil Progression Plans. If other criteria are used, the Pupil Progression Plan must so specify.

Section IV

Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program Preface

The regulations for remedial education programs approved by the State Board of Elementary and Secondary Education are an addendum to Bulletin 1566, *Guidelines for Pupil Progression*, Board Policy 4.01.90. The regulations provide for the development of local remedial education programs by local education agencies.

The Louisiana Department of Education shall recommend for approval by the SBESE only those local remedial education plans in compliance with these regulations.

A. Legal Authorization.

R.S. 17:24.4(G) provides that those students who fail to meet required proficiency levels on the state administered criterion-referenced tests of the Louisiana Educational Assessment Program shall receive remedial education programs that comply with regulations adopted by the State Board of Elementary and Secondary Education.

R.S. 17:394 - 400 is the established legislation for the remedial education programs.

B. Definition and Purpose

1. Definitions

a. *Remedial Education Programs*—are defined as local programs designed to assist students, including identified students with disabilities, to overcome their educational deficits identified as a result of the state's criterion-referenced testing program for grades 3,5,7, and the Graduation Test (R.S. 17:396, 397, 24.4 and Board Policy).

b. *Department*—is the Louisiana Department of Education.

c. *State Board*—is the State Board of Elementary and Secondary Education.

2. Purpose

a. The purpose of the Louisiana Remedial Education Act is to provide supplemental funds for the delivery of supplemental remedial instruction adapted for those eligible students in the elementary and secondary schools of this state as set forth in the city and parish school board Pupil Progression Plans approved by the SBESE. A program of remedial education shall be put into place by local parish and city school systems following regulations adopted by the Department and approved by the State Board pursuant to R.S. 17:24.4. All eligible students shall be provided with appropriate remedial instruction (R.S. 17:395 A).

b. The intent of remedial educational programs is to improve student achievement in the grade appropriate skills identified as deficient on the state's criterion-referenced testing program for grades 3, 5, 7, and the Graduation Test (R.S. 17:395 B and Board Policy).

c. Remediation shall be provided in English language arts, mathematics, and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4 G; 395 B and C and Board Policy).

d. Beyond the goal of student achievement in grade appropriate skills, additional goals are to give students a sense of success, to prevent alienation from school, and to prevent their early departure from school (R.S. 17:395 B).

C. Responsibilities of the State Board of Elementary and Secondary Education

1. The SBESE shall perform the following functions in relation to the remedial education program.

a. Approve as a part of the Pupil Progression Guidelines (Bulletin 1566) the regulations for development of local remedial education programs designed to meet student deficiencies as identified through the Louisiana Educational Assessment Program in English language arts, writing, mathematics, social studies and science (R.S. 17:399 A).

b. Approve remedial education programs submitted by local education agencies as a part of their local Pupil Progression Plan (R.S. 17:398 B).

c. Approve qualifications/certification requirements for remedial education teachers (R.S. 17:398 A).

d. Receive from the Department an annual evaluation report on local remedial education programs that meet the requirements of R.S. 17:400 B.

e. Approve the evaluation criteria developed by the Department for determining the effectiveness of remedial education programs (R.S. 17:399 B (2) and Board Policy).

D. State Funding of Remedial Education Programs

1. Remedial education funds shall be appropriated annually within the Minimum Foundation Program formula.

2. State remedial education funds shall be distributed to the parish and city school boards according to the distribution process outlined within the Minimum Foundation Program.

3. State funds for the remedial education program shall not be used to supplant other state, local, or federal funds being used for the education of such students (R.S. 17:399 (B)5). A plan for coordination of all state, local and federal funds for remediation must be developed by each LEA.

4. The use of state remedial education funds shall not result in a decrease in the use for educationally deprived children of state, local, or federal funds which, in the absence of funds under the remedial education program, have been made available for the education of such students (R.S. 17:399 (B)5).

5. For funding purposes, a student receiving remediation in English language arts, writing, mathematics, social studies and/or science, shall be counted for each area in which remediation is needed (R.S. 17:398 B).

6. Students in the State Remediation Program are also included in the student membership count for MFP funding purposes.

7. The remedial education program shall be coordinated with locally funded and/or federally funded remedial education programs, but shall remain as a separate remedial program.

8. If the Department determines through its monitoring authority that a city or parish board is not actually providing the type of remedial education program that was approved through its Pupil Progression Plan or is not complying with state evaluation regulations, the Department shall recommend appropriate action until such time as it is determined that the school board is in compliance with its approved Pupil Progression Plan and with state evaluation regulations.

9. The state and local funds expended in the program shall be included in the instructional parameters for each city or parish school board.

E. Criteria for State Approval

1. Student Eligibility

a. Any public elementary or secondary student, including an exceptional student in specially designed regular instructional programs, who does not meet the performance standards established by the Department and approved by the State Board, as measured by the state criterion-referenced tests, shall be provided remedial education (R.S. 17:397).

b. The failure of Special Education students to achieve performance standards on the state criterion-referenced tests does not qualify such students for special education extended school year programs (Board Policy).

2. Teacher Qualifications

a. Remedial teachers shall possess the appropriate certification/qualifications as required by the SBESE.

b. Parish and city school boards may employ an instructional paraprofessional under the immediate supervision of a regularly certified teacher to assist with the remediation. Paraprofessionals must have all of the following qualifications:

(1) Must be at least twenty years of age;

(2) Must possess a high school diploma or its equivalent; and

(3) Must have taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student (R.S. 17:398A and Board Policy).

c. Parish and city school boards may employ educators already employed as regular or special education teachers to provide remedial instruction. These educators may receive additional compensation for remedial instruction, provided the services are performed in addition to their regular duties (R.S. 17:398 A).

3. Program Requirements

a. Student Profile. The Remedial Education Student Profile for the LEAP/CRT, provided by the LDE shall be used by the local school system for providing remediation for each eligible student (Board Policy).

b. Coordination With Other Programs. The school system shall assure that coordination and communication occur on a regular basis among all who provide instruction for a student receiving remedial instruction (Board Policy).

c. Instruction

(1) Remediation shall be provided in English language arts, mathematics and writing to all eligible students beginning in either the summer of 1989 or the 1989-90 school year. Remediation shall be provided in social studies and science for those eligible students beginning in either the

summer of 1990 or during the 1990-91 regular school year (R.S. 17:24.4 G; 395 B and C and Board Policy).

(2) Instruction shall include but not be limited to the philosophy, the methods, and the materials included in the state approved curriculum guides (Board Policy 3.01.08).

(3) Remedial methods and materials shall supplement and reinforce those methods and materials used in the regular program (Board Policy).

(4) Each student achieving mastery criteria shall continue receiving instruction for maintenance of grade appropriate skills. The amount of instruction shall be based upon student need (R.S. 17:395.E).

d. Student Assessment

(1) The parish and city school boards shall develop, as part of their Pupil Progression Plans, mastery criteria based on the State Board-approved Louisiana State Standards in the corresponding state-approved curriculum guides (R.S. 17:395D and Board Policy).

(2) These mastery criteria shall be used in determining the extent of student achievement in those grade appropriate skills in English language arts, writing, mathematics, social studies, and/or science in which he was found deficient (R.S. 17:395 D, 17:24.4 G and Board Policy).

(3) School systems shall describe the methods used to measure student achievement of these criteria (R.S. 17:395D and Board Policy).

F. Local Program Development and Evaluation

1. Each parish and city school board shall develop annually a remedial education program as part of its Pupil Progression Plan, which complies with the established regulations adopted by the Department and approved by the SBESE pursuant to R.S. 17.24.4. The remedial education plan shall be reviewed annually by the Department prior to recommendation for approval by the SBESE (R.S. 17:395 A and Board Policy).

2. The remedial education plan shall describe all remedial instruction and proposals for program improvement. Proposals shall include a narrative that shall incorporate the following:

a. Program objective;

b. Student population to be served and the selection criteria to be used;

c. Methodologies, materials, and/or equipment to be used in meeting the remediation needs;

d. Brief description of the remedial course;

e. Plan for coordination of state, federal, and local funds for remediation;

f. Procedure for documenting student's and parent(s) refusal to accept remediation;

g. Evaluation plan encompassing both the educational process and the growth and achievement evidenced of students (R.S. 17:399A).

3. The remedial program shall be based on performance objectives related to educational achievement in grade appropriate skills addressed through the statewide curriculum standards for required subjects, and shall provide supplementary services to meet the educational needs of each participating student.

4. Each local school system shall adhere to the remedial education plan as stated in its approved Pupil Progression Plan and shall provide services accordingly (R.S. 17:400 A and Board Policy).

5. Each local school system shall include within the remedial education plan a summary of how state, federal, and local funds allocated for remediation have been coordinated to ensure effective use of such funds (R.S. 399 A (5) and B (4) and Board Policy).

6. Each local school system shall maintain a systematic procedure for identifying students eligible for remedial education (R.S. 17:397).

7. Each local school system shall offer remediation accessible to all students. Refusal to accept remediation by student and parent(s) must have written documentation signed by student and parent(s).

8. A list of all students eligible for remediation shall be maintained at the central office level with individual school lists maintained at the building level (Board Policy).

9. Each local school system shall participate in the evaluation of the Remedial Education Program conducted by the Department (17:399 A (6) and Board Policy).

10. Each local school system shall complete an annual evaluation of its program, using the approved Department guidelines, and shall submit the evaluation report to the State Superintendent by June 15 of each year (R.S. 17:399 B (1) and Board Policy). The evaluation plan shall include specific means to examine and document:

- (1) student performance,
- (2) coordination with other programs, and
- (3) instruction.

The evaluation shall be conducted as described in the local evaluation plan (Board Policy).

11. Annually, prior to October 15, each school system shall report to the public the results of its efforts to provide a remedial education program and the results of the monitoring review submitted by the State Superintendent (Board Policy).

G. State Department of Education Responsibilities

1. The Department shall be responsible for reviewing plans, monitoring implementation, and evaluating the remedial education programs of the local school system (R.S. 17:400 A).

2. The State Superintendent of Education shall prepare an annual report for submission to the SBESE and the Joint Committee on Education of the Louisiana Legislature which shall contain:

- a. the number of students participating in remedial education programs; and
- b. the level of student achievement.

3. The department shall provide guidelines for local evaluation of programs, shall review the local evaluation plans, shall monitor the implementation of remedial education plans, and shall receive and approve evaluation reports (R.S. 17:400 A and Board Policy).

4. Within 60 days of receipt of the evaluation report from the local school system, the Department shall submit to each local school system an analysis of the system's evaluation report and the Department's monitoring results (Board Policy).

5. The Department shall provide technical assistance to the city and parish school boards which shall include:

- a. assistance with development of the remedial section of the Pupil Progression Plan;
- b. assistance with staff development;
- c. assistance with the use of appropriate Department forms;
- d. assistance with program implementation; and
- e. assistance with conducting local evaluations.

Appendix A

Definition of Terms

As used in this bulletin, the terms shall be defined as follows:

A. State Terms

1. *Acceleration*—Advancement of a pupil at a rate faster than usual in or from a given grade or course. This may include "gifted student" as identified according to Bulletin 1508.

2. *Alternative to Regular Placement*—Placement of students in programs not required to address the State Content Standards.

3. *Content Standards*—Statements of what we expect students to know and be able to do in various content areas.

4. *Louisiana Educational Assessment Program (LEAP)*—The state's testing program that includes the grades 3, 5, 6, 7 and 9 Louisiana Norm-referenced Testing Program; the grades 4 and 8 Criterion-referenced Testing Program including English/language arts and mathematics for grades 4 and 8, and the Graduation Exit Examination (English language arts, mathematics, science and social studies).

5. *Promotion*—A pupil's placement from a lower to a higher grade based on local and state criteria contained in these Guidelines.

6. *Pupil Progression Plan*—"The comprehensive plan developed and adopted by each parish or city school board which shall be based on student performance on the Louisiana Educational Assessment Program with goals and objectives which are compatible with the Louisiana competency-based education program and which supplement standards approved by the State Board of Elementary and Secondary Education (SBESE). A Pupil Progression Plan shall require the student's proficiency on certain test as determined by SBESE before he or she can be recommended for promotion."

7. *Regular Placement*—The assignment of students to classes, grades, or programs based on a set of criteria established in the Pupil Progression Plan. Placement includes promotion, retention, remediation, and acceleration.

8. *Remedial Programs*—Programs designed to assist students including identified exceptional and Non/Limited English Proficient (LEP) students, to overcome educational deficits identified through the Louisiana Education Assessment Program and other local criteria.

9. *Remediation*—See Remedial Programs.

10. *Retention*—Nonpromotion of a pupil from a lower to a higher grade.

11. *Specially Designed Regular Instructional Program*—A program of study designed for exceptional students and based on state grade-level performance standards

with significant variations allowed in time requirements, methods of presentation, and materials used.

B. Local Terms

The definition of terms used in a local school system plan must be clearly defined for use as the basis for interpretation of the components of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 7:24.4 and R.S. 17:394-400.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education in LR 24:2081 (November 1998).

Weegie Peabody
Executive Director

9811#080

RULE

Board of Elementary and Secondary Education

Bulletin 1943—Teacher Assistance and Assessment
(LAC 28:I.917)

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 has approved numerous amendments to Bulletin 1943, Policies and Procedures for Louisiana Teacher Assistance and Assessment, referenced and amended LAC 28:I.917.C. The Bulletin was revised to be in compliance with R.S. 17:3881-3884, 17:3891-3896, and 17:3901-3904, Act 838 of the Regular Session of the 1997 Louisiana Legislature. Revisions include: renaming of the program; identification of assistance and assessment periods; mentor responsibilities; procedure for selection of mentors; assessment composition; and exclusion of out-of-state teachers.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§917. Personnel Evaluation Standards and Regulations**

A. - B. ...

C. Bulletin 1943, Policies and Procedures for Louisiana Teacher Assistance and Assessment

1. The Louisiana Teacher Assistance and Assessment Program, which provides for the support and assessment of new teachers, was mandated by the Louisiana Legislature in the Third Extraordinary Session of 1994. The Policies and Procedures for Louisiana Teacher Assistance and Assessment are the guidelines by which a teacher teaching in Louisiana public schools for the first time will be assessed. The Policies and Procedures set forth the philosophy and purposes of the Louisiana Teacher Assistance and Assessment Program as well as the timelines for conducting the assessments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881-3884, 17:3891-3896, and 17:3901-3904, Act 838 of the Regular Session of the 1997 Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 22:99 (February 1996), LR 22:277 (April 1996), amended LR 24:2088 (November 1998).

Copies of the Bulletin have been mailed to all public school principals, each local school superintendent, central office personnel, assessor trainers and assessors.

Copies of the Bulletin may be seen in its entirety in the Office of Quality Educators, Third Floor, State Department of Education Building, the Office of the State Board of Elementary and Secondary Education, First Floor, State Department of Education Building, and the Office of the State Register, State Capitol Annex, Fifth floor, Baton Rouge, LA.

Weegie Peabody
Executive Director

9811#079

RULE

Board of Elementary and Secondary Education

Bulletin 1977—Business Education (LAC 28:I.930)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved Business Education Content Standards Curriculum Framework, Bulletin 1977.

The Business Education Content Standards Curriculum Framework, Bulletin 1977, will be published and disseminated to all local education agencies and regional services centers.

A complete text of the standards may be viewed in the Office of the State Register, 1051 North Third Street, Baton Rouge; the Office of the State Board of Elementary and Secondary Education; or the Office of Student and School Performance, State Department of Education.

**Title 28
EDUCATION**

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

A. - F. ...

G. Bulletin 1977-Business Education Content Standards Curriculum Framework

1. Bulletin 1977-Business Education Content Standards Curriculum Framework is adopted.

2. This bulletin contains standards and benchmarks which will be used by Local Agencies (LEAs) as a guide for developing curriculum at the local level. These standards and benchmarks define what Louisiana students should know and be able to do.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 24:2088 (November 1998).

Weegie Peabody
Executive Director

9811#078

RULE

Department of Environmental Quality Office of Air Quality and Radiation Protection Radiation Protection Division

NRC Compatibility Requirements
(LAC 33:XV.Chapters 1, 3, 4, 5, 7, 10, 13, and 17)
(NE020*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection Division regulations, LAC 33:XV.Chapters 1, 3, 4, 5, 7, 10, 13, and 17 (NE020*).

This rule is identical to federal regulations found in 58 FR 7715 (2/9/93); 59 FR 36026 (7/15/94), 61767 (12/2/94), 65243 (12/19/94); 60 FR 322 (1/4/95), 15649 (3/27/95), 25983 (5/16/95), 28323 (5/31/95), 36038 (7/13/95), 38235 (7/26/95), 48623 (9/20/95); 62 FR 4120 (1/29/97), 63634 (12/2/97), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule addresses the following subjects described by the Nuclear Regulatory Commission (NRC) in the *Federal Register*: timeliness in decommissioning of materials facilities; low-level waste shipment manifest information and reporting; preparation, transfer for commercial distribution, and use of byproduct material for medical use; medical administration of radiation and radioactive materials; exempt distribution of a radioactive drug containing one microcurie of carbon-14 urea; performance requirements for radiography equipment; amended definitions and criteria for radiation protection; and clarification of decommissioning funding requirements. Also included are changes in the definitions of *survey*, *working level (WL)*, *high radiation area*, *radiation area*, and *restricted area* and the insertion of a definition of *controlled area*, to comply with an NRC compatibility review of LAC 33:XV. As an NRC 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 rule are mandated by the NRC, to comply with recent NRC regulation changes. In Chapter 7, several sections involving training are being renumbered and incorporated as subsections in LAC 33:XV.763. This is necessary to make room for NRC insertions. LAC 33:XV.763-775 will become LAC 33:XV.763.A-J and M-O.

The basis and rationale for this rule 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 rule meets the exceptions 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.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 1. General Provisions

§102. Definitions and Abbreviations

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain chapter may be found in that chapter.

* * *

[See Prior Text]

Authorized Nuclear Pharmacist—a pharmacist who is:

1. board certified as a nuclear pharmacist by the Board of Pharmaceutical Specialties;
2. identified as an authorized nuclear pharmacist on a division, licensing state, Nuclear Regulatory Commission, or agreement state license that authorizes the use of radioactive material in the practice of nuclear pharmacy; or
3. identified as an authorized nuclear pharmacist on a permit issued by a division, licensing state, Nuclear Regulatory Commission, or agreement state specific licensee of broad scope authorized to permit the use of radioactive material in the practice of nuclear pharmacy.

Authorized User—a physician, dentist, or podiatrist who is:

1. board certified by at least one of the boards listed in LAC 33:XV.763.C, D.1, E.1, F.1, H.1, or I.1;
2. identified as an authorized user on a division, licensing state, Nuclear Regulatory Commission, or agreement state license that authorizes the medical use of radioactive material; or
3. identified as an authorized user on a permit issued by a division, licensing state, Nuclear Regulatory Commission, or agreement state specific licensee of broad scope authorized to permit the medical use of radioactive material.

* * *

[See Prior Text]

Controlled Area—an area, outside a restricted area but inside the site boundary, to which access can be limited by the licensee for any reason.

* * *

[See Prior Text]

High-Radiation Area—an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 100 millirems (one millisievert) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

* * *

[See Prior Text]

Medical Use—the intentional internal or external administration of radioactive material, or the radiation therefrom, to patients or human research subjects under the supervision of an authorized user as defined in this Section.

* * *

[See Prior Text]

Misadministration—the administration of:

1. A radiopharmaceutical dosage greater than 30 microcuries of either sodium iodide I-125 or I-131:

a. involving the wrong individual or wrong radiopharmaceutical; or

* * *

[See Prior Text in 1.b]

2. A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131:

a. involving the wrong individual, wrong pharmaceutical, or wrong route of administration; or

* * *

[See Prior Text in 2.b-3]

a. involving the wrong individual or wrong treatment site; or

* * *

[See Prior Text in 3.b-4]

a. involving the wrong individual, wrong mode of treatment, or wrong treatment site;

* * *

[See Prior Text in 4.b-5]

a. involving the wrong individual, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);

* * *

[See Prior Text in 5.b-6]

a. involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage; and

b. when the dose to the individual exceeds 5 rems effective dose equivalent or 50 rems dose equivalent to any individual organ.

* * *

[See Prior Text]

Occupational Dose—the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation and/or radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with LAC 33:XV.725, from voluntary participation in medical research programs, or as a member of the public.

* * *

[See Prior Text]

Pharmacist—any individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

* * *

[See Prior Text]

Principal Activities—activities authorized by the license that are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities

incidental to decontamination or decommissioning are not principal activities.

* * *

[See Prior Text]

Public Dose—the dose received by a member of the public from exposure to sources of radiation and/or radioactive material released from licensed or registered operations. Public dose does not include occupational dose, dose received from background radiation, dose received from any medical administration the individual has received, dose received from exposure to individuals administered radioactive material and released in accordance with LAC 33:XV.725, or dose received from voluntary participation in medical research programs.

* * *

[See Prior Text]

Radiation Area—an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of five millirems (0.05 millisievert) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates, or in any five consecutive days, a dose in excess of 100 millirems (one millisievert).

* * *

[See Prior Text]

Radiological Physicist—an individual who:

1. is certified in Therapeutic Radiological Physics or Radiological Physics by the American Board of Radiology, or in radiation oncology physics by the American Board of Medical Physics; or

* * *

[See Prior Text in 2-3]

Recordable Event—in medical procedures, the administration of:

* * *

[See Prior Text in 1-4]

5. a teletherapy radiation dose when the calculated weekly administered dose exceeds the weekly prescribed dose by 15 percent or more; or

6. a brachytherapy radiation dose when the calculated administered dose differs from the prescribed dose by more than 10 percent of the prescribed dose.

* * *

[See Prior Text]

Restricted Area—an area, access to which is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

* * *

[See Prior Text]

Survey—an evaluation of the production, use, release, disposal, transfer, and/or presence of sources of radiation under a specific set of conditions to determine actual or potential radiation hazards. When appropriate, such evaluation includes, but is not limited to, tests, physical examination, and measurements of levels of radiation or concentrations of radioactive materials present.

* * *

[See Prior Text]

Unrestricted Area (an Uncontrolled Area)—an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these regulations, *uncontrolled area* is an equivalent term.

Waste—those low-level radioactive wastes that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, as amended by P.L. 99-240, effective January 15, 1986; that is, radioactive waste:

1. not classified as high-level radioactive waste, spent nuclear fuel, or by-product material as defined in Section 11.e.(2) of the Atomic Energy Act (uranium or thorium tailings and waste), and

2. classified as low-level radioactive waste consistent with existing law and in accordance with Paragraph 1 above by the U.S. Nuclear Regulatory Commission.

* * *

[See Prior Text]

Working Level (WL)—any combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in one liter of air, without regard to the degree of equilibrium, that will result in the ultimate emission of 1.3×10^5 MeV of alpha particle energy.

* * *

[See Prior Text]

Written Directive—an order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in Paragraph 6 of this definition, containing the following information:

* * *

[See Prior Text in *Written Directive.1-Year*]

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 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), amended LR 24:2089 (November 1998).

Chapter 3. Licensing of Radioactive Material

§304. Radioactive Material Other Than Source Material

* * *

[See Prior Text in A-C.4]

5. Capsules Containing Carbon-14 Urea for “In Vivo” Diagnostic Use for Humans

a. Except as provided in Subsection C.5.b and c of this Section, any person is exempt from the requirements for a license set forth in these regulations provided that such person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1µCi) carbon-14 urea each (allowing for nominal variation that may occur during the manufacturing process), for “in vivo” diagnostic use for humans.

b. Any person who desires to use the capsules for research involving human subjects shall apply for and receive

a specific license in accordance with LAC 33:XV.Chapters 3 and 7.

c. Any person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution such capsules shall apply for and receive a specific license in accordance with LAC 33:XV.328.K.

d. Nothing in this Section relieves persons from complying with applicable FDA, other federal, and state requirements governing receipt, administration, and use of drugs.

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 24:2091 (November 1998).

§325. General Requirements for the Issuance of Specific Licenses

* * *

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

b. submit a certification that financial assurance arrangement for decommissioning has been provided in the amount prescribed by Subsection D.4 of this Section using one of the methods described in Subsection D.6 of this Section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued, but prior to the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Subsection D.6 of this Section shall be submitted to the division before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the division, as part of the certification, a copy of the financial instrument obtained to satisfy the requirements of Subsection D.6 of this Section .

* * *

[See Prior Text in D.3-3.a]

b. Each holder of a specific license issued before the effective date of these regulations and of a type described in Subsection D.1 of this Section shall submit, on or before July 20, 1992, a decommissioning funding plan, as described in Subsection D.6 of this Section, or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria set forth in this Section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in any application for license renewal.

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.6 of this Section, in accordance with the criteria set forth in this Section.

d. Any licensee who has submitted an application before July 20, 1992, for renewal of license in accordance with

LAC 33:XV.333 shall provide financial assurance for decommissioning in accordance with Subsection D.1 and 2 of this Section. This assurance shall be submitted when this rule becomes effective.

* * *

[See Prior Text in D.4-4.c]

5. Each decommissioning funding plan shall contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from Subsection D.6 of this Section, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility. The decommissioning funding plan shall also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of Subsection D.6 of this Section.

* * *

[See Prior Text in D.6-7.d.iv]

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 23:1140 (September 1997), amended LR 24:2091 (November 1998).

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

A. Specific Licenses for Irradiators. The division shall approve an application for a specific license for the use of licensed material in an irradiator in accordance with LAC 33:XV.Chapter 17, if the applicant meets the following requirements:

1. the applicant shall satisfy the general requirements specified in LAC 33:XV.Chapter 3;
2. the application shall describe the training provided to irradiator operators including:
 - a. classroom training;
 - b. on-the-job or simulator training;
 - c. safety reviews;
 - d. means employed by the applicant to test each operator's understanding of the division's regulations and licensing requirements and the irradiator operating, safety, and emergency procedures; and
 - e. minimum training and experience of personnel who may provide training;
3. the application shall include an outline of the written operating and emergency procedures listed in LAC 33:XV.1735 that describes the radiation safety aspects of the procedures;
4. the application shall describe the organizational structure for managing the irradiator, specifically, the radiation safety responsibilities and authorities of the radiation safety officer and those management personnel who have radiation safety responsibilities or authorities. In particular, the application shall specify who, within the management structure, has the authority to stop unsafe operations. The application shall also describe the training and experience required for the position of radiation safety officer;

5. the application shall include a description of the access control systems required by LAC 33:XV.1713, the radiation monitors required by LAC 33:XV.1719, the method of detecting leaking sources required by LAC 33:XV.1741, including the sensitivity of the method, and a diagram of the facility that shows the locations of all required interlocks and radiation monitors;

6. if the applicant intends to perform leak testing, the applicant shall establish procedures for performing leak testing of dry-source-storage sealed sources and submit a description of these procedures to the division. The description shall include:

- a. methods of collecting the leak test samples;
- b. qualifications of the individual who collects the samples;
- c. instruments to be used; and
- d. methods of analyzing the samples;

7. if licensee personnel are to load or unload sources, the applicant shall describe the qualifications and training of the personnel and the procedures to be used. If the applicant intends to contract for source loading or unloading at its facility, the loading or unloading shall be done by a person specifically authorized by the division, the Nuclear Regulatory Commission, an agreement state, or a licensing state to load or unload irradiator sources; and

8. the applicant shall describe the inspection and maintenance checks, including the frequency of the checks required by LAC 33:XV.1743.

* * *

[See Prior Text in B-E.1.f]

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 24:2092 (November 1998).

§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-I.1.b]

J. Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs for Medical Use under LAC 33:XV.Chapter 7

1. An application for a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs for use by persons authorized in accordance with LAC 33:XV.Chapter 7 shall be approved if the following conditions are met:

- a. the applicant satisfies the general requirements for the issuance of specific licenses specified in LAC 33:XV.325;
- b. the applicant submits evidence that the applicant is at least one of the following:
 - i. registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer;
 - ii. registered or licensed with a state agency as a drug manufacturer;
 - iii. licensed as a pharmacy by the Louisiana Board of Pharmacy; or

iv. operating as a nuclear pharmacy within a federal medical institution;

c. the applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the radioactive material that is appropriate for safe handling and storage of radiopharmaceuticals by group licensees; and

d. the labeling meets the following criteria:

i. the label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label shall include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" OR "DANGER, RADIOACTIVE MATERIAL," the name of the radioactive drug or its abbreviation, and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted;

ii. a label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label shall include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" OR "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label; and

iii. the labels, leaflets, or brochures required by this Section are in addition to the labeling required by the U.S. Food and Drug Administration (FDA), and they may be separate from or, with the approval of the FDA, may be combined with the labeling required by the FDA.

2. A licensee described by Subsection J.1.b.iii or iv of this Section:

a. may prepare radioactive drugs for medical use, as defined in LAC 33:XV.102, provided that the radioactive drug is prepared by either an authorized nuclear pharmacist, as specified in Subsection J.2.b and c of this Section, or an individual under the supervision of an authorized nuclear pharmacist as specified in LAC 33:XV.709;

b. may allow a pharmacist to work as an authorized nuclear pharmacist if:

i. this individual qualifies as an authorized nuclear pharmacist as defined in LAC 33:XV.102;

ii. this individual meets the requirements specified in LAC 33:XV.763.J and K.2 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

iii. this individual is designated as an authorized nuclear pharmacist in accordance with Subsection J.2.c of this Section;

c. may conduct the actions authorized in Subsection J.2.a and b of this Section in spite of more restrictive language in license conditions;

d. may designate a pharmacist (as defined in LAC 33:XV.102) as an authorized nuclear pharmacist if the individual is identified as of December 2, 1994, as an *authorized user* on a nuclear pharmacy license issued by the division under these regulations; and

e. shall provide to the division a copy of each individual's certification by the Board Of Pharmaceutical Specialties and the division, licensing state, Nuclear Regulatory Commission, or agreement state license or the permit issued by a licensee of broad scope and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows the individual to work as an authorized nuclear pharmacist, in accordance with Subsection J.2.b.i and iii of this Section.

3. A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-emitting, beta-emitting, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee shall:

a. perform tests before initial use, periodically, and following repair on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument, and make adjustments when necessary; and

b. check each instrument for constancy and proper operation at the beginning of each day of use.

4. Nothing in this Section relieves the licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs.

K. License Requirements for the Manufacture, Preparation, or Transfer for Commercial Distribution of Capsules Containing Carbon-14 Urea for "In Vivo" Diagnostic Use in Humans

1. An application for a specific license to manufacture, prepare, process, produce, package, repack, or transfer for commercial distribution capsules containing 37 kBq (1 μ Ci) carbon-14 urea each (allowing for nominal variation that may occur during the manufacturing process) for "in vivo" diagnostic use, to persons exempt from licensing under LAC 33:XV.304.C.5 will be approved if:

a. the applicant satisfies the general requirements specified in LAC 33:XV.325;

b. the applicant meets the requirements under Subsection J.1.b of this Section;

c. the applicant provides evidence that each capsule contains 37 kBq (1 μ Ci) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process);

d. the carbon-14 urea is not contained in any food, beverage, cosmetic, drug (except as described in this Section), or other commodity designed for ingestion or inhalation by, or topical application to, a human being;

e. the carbon-14 urea is in the form of a capsule, is identified as radioactive, and is to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product, or device intended for commercial distribution. The capsule shall meet the following conditions:

i. the immediate container of the capsule(s) bears a durable, legible label that:

(a). identifies the radioisotope, the physical and chemical form, and the quantity of radioactivity of each capsule at a specific date; and

(b) bears the words "Radioactive Material";
ii. in addition to the labeling information required by Subsection K.1.e.i of this Section, an accompanying brochure or the label affixed to the immediate container also:

(a). states that the contents are exempt from division licensing requirements; and

(b). bears the words "Radioactive Material. For 'In Vivo' Diagnostic Use Only. This Material Is Not To Be Used for Research Involving Human Subjects and Shall Not Be Introduced into Foods, Beverages, Cosmetics, or Other Drugs or Medicinals or into Products Manufactured for Commercial Distribution. This Material May Be Disposed of in Ordinary Trash"; and

f. the applicant submits copies of prototype labels and brochures and the division approves these labels and brochures.

2. Nothing in this Section relieves the licensee from complying with applicable FDA, other federal, and state requirements governing drugs.

* * *

[See Prior Text in L-M.4.g]

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 24:2092 (November 1998).

§332. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

* * *

[See Prior Text in A-D.1.e.ii]

2. Plan for Completion of Decommissioning

a. In addition to the information required under Subsection D.1.d and e of this Section, the licensee shall submit a plan for completion of decommissioning, if required by the license condition or if the procedures necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the division and could increase potential health and safety impacts to workers or to the public such as in any of the following cases:

* * *

[See Prior Text in D.2.a.i-c.ii]

iii. a description of the planned final radiation survey;

iv. an updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning;

v. a description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan; and

vi. for decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, a justification for the delay based on the criteria in Subsection D.2.c.v of this Section.

* * *

[See Prior Text in D.2.d-5.b]

c. Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the division determines that:

* * *

[See Prior Text in D.5.c.i-c.ii.(b)]

6. Timeliness of Decommissioning

a. Within 60 days of the occurrence of any of the following, each licensee shall provide notification to the division in writing of such occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release for unrestricted use, or submit within 12 months of notification a decommissioning plan, if required by Subsection D.2 of this Section, and begin decommissioning upon approval of that plan if:

i. the license has expired in accordance with Subsection A of this Section;

ii. the licensee has decided to permanently cease principal activities, as defined in LAC 33:XV.102, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release for unrestricted use;

iii. no principal activities under the license have been conducted for a period of 24 months; or

iv. no principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release for unrestricted use.

b. Coincident with the notification required by Subsection D.6.a of this Section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee in accordance with LAC 33:XV.351 in conjunction with a license issuance or renewal or as required by this Section. The amount of the financial assurance shall be increased or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established in accordance with Subsection D.2.c.iv of this Section.

i. Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so when this rule becomes effective.

ii. Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the division.

c. The division may grant a request to extend the time periods established in Subsection D.6.a of this Section if the division determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request shall be submitted no later than 30 days before notification in accordance with Subsection D.6.a of this Section. The schedule for decommissioning set forth in Subsection D.6.a of this Section may not commence until the division has made a determination on the request.

d. The division may approve an alternative schedule for submittal of a decommissioning plan required in accordance with Subsection D.6.a of this Section if the division determines that the alternative schedule is necessary

to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

e. Decommissioning Time Limit

i. Except as provided in Subsection D.6.e.iii of this Section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable, but no later than 24 months following the initiation of decommissioning.

ii. Except as provided in Subsection D.6.e.iii of this Section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable, but no later than 24 months following the initiation of decommissioning.

iii. The division may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area and license termination, if appropriate, if the division determines that the alternative is warranted by consideration of the following:

(a). whether it is technically feasible to complete decommissioning within the allotted 24-month period;

(b). whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(c). whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d). whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e). other site-specific factors that the division may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

* * *

[See Prior Text in E-E.2]

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 24:2094 (November 1998).

Chapter 4. Standards for Protection Against Radiation

Subchapter A. General Provisions

§402. Scope

Except as specifically provided in other chapters of these regulations, this Chapter applies to persons licensed or registered by the division to receive, possess, use, transfer, or dispose of sources of radiation or to operate a production or utilization facility under these regulations. The limits in this Chapter do not apply to doses due to background radiation, to exposure from any medical administration the individual has received, to exposure from individuals administered radioactive material and released in accordance with LAC 33:XV.725, or to exposure from voluntary participation in medical research programs.

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 LR 24:2095 (November 1998).

Subchapter B. Radiation Protection Programs

§414. Determination of Prior Occupational Dose

A. For each individual who is likely to receive, in a year, an occupational dose requiring monitoring in accordance with LAC 33:XV.431, the licensee or registrant shall:

* * *

[See Prior Text in A.1-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), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996), amended LR 24:2095 (November 1998).

§421. Radiation Dose Limits for Individual Members of the Public

A. Each licensee or registrant shall conduct operations so that:

1. except as provided in Subsection A.3 of this Section, the total effective dose equivalent (TEDE) to individual members of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, exclusive of the dose contribution from background radiation, any medical administration the individual has received, voluntary participation in medical research programs, exposure to individuals administered radioactive material and released in accordance with LAC 33:XV.725, and the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with LAC 33:XV.463;

2. the dose in any unrestricted area from external sources, exclusive of the dose contributions from individuals administered radioactive material and released in accordance with LAC 33:XV.725, does not exceed 0.02 mSv (0.002 rem) in any one hour; and

* * *

[See Prior Text in A.3-E]

³Retrofit shall not be required for locations within facilities where only radiation machines existed prior to January 1, 1994, and met the previous requirements of 5 mSv (0.5 rem) in a year.

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

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Subchapter F. Storage and Control of Licensed or Registered Sources of Radiation

§445. Security of Stored Sources of Radiation

* * *

[See Prior Text in A]

B. The licensee or registrant shall maintain constant surveillance or use devices or administrative procedures to

prevent unauthorized use of licensed or registered radioactive material that is in a controlled or unrestricted area and that is not in storage.

* * *

[See Prior Text in C-D]

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), LR 22:972 (October 1996), amended LR 24:2095 (November 1998).

Subchapter G. Precautionary Procedures

§452. Exceptions to Posting Requirements

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[See Prior Text in A-A.2]

B. Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs in accordance with LAC 33:XV.451, provided that the patient could be released from licensee control in accordance with LAC 33:XV.725 and 745 .

* * *

[See Prior Text in C-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), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996), LR 24:2096 (November 1998).

Subchapter H. Waste Disposal

§465. Transfer for Disposal and Manifests

A. The requirements of this Section and Appendices D and E of this Chapter are designed to: control transfers of low-level radioactive waste by any waste generator, waste collector, or waste processor licensee, as defined in Appendix D of this Chapter, who ships low-level waste either directly or indirectly through a waste collector or waste processor to a licensed low-level radioactive waste disposal facility; establish a manifest tracking system; and supplement existing requirements concerning transfers and recordkeeping for those wastes.

B. Each shipment of radioactive waste designated for disposal at a licensed low-level radioactive waste disposal facility shall be accompanied by a shipment manifest in accordance with Appendix D of this Chapter.

C. Each shipment manifest shall include a certification by the waste generator in accordance with Appendix D of this Chapter.

D. Each person involved in the transfer of waste for disposal or in the disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in Appendix D of this Chapter.

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 LR 24:2096 (November 1998).

Subchapter I. Records

§470. General Provisions

A. Each licensee or registrant shall use the International System of Units (SI) units becquerel, gray, sievert, and coulomb per kilogram, or the special units curie, rad, rem, and roentgen, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Chapter. Notwithstanding these allowances, when recording information on shipment manifests, as required in LAC 33:XV.465, information shall be recorded in SI or in both SI and special units.

* * *

[See Prior Text in B]

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 LR 24:2096 (November 1998).

Appendix D

Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Land Disposal Facilities and Manifests

A. Manifest. A waste generator, collector, or processor who transports, or offers for transportation, low-level radioactive waste intended for ultimate disposal at a licensed low-level radioactive waste land disposal facility shall prepare a manifest (OMB Control Numbers 3150-0164,-0165, and-0166) reflecting information requested on applicable NRC Forms 540 (Uniform Low-Level Radioactive Waste Manifest (Shipping Paper)) and 541 (Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description)) and, if necessary, on an applicable NRC Form 542 (Uniform Low-Level Radioactive Waste Manifest (Manifest Index and Regional Compact Tabulation)). NRC Forms 540 and 540A shall be completed and shall physically accompany the pertinent low-level waste shipment. Upon agreement between shipper and consignee, NRC Forms 541, 541A, 542, and 542A may be completed, transmitted, and stored in electronic media with the capability for producing legible, accurate, and complete records on the respective forms.

1. Licensees are not required by the division to comply with the manifesting requirements of this Appendix when they ship:

a. LLW (Low-Level Waste) for processing and expect its return (i.e., for storage under their license) prior to disposal at a licensed land disposal facility;

b. LLW that is being returned to the licensee who is the *waste generator* or *generator*, as defined in this Appendix; or

c. radioactively contaminated material to a *waste processor* that becomes the processor's *residual waste*.

B. For guidance in completing these forms, refer to the instructions that accompany the forms. Copies of manifests required by this Appendix may be legible carbon copies, photocopies, or computer printouts that reproduce the data in the format of the uniform manifest.

C. NRC Forms 540, 540A, 541, 541A, 542, and 542A, and the accompanying instructions in hard copy, may be obtained from the Information and Records Management Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-7232.

D. This Appendix includes information requirements of the Department of Transportation, as codified in 49 CFR part 172. Information on hazardous, medical, or other waste, required to meet Environmental Protection Agency regulations, as codified in 40 CFR parts 259, 261, or elsewhere, is not addressed in this Appendix, and shall be provided on the required EPA forms. However, the required EPA forms shall accompany the Uniform Low-Level Radioactive Waste Manifest required by this Appendix and LAC 33:XV.Chapter 4.

E. As used in this Appendix, the following definitions apply:

Chelating Agent—see definition in LAC 33:XV.102.

Chemical Description—a description of the principal chemical characteristics of a low-level radioactive waste.

Computer-Readable Medium—a medium from which the division's computer can transfer the information from the medium into its memory. This medium shall be in an ASCII compatible format.

Consignee—the designated receiver of the shipment of low-level radioactive waste.

Decontamination Facility—a facility operating under a division, Nuclear Regulatory Commission, or agreement state license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse, or other waste management objectives and, for purposes of this Appendix, is not considered to be a consignee for LLW shipments.

Disposal Container—a container principally used to confine low-level radioactive waste during disposal operations at a land disposal facility (also see *high integrity container*). Note that for some shipments, the disposal container may be the transport package.

Electronic Media—media from which the division's computer can transfer the information from the media into its memory. This media shall be in an ASCII compatible format.

EPA Identification Number—the number received by a transporter following application to the Administrator of EPA as required by 40 CFR part 263.

Generator—a licensee operating under a division, Nuclear Regulatory Commission, or agreement state license who is a waste generator as defined in this Appendix, or is the licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (e.g., waste generated as a result of decontamination or recycle activities).

High Integrity Container (HIC)—a container commonly designed to meet the structural stability requirements of Appendix E of this Chapter and to meet Department of Transportation requirements for a Type A package.

Land Disposal Facility—see definition in LAC 33:XV.1302.

Low-Level Waste (LLW)—see definition of *waste* in LAC 33:XV.102.

NRC Forms 540, 540A, 541, 541A, 542, and 542A—official NRC forms referenced in this Appendix. Licensees need not use originals of these NRC forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information. Upon agreement between the shipper and consignee, NRC Forms 541 (and 541A) and NRC Forms 542 (and 542A) may be completed, transmitted, and stored in electronic media. The electronic media shall have the capability for producing legible, accurate, and complete records in the format of the uniform manifest.

Package—the assembly of components necessary to ensure compliance with the packaging requirements of DOT regulations, together with its radioactive contents, as presented for transport.

Physical Description—the items called for on NRC Form 541 to describe a low-level radioactive waste.

Residual Waste—low-level radioactive waste resulting from processing or decontamination activities that cannot be easily separated into distinct batches attributable to specific waste generators. This waste is attributable to the processor or decontamination facility, as applicable.

Shipper—the licensed entity (i.e., the waste generator, waste collector, or waste processor) who offers low-level radioactive waste for transportation, typically consigning this type of waste to a licensed waste collector, waste processor, or land disposal facility operator.

Shipping Paper—NRC Form 540 and, if required, NRC form 540A, which includes the information required by DOT in 49 CFR part 172.

Source Material—see definition in LAC 33:XV.102.

Special Nuclear Material—see definition in LAC 33:XV.102.

Uniform Low-level Radioactive Waste Manifest or Uniform Manifest—the combination of NRC Forms 540, 541, and, if necessary, 542, and their respective continuation sheets as needed, or equivalent.

Waste—see definition in LAC 33:XV.102

Waste Collector—an entity, operating under a division, Nuclear Regulatory Commission, or agreement state license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.

Waste Description—the physical, chemical, and radiological description of a low-level radioactive waste as called for on NRC Form 541.

Waste Generator—an entity, operating under a division, Nuclear Regulatory Commission, or agreement state license, who possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use and transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal. A licensee performing processing or

decontamination services may be a *waste generator* if the transfer of low-level radioactive waste from its facility is defined as *residual waste*.

Waste Processor—an entity, operating under a division, Nuclear Regulatory Commission, or agreement state license, whose principal purpose is to process, repackage, or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

Waste Type—a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description or a waste sorbed on or solidified in a specifically defined media).

F. Information Requirements

1. General Information. The shipper of the radioactive waste shall provide the following information on the uniform manifest:

- a. the name, facility address, and telephone number of the licensee shipping the waste;
- b. an explicit declaration indicating whether the shipper is acting as a waste generator, collector, processor, or a combination of these identifiers for purposes of the manifested shipment; and
- c. the name, address, and telephone number or the name and EPA identification number for the carrier transporting the waste.

2. Shipment Information. The shipper of the radioactive waste shall provide the following information regarding the waste shipment on the uniform manifest:

- a. the date of the waste shipment;
- b. the total number of packages/disposal containers;
- c. the total disposal volume and disposal weight in the shipment;
- d. the total radionuclide activity in the shipment;
- e. the activity of each of the radionuclides, H-3, C-14, Tc-99, and I-129, contained in the shipment; and
- f. the total masses of U-233, U-235, and plutonium in special nuclear material, and the total mass of uranium and thorium in source material.

3. Disposal Container and Waste Information. The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

- a. an alphabetic or numeric identification that uniquely identifies each disposal container in the shipment;
- b. a physical description of the disposal container, including the manufacturer and model of any high integrity container;
- c. the volume displaced by the disposal container;
- d. the gross weight of the disposal container, including the waste;
- e. for waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;
- f. a physical and chemical description of the waste;
- g. the total weight percentage of chelating agent for any waste containing more than 0.1 percent chelating agent by weight, plus the identity of the principal chelating agent;

h. the approximate volume of waste within a container;

i. the sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name;

j. the identities and activities of individual radionuclides contained in each container, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material. For discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained on these waste types within a disposal container shall be reported;

k. the total radioactivity within each container; and

l. for wastes consigned to a disposal facility, the classification of the waste in accordance with Appendix E of this Chapter. Waste not meeting the structural stability requirements of Appendix E of this Chapter shall be identified.

4. Uncontainerized Waste Information. The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding a waste shipment delivered without a disposal container:

a. the approximate volume and weight of the waste;

b. a physical and chemical description of the waste;

c. the total weight percentage of chelating agent if the chelating agent exceeds 0.1 percent by weight, plus the identity of the principal chelating agent;

d. for waste consigned to a disposal facility, the classification of the waste in accordance with Appendix E of this Chapter. Waste not meeting the structural stability requirements of Appendix E of this Chapter shall be identified;

e. the identities and activities of individual radionuclides contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material; and

f. for wastes consigned to a disposal facility, the maximum radiation levels at the surface of the waste.

5. Multi-Generator Disposal Container Information. This Paragraph applies to disposal containers enclosing mixtures of waste originating from different generators. (*Note:* The origin of the LLW resulting from a processor's activities may be attributable to one or more *generators*, including *waste generators*, as defined in this Appendix.) It also applies to mixtures of wastes shipped in an uncontainerized form, for which portions of the mixture within the shipment originate from different generators. The shipper of radioactive waste shall provide the following information on the manifest regarding waste shipments containing mixtures of waste originating from multiple generators:

a. for homogeneous mixtures of waste, such as incinerator ash, the waste description applicable to the mixture and the volume of the waste attributed to each generator;

b. for heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each

generator contributing waste to the disposal container and, for discrete waste types (e.g., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained on these waste types within the disposal container. For each generator, provide the following:

- i. the volume of waste within the disposal container;
- ii. a physical and chemical description of the waste, including the solidification agent, if any;
- iii. the total weight percentage of chelating agents for any disposal container containing more than 0.1 percent chelating agent by weight, plus the identity of the principal chelating agent;
- iv. the sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name if the media is claimed to meet stability requirements in Appendix E of this Chapter; and
- v. radionuclide identities and activities contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material if contained in the waste.

G. Certification. An authorized representative of the waste generator, processor, or collector shall certify, by signing and dating the shipment manifest, that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the U.S. Department of Transportation and the division. A collector, in signing the certification, is certifying that nothing has been done to the collected waste that would invalidate the waste generator's certification.

H. Control and Tracking

1. Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector or any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the following requirements:

- a. prepare all wastes so that the waste is classified and meets the waste characteristics requirements according to Appendix E of this Chapter;
- b. label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal container) of waste to identify whether it is Class A waste, Class B waste, Class C waste, or greater than Class C waste, in accordance with Appendix E of this Chapter;
- c. conduct a quality assurance program to assure compliance with Appendix E of this Chapter (the program shall include management evaluation of audits);
- d. prepare the NRC Uniform Low-Level Radioactive Waste Manifest as required by this Appendix;
- e. forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either: receipt of the manifest precedes the LLW shipment; or the manifest is delivered to the consignee with the waste at the time the waste is

transferred to the consignee. Using both options is also acceptable;

- f. include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in Subsection H.1.e of this Appendix;

- g. receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

- h. retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by LAC 33:XV.Chapter 3; and

- i. for any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this Appendix, conduct an investigation in accordance with Subsection H.5 of this Appendix.

2. Any waste collector licensee who handles only prepackaged waste shall:

- a. acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

- b. prepare a new manifest to reflect consolidated shipments that meet the requirements of this Appendix. The waste collector shall ensure that, for each container of waste in the shipment, the manifest identifies the generator of that container of waste;

- c. forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either: receipt of the manifest precedes the LLW shipment; or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both options is also acceptable;

- d. include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in Subsection H.2.c of this Appendix;

- e. receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

- f. retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material, as required by LAC 33:XV.Chapter 3;

- g. for any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this Appendix, conduct an investigation in accordance with Subsection H.5 of this Appendix; and

- h. notify the shipper and the division when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

3. Any licensed waste processor who treats or repackages waste shall:

- a. acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

- b. prepare a new manifest that meets the requirements of this Appendix. Preparation of the new manifest reflects that

the processor is responsible for meeting these requirements. For each container of waste in the shipment, the manifest shall identify the waste generators, the preprocessed waste volume, and the other information as required in Subsection F.5 of this Appendix;

c. prepare all wastes so that the waste is classified and meets the waste characteristics requirements according to Appendix E of this Chapter;

d. label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with Appendix E of this Chapter;

e. conduct a quality assurance program to assure compliance with Appendix E of this Chapter (the program shall include management evaluation of audits);

f. forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either: receipt of the manifest precedes the LLW shipment; or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both options is also acceptable;

g. include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in Subsection H.3.f of this Appendix;

h. receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

i. retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material, as required by LAC 33:XV.Chapter 3;

j. for any shipment or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this Appendix, conduct an investigation in accordance with Subsection H.5 of this Appendix; and

k. notify the shipper and the division when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

4. The land disposal facility operator shall:

a. acknowledge receipt of the waste within one week of receipt by returning, as a minimum, a signed copy of NRC Form 540 to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. If any discrepancy exists between materials listed on the Uniform Low-Level Radioactive Waste Manifest and materials received, copies or electronic transfer of the affected forms shall be returned indicating the discrepancy;

b. maintain copies of all completed manifests and electronically store the information required by LAC 33:XV.1333.G until the division terminates the license; and

c. notify the shipper and the division when any shipment, or part of a shipment, has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

5. Any shipment or part of a shipment for which acknowledgement is not received within the times set forth in this Appendix shall:

a. be investigated by the shipper if the shipper has not received notification or receipt within 20 days after transfer; and

b. be traced and reported. The investigation shall include tracing the shipment and filing a report with the division. Each licensee who conducts a trace investigation shall file a written report with the division within two weeks of completion of the investigation.

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 24:2096 (November 1998).

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

§550. Performance Requirements for Radiography Equipment

Equipment serviced, maintained, or repaired by a licensee or registrant or used in industrial operations must meet the following minimum criteria:

1. each radiographic exposure device and all associated equipment shall meet the requirements specified in American National Standard (ANSI) N432-1980 *Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography*, (published as NBS Handbook 136, issued January 1981). Engineering analyses may be submitted by an applicant or licensee to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. Upon review, the division may find this an acceptable alternative to actual testing of the component in accordance with the referenced standard;

* * *

[See Prior Text in 2-3.h]

i. Source changers must provide a system for assuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly;

j. malfunction of any exposure device or associated equipment shall be reported to the division in accordance with the requirements of LAC 33:XV.341; and

k. notwithstanding Subsection A.1, four, and 5 of this Section, equipment used in industrial radiographic operations need not comply with section 8.9.2(c) of the Endurance Test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

* * *

[See Prior Text in 4-5]

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 21:554 (June 1995), LR 23:1138 (September 1997), amended LR 24:2100 (November 1998).

Chapter 7. Use of Radionuclides in the Healing Arts

Note: LAC 33:XV.763-775 have been moved and renumbered as subsections of revised LAC 33:XV.763. This was necessary to accommodate NRC-mandated insertions. The changes involved are as follows: LAC 33:XV.763 to 763.A; 764 to 763.B; 765 to 763.C; 766 to 763.D; 767 to 763.E; 768 to 763.F; 769 to 763.G; 770 to 763.H; 771 to 763.I; 772 to 763.J; 773 to 763.M; 774 to 763.N; and 775 to 763.O.

§701. Purpose and Scope

This Chapter establishes requirements and provisions for the use of radionuclides in the healing arts and for issuance of licenses authorizing the medical use of this material. These requirements and provisions provide for the protection of the public health and safety. The requirements and provisions of this Chapter are in addition to, and not in substitution for, other applicable provisions of LAC 33:XV.Chapters 1, 3, 4, and 10. The requirements and provisions of these regulations apply to applicants and licensees subject to this Chapter unless specifically exempted. The definitions of some terms used in this Chapter may be found in LAC 33:XV.Chapters 1 and 6. Nothing in this Chapter relieves the licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs or devices.

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 24:2101 (November 1998).

§702. License Required and Exemptions

A. No person shall manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for medical use except in accordance with a specific license issued by the division, the Nuclear Regulatory Commission, or an agreement state or as allowed in Subsections B and C of this Section.

* * *

[See Prior Text in B]

C. An individual may prepare unsealed radioactive material for medical use in accordance with the regulations in this Chapter under the supervision of an authorized nuclear pharmacist or authorized user, as provided in LAC 33:XV.709, unless prohibited by license condition.

D. Exemptions Regarding Specific Licenses of Broad Scope. A licensee possessing a specific license of broad scope for medical use is exempt from the following:

- 1. the provisions of LAC 33:XV.703.A.2;
- 2. the provisions of LAC 33:XV.703.A.5 regarding additions to or changes in the areas of use only at the addresses specified in the license;
- 3. the provisions of LAC 33:XV.704.A; and
- 4. the provisions of LAC 33:XV.704.B.1 for an authorized user or an authorized nuclear pharmacist.

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 24:2101 (November 1998).

§703. License Amendments and Provisions for Research Involving Human Subjects

A. A licensee shall apply for and receive a license amendment:

1. before using radioactive material for a method or type of medical use not permitted by the license issued under this Chapter;

2. before permitting anyone to work as an authorized user or authorized nuclear pharmacist under the license, except an individual who is:

- a. an authorized user certified by the organizations specified in LAC 33:XV.763.C.1, D.1, E.1, F.1, H.1, or I.1;
- b. an authorized nuclear pharmacist certified by the organization specified in LAC 33:XV.763.K.1;
- c. identified as an authorized user or an authorized nuclear pharmacist on a division, Nuclear Regulatory Commission, licensing state, or agreement state license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively; or
- d. identified as an authorized user or an authorized nuclear pharmacist on a permit issued by a division, Nuclear Regulatory Commission, licensing state, or agreement state specific licensee of broad scope that is authorized to permit the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively.

* * *

[See Prior Text in A.3-6]

B. Provisions for Research Involving Human Subjects. A licensee may conduct research involving human subjects using radioactive material, provided that the research is conducted, funded, supported, or regulated by a federal agency that has implemented the Federal Policy for the Protection of Human Subjects. Otherwise, a licensee shall apply for and receive approval of a specific amendment to its division license before conducting such research. Both types of licensees shall, at a minimum, obtain informed consent from the human subjects and obtain prior review and approval of the research activities by an "Institutional Review Board" in accordance with the meaning of these terms as defined and described in the Federal Policy for the Protection of Human Subjects.

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 24:2101 (November 1998).

§704. Notifications

A. A licensee shall provide to the division a copy of the board certification, the Nuclear Regulatory Commission, or agreement state license, or the permit issued by a licensee of broad scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user or an authorized nuclear pharmacist in accordance with LAC 33:XV.703.A.2.

B. A licensee shall notify the division by letter no later than 30 days after:

- 1. an authorized user, an authorized nuclear pharmacist, a radiation safety officer, or a teletherapy physicist permanently discontinues performance of duties under the license or has a name change; or
- 2. the licensee's mailing address changes.

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 24:2101 (November 1998).

§707. Radiation Safety Committee

* * *

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

b.i. review, on the basis of safety and with regard to the training and experience standards of this Chapter, and approve or disapprove any individual who is to be listed as an authorized user, an authorized nuclear pharmacist, the radiation safety officer, or a teletherapy physicist before submitting a license application or request for amendment or renewal; and

ii. review, in accordance with LAC 33:XV.703.A.2, on the basis of the board certification, the license, or the permit identifying an individual, and approve or disapprove any individual prior to allowing that individual to work as an authorized user or authorized nuclear pharmacist;

* * *

[See Prior Text in A.2.c-h]

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 24:2102 (November 1998).

§709. Supervision

* * *

[See Prior Text in A-B.3]

C. A licensee that permits the preparation of by-product material for medical use by an individual under the supervision of an authorized nuclear pharmacist or physician who is an authorized user, as allowed by LAC 33:XV.702, shall:

1. instruct the supervised individual in the preparation of by-product material for medical use and the principles of and procedures for radiation safety and in the licensee's written quality management program, as appropriate to that individual's use of by-product material;

2. require the supervised individual to follow the instructions given in accordance with Subsection C.1 of this Section and to comply with the regulations of this Chapter and license conditions; and

3. require the supervising authorized nuclear pharmacist or physician who is an authorized user to periodically review the work of the supervised individual as it pertains to preparing by-product material for medical use and the records kept to reflect that work.

D. A licensee that supervises an individual is responsible for the acts and omissions of the supervised individual.

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 24:2102 (November 1998).

§710. Visiting Authorized User

Repealed.

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), repealed LR 24:2102 (November 1998).

§712. Notifications, Reports, and Records of Misadministrations

A. For a misadministration:

1. the licensee shall notify by telephone the division no later than the next calendar day after discovery of the misadministration;

2. the licensee shall submit a written report to the division within 15 days after discovery of the misadministration. The written report shall include the licensee's name; the prescribing physician's name; a brief description of the event; why the event occurred; the effect on the individual who received the administration; what improvements are needed to prevent recurrence; actions taken to prevent recurrence; whether the licensee notified the individual, or the individual's responsible relative or guardian (this person will be subsequently referred to as "the individual" in this Section), and if not, why not, and if the individual was notified, what information was provided to the individual. The report shall not include the individual's name or other information that could lead to identification of the individual. To meet the requirements of this Section, the notification of the individual receiving the misadministration may be made instead to that individual's responsible relative or guardian, when appropriate;

3. the licensee shall notify the referring physician and also notify the individual receiving the misadministration no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he will inform the individual or that, based on medical judgement, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or individual receiving the misadministration cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the misadministration, because of any delay in notification;

4. if the individual was notified, the licensee shall also furnish, within 15 days after discovery of the misadministration, a written report to the individual by sending either:

a. a copy of the report that was submitted to the division; or

b. a brief description of both the event and the consequences as they may affect the individual, provided a statement is included that the report submitted to the division can be obtained from the licensee.

B. Each licensee shall retain a record of each misadministration for five years. The record shall contain the names of all individuals involved (including the prescribing physician, allied health personnel, the individual who received the misadministration, and the individual's referring physician), the individual's social security number or identification number if one has been assigned, a brief

description of the misadministration, why it occurred, the effect on the individual, what improvements are needed to prevent recurrence, and the actions taken to prevent recurrence.

C. Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, the individual, or the individual's responsible relatives or guardians.

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 24:2102 (November 1998).

§713. Suppliers

A licensee shall use for medical use only:

1. radioactive material, including sealed sources or devices, manufactured, labeled, packaged, and distributed in accordance with a license issued in accordance with these regulations or the equivalent regulations of another agreement state, a licensing state, or the Nuclear Regulatory Commission;

* * *

[See Prior Text in 2-3]

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 24:2103 (November 1998).

§715. Possession, Use, Calibration, and Check of Dose Calibrators and of Instruments to Measure Dosages of Alpha-Emitting or Beta-Emitting Radionuclides

A. A medical use licensee authorized to administer radiopharmaceutical shall possess a dose calibrator and use it to measure the activity of dosages of photon-emitting radionuclides prior to administration to each patient or human research subject.

* * *

[See Prior Text in B-E.4]

F. Possession, Use, Calibration, and Check of Instruments to Measure Dosages of Alpha-Emitting or Beta-Emitting Radionuclides

1. This Subsection does not apply to unit dosages of alpha-emitting or beta-emitting radionuclides that are obtained from a manufacturer or preparer licensed in accordance with LAC 33:XV.Chapter 3, equivalent agreement state, or Nuclear Regulatory Commission requirements.

2. For other than unit dosages obtained in accordance with Subsection F.1 of this Section, a licensee shall possess and use instrumentation to measure the radioactivity of alpha-emitting or beta-emitting radionuclides. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-emitting or beta-emitting radionuclides prior to administration to each patient or human research subject. In addition, the licensee shall:

a. perform tests before initial use, periodically, and following repair on each instrument for accuracy, linearity,

and geometry dependence, as appropriate for the use of the instrument and make adjustments when necessary; and

b. check each instrument for constancy and proper operation at the beginning of each day of use.

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 24:2103 (November 1998).

§717. Assay of Radiopharmaceutical Dosages

A licensee shall do the following:

* * *

[See Prior Text in A-B]

C. Assay before medical use, by direct measurement or by combination of measurements and calculations, the activity of each dosage of an alpha-emitting or a beta-emitting radionuclide, except for unit dosages obtained from a manufacturer or preparer licensed in accordance with LAC 33:XV.Chapter 3, equivalent agreement state, or Nuclear Regulatory Commission requirements.

D. Retain a record of the assays required by Subsections A, B, and C of this Section for two years. To satisfy this requirement, the record shall contain the following:

1. generic name, trade name, or abbreviation of the radiopharmaceutical; its lot number; and expiration dates and the radionuclide;

2. patient's or human research subject's name and identification number if one has been assigned;

3. prescribed dosage and activity of the dosage at the time of assay, or a notation that the total activity is less than 10 microcuries (370 K bq);

4. date and time of the assay and administration; and

5. initials of the individual who performed the assay.

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 24:2103 (November 1998).

§720. Syringe Shields

* * *

[See Prior Text in A]

B. A licensee shall require each individual who prepares or administers radiopharmaceutical to use a syringe radiation shield unless the use of the shield is contraindicated for that patient or human research subject.

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 24:2103 (November 1998).

§721. Syringe Labels

Unless it is utilized immediately, a licensee shall conspicuously label each syringe, or syringe radiation shield that contains a syringe with a radiopharmaceutical, with the radiopharmaceutical name or its abbreviation, the type of diagnostic study or therapy procedure to be performed, or the patient's or human research subject's name.

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 24:2103 (November 1998).

§725. Release of Individuals Containing Radiopharmaceutical or Permanent Implants

A. A licensee may authorize the release from its control of any individual who has been administered radiopharmaceutical or permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).

B. A licensee shall provide the released individual with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the dose to a breast-feeding infant or child could exceed one millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:

1. guidance on the interruption or discontinuation of breast-feeding; and
2. information on the consequences of failure to follow the guidance.

C. The licensee shall maintain a record of the basis for authorizing the release of an individual for three years after the date of release, if the total effective dose equivalent is calculated by:

1. using the retained activity rather than the activity administered;
2. using an occupancy factor less than 0.25 at one meter;
3. using the biological or effective half-life; or
4. considering the shielding by tissue.

D. The licensee shall maintain a record for three years after the date of release that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 millisieverts (0.5 rem).

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).

§729. Use of Radiopharmaceutical for Uptake, Dilution, or Excretion Studies

* * *

[See Prior Text in A-B]

C. The radiopharmaceutical specified in Subsection A of this Section shall be either:

1. obtained from a manufacturer or preparer licensed in accordance with LAC 33:XV.328.J or equivalent Nuclear Regulatory Commission, or agreement state requirements; or
2. prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.C, or an individual

under the supervision of either as specified in LAC 33:XV.709.

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).

§731. Use of Radiopharmaceutical, Generators, and Reagent Kits or Imaging and Localization Studies

* * *

[See Prior Text in A-E]

F. The radiopharmaceutical specified in Subsection A of this Section shall be either:

1. obtained from a manufacturer or preparer licensed in accordance with LAC 33:XV.328.K or equivalent Nuclear Regulatory Commission, or agreement state requirements; or
2. prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.C, or an individual under the supervision of either as specified in LAC 33:XV.709.

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).

§735. Use of Radiopharmaceutical for Therapy

A. A licensee may use the following prepared radiopharmaceutical:

1. iodine-131 as iodide for treatment of hyperthyroidism, cardiac dysfunction, and thyroid carcinoma;
2. phosphorus-32 as soluble phosphate for treatment of polycythemia vera, leukemia, and bone metastases;
3. phosphorus-32 as colloidal chromic phosphate for intracavitary treatment of malignant effusions;
4. any radioactive material in a radiopharmaceutical and for a therapeutic use for which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND), or approved a "New Drug Application" (NDA). The licensee shall comply with the package insert instructions regarding indications and method of administration.

B. The radiopharmaceutical specified in Subsection A of this Section shall be either:

1. obtained from a manufacturer or preparer licensed in accordance with LAC 33:XV.328.J or equivalent Nuclear Regulatory Commission or agreement state requirements; or
2. prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in LAC 33:XV.763.C, or an individual under the supervision of either as specified in LAC 33:XV.709.

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).

§736. Safety Instruction

A. A licensee shall provide oral and written radiation safety instruction for all personnel caring for patients or human research subjects undergoing radiopharmaceutical therapy. Refresher training shall be provided at intervals not to exceed one year.

B. To satisfy Subsection A of this Section, the instruction shall describe the licensee's procedures for:

- 1. patient or human research subject control;

* * *

[See Prior Text in B.2-4]

5. notification of the radiation safety officer or authorized user in the case of the patient's or human research subject's death or medical emergency; and

* * *

[See Prior Text in B.6-C]

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 24:2105 (November 1998).

§737. Safety Precautions

A. For each patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with LAC 33:XV.725, a licensee shall do the following:

- 1. provide a private room with a private sanitary facility;
- 2. post the patient's or human research subject's door with a "Caution: Radioactive Material" sign and note on the door or on the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room;

* * *

[See Prior Text in A.3-4]

5. either monitor material and items removed from the patient's or human research subject's room to determine that any contamination cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle these materials and items as radioactive waste;

6. survey the patient's or human research subject's room and private sanitary facility for removable contamination with a radiation detection survey instrument before assigning another patient or human research subject to the room. The room shall not be reassigned until removable contamination is less than 200 disintegrations per minute (3.33 Bq) per 100 square centimeters; and

7. submit to the division an acceptable procedure to measure the thyroid burden of each individual who helps prepare or administer a dosage of iodine-131. Measurements shall be performed within three days after administering the dosage, and records shall include each thyroid burden measurement, date of measurement, the name of the individual whose thyroid burden was measured, and the initials of the individual who made the measurements. The records shall be retained for the period required by LAC 33:XV.472.B.

B. A licensee shall notify the radiation safety officer or the authorized user immediately if the patient or human research subject dies or has a medical emergency.

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 24:2105 (November 1998).

§742. Safety Instructions

A. The licensee shall provide oral and written radiation safety instruction to all personnel caring for a patient or human research subject receiving implant therapy. Refresher training shall be provided at intervals not to exceed one year.

* * *

[See Prior Text in B-B.2]

3. procedures for patient or human research subject control;

4. procedures for visitor control;

5. procedures for notification of the radiation safety officer or authorized user if the patient or human research subject dies or has a medical emergency; and

* * *

[See Prior Text in B.6-C]

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 24:2105 (November 1998).

§743. Safety Precautions

A. For each patient or human research subject receiving implant therapy and not released from licensee control in accordance with LAC 33:XV.725, a licensee shall:

1. not quarter the patient or human research subject in the same room as an individual who is not receiving radiation therapy;

2. post the patient's or human research subject's door with a "Caution: Radioactive Materials" sign and note on the door or the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room;

3. authorize visits by individuals under 18 years of age only on a case-by-case basis with the approval of the authorized user after consultation with the radiation safety officer; and

4. promptly after implanting the sources, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with LAC 33:XV.415.A and retain for two years a record of each survey that includes the time and date of the survey, a sketch of the area or list of points surveyed, the measured dose rate at several points expressed in milliroentgens per hour, the instrument used to make the survey, and the initials of the individual who made the survey.

B. A licensee shall notify the radiation safety officer or authorized user immediately if the patient or human research subject dies or has a medical emergency.

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 24:2105 (November 1998).

§744. Brachytherapy Sources Inventory

A. Promptly after removing them from a patient or a human research subject, the licensee shall return brachytherapy sources to an area of storage from the area of use, and immediately count or otherwise verify the number returned to ensure that all sources taken from the storage area have been returned.

* * *

[See Prior Text in B-B.1]

2. the number and activity of sources removed from storage, the room number of use and patient's or human research subject's name, the time and date the sources were removed from storage, the number and activity of sources in storage after the removal, and the initials of the individual who removed the sources from storage; and

3. the number and activity of sources returned to storage, the room number of use and patient's or human research subject's name, the time and date they were returned to storage, the number and activity of sources in storage after the return, and the initials of the individual who returned the sources to storage.

C. Immediately after implanting sources in a patient or human research subject and immediately after removal of sources from a patient or human research subject, the licensee shall make a radiation survey of the patient or human research subject and the area of use to confirm that no sources have been misplaced. The licensee shall make a record of each survey.

* * *

[See Prior Text in D]

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 24:2106 (November 1998).

§745. Release of Patients or Human Research Subjects Treated with Temporary Implants

A. Immediately after removing the last temporary implant source from a patient or human research subject, the licensee shall perform a radiation survey of the patient or human research subject with a radiation detection survey instrument to confirm that all sources have been removed. The licensee shall not release from confinement for medical care a patient or human research subject treated by temporary implant until all sources have been removed.

B. A licensee shall maintain a record of patient or human research subject surveys that demonstrates compliance with Subsection A of this Section for two years. Each record shall include the date of the survey, the name of the patient or human research subject, the dose rate from the patient or human research subject expressed as milliroentgens per hour and measured within one meter from the patient or human research subject, and the initials of the individual who made the survey.

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 24:2106 (November 1998).

§750. Safety Instruction

* * *

[See Prior Text in A]

1. the procedure to be followed to ensure that only the patient or human research subject is in the treatment room before turning the primary beam of radiation "on" to begin a treatment or after a door interlock interruption;

* * *

[See Prior Text in A.2-C]

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 24:2106 (November 1998).

§753. Radiation Monitoring Device

* * *

[See Prior Text in A-C]

D. A radiation monitor shall be checked with a dedicated check source for proper operation each day before the teletherapy unit is used for treatment of patients or human research subjects.

* * *

[See Prior Text in E-G]

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 24:2106 (November 1998).

§754. Viewing System

A licensee shall construct or equip each teletherapy room to permit continuous observation of the patient or human research subject from the teletherapy unit console during irradiation.

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 24:2106 (November 1998).

§763. Training

A. Radiation Safety Officer. Except as provided in Subsection B of this Section, an individual fulfilling the responsibilities of the radiation safety officer as provided in LAC 33:XV.706 shall:

1. be certified by the:

a. American Board of Health Physics in Comprehensive Health Physics;

b. American Board of Radiology in Radiological Physics, Therapeutic Radiological Physics, or Medical Nuclear Physics;

c. American Board of Nuclear Medicine;

d. American Board of Science in Nuclear Medicine;

e. Board of Pharmaceutical Specialties in Nuclear Pharmacy;

f. American Board of Medical Physics in Radiation Oncology Physics;

- g. Royal College of Physicians and Surgeons of Canada in Nuclear Medicine;
- h. American Osteopathic Board of Radiology; or
- i. American Osteopathic Board of Nuclear Medicine;

or

2. have had 200 hours of classroom and laboratory training as follows:

- a. radiation physics and instrumentation;
- b. radiation protection;
- c. mathematics pertaining to the use and measurement of radioactivity;
- d. radiation biology;
- e. radiopharmaceutical chemistry; and
- f. one year of full-time experience in radiation safety

at a medical institution under the supervision of the individual identified as the radiation safety officer on a division, agreement state, licensing state, or Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

3. be an authorized user for those radioactive material uses that come within the radiation safety officer's responsibilities.

B. Experienced Radiation Safety Officer. An individual identified as a radiation safety officer on a division, agreement state, licensing state, or Nuclear Regulatory Commission license on February 20, 1991, who oversees only the use of radioactive material for which the licensee was authorized on that date need not comply with the training requirements of Subsection A of this Section.

C. Uptake, Dilution, or Excretion Studies. Except as provided in Subsections M and N of this Section, the licensee shall require the authorized user of a radiopharmaceutical listed in LAC 33:XV.729 to be a physician who:

- 1. is certified in:
 - a. nuclear medicine by the American Board of Nuclear Medicine;
 - b. diagnostic radiology by the American Board of Radiology;
 - c. diagnostic radiology or radiology within the previous five years by the American Osteopathic Board of Radiology;
 - d. nuclear medicine by the American Osteopathic Board of Nuclear Medicine; or
 - e. nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or

2. has completed 40 hours of instruction in basic radionuclide handling techniques applicable to the use of prepared radiopharmaceutical, and 20 hours of supervised clinical experience.

- a. To satisfy the basic instruction requirement, 40 hours of classroom and laboratory instruction shall include:
 - i. radiation physics and instrumentation;
 - ii. radiation protection;
 - iii. mathematics pertaining to the use and measurement of radioactivity;
 - iv. radiation biology; and
 - v. radiopharmaceutical chemistry.

b. To satisfy the requirement for 20 hours of supervised clinical experience, training shall be under the

supervision of an authorized user at a medical institution and shall include:

- i. examining patients or human research subjects and reviewing their case histories to determine their suitability for radionuclide diagnosis, limitations, or contraindications;
- ii. selecting the suitable radiopharmaceutical and calculating and measuring the dosages;
- iii. administering dosages to patients or human research subjects and using syringe radiation shields;
- iv. collaborating with the authorized user in the interpretation of radionuclide test results; and
- v. patient or human research subject follow-up; or

3. has successfully completed a six-month training program in nuclear medicine as part of a training program that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience, and supervised clinical experience in all the topics identified in Subsection C.2.b of this Section.

D. Imaging and Localization Studies. Except as provided in Subsections M and N of this Section, the licensee shall require the authorized user of a radiopharmaceutical, generator, or reagent kit specified in LAC 33:XV.731 to be a physician who:

- 1. is certified in:
 - a. nuclear medicine by the American Board of Nuclear Medicine;
 - b. diagnostic radiology by the American Board of Radiology;
 - c. diagnostic radiology or radiology within the previous five years by the American Osteopathic Board of Radiology;
 - d. nuclear medicine by the American Osteopathic Board of Nuclear Medicine; or
 - e. nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or

2. has completed 200 hours of instruction in basic radionuclide handling techniques applicable to the use of prepared radiopharmaceutical, generators, and reagent kits; 500 hours of supervised work experience; and 500 hours of supervised clinical experience.

- a. To satisfy the basic instruction requirement, 200 hours of classroom and laboratory training shall include:
 - i. radiation physics and instrumentation;
 - ii. radiation protection;
 - iii. mathematics pertaining to the use and measurement of radioactivity;
 - iv. radiopharmaceutical chemistry;
 - v. radiation biology; and
 - vi. certification by the physician that he or she participated in the required number of hours and has successfully passed an appropriate written examination given by the certifying institution.

b. To satisfy the requirement for 500 hours of supervised work experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

- i. ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

ii. calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;

iii. calculating and safely preparing patient or human research subject dosages;

iv. using administrative controls to prevent the misadministration of radioactive material;

v. using emergency procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

vi. eluting technetium-99m from generator systems, assaying and testing the eluate for molybdenum-99 and alumina contamination, and processing the eluate with reagent kits to prepare technetium-99m labeled radio-pharmaceuticals.

c. To satisfy the requirement for 500 hours of supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

i. examining patients or human research subjects and reviewing their case histories to determine their suitability for radionuclide diagnosis, limitations, or contraindications;

ii. selecting the suitable radiopharmaceutical and calculating and measuring the dosages;

iii. administering dosages to patients or human research subjects and using syringe radiation shields;

iv. collaborating with the authorized user in the interpretation of radionuclide test results; and

v. patient or human research subject follow-up; or

3. has successfully completed a six-month training program in nuclear medicine that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience, and supervised clinical experience in all the topics identified in Subsection D.2 of this Section.

E. Therapeutic Use of Radiopharmaceutical. Except as provided in Subsection M of this Section, the licensee shall require the authorized user of a radiopharmaceutical listed in LAC 33:XV.735 for therapy to be a physician who:

1. is certified by:

a. the American Board of Nuclear Medicine;

b. the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology;

c. the Royal College of Physicians and Surgeons of Canada in nuclear medicine; or

d. the American Osteopathic Board of Radiology after 1984; or

2. has completed 80 hours of instruction in basic radionuclide handling techniques applicable to the use of therapeutic radiopharmaceutical and has had supervised clinical experience.

a. To satisfy the requirement for instruction, 80 hours of classroom and laboratory training shall include:

i. radiation physics and instrumentation;

ii. radiation protection;

iii. mathematics pertaining to the use and measurement of radioactivity; and

iv. radiation biology.

b. To satisfy the requirement for supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

i. use of iodine-131 for diagnosis of thyroid function and the treatment of hyperthyroidism or cardiac dysfunction in 10 individuals;

ii. use of soluble phosphorus-32 for the treatment of ascites, polycythemia vera, leukemia, or bone metastases in three individuals;

iii. use of iodine-131 for treatment of thyroid carcinoma in three individuals; and

iv. use of colloidal chromic phosphorus-32 or of colloidal gold-198 for intracavitary treatment of malignant effusions in three individuals.

F. Therapeutic Use of Brachytherapy Sources. Except as provided in Subsection M of this Section, the licensee shall require the authorized user using a brachytherapy source specified in LAC 33:XV.741 for therapy to be a physician who:

1. is certified in:

a. radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology;

b. radiation oncology by the American Osteopathic Board of Radiology;

c. radiology, with a specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

d. therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

2. is in the active practice of therapeutic radiology, has completed 200 hours of instruction in basic radionuclide handling techniques applicable to the therapeutic use of brachytherapy sources and 500 hours of supervised work experience and a minimum of three years of supervised clinical experience.

a. To satisfy the requirement for instruction, 200 hours of classroom and laboratory training shall include:

i. radiation physics and instrumentation;

ii. radiation protection;

iii. mathematics pertaining to the use and measurement of radioactivity; and

iv. radiation biology.

b. To satisfy the requirement for 500 hours of supervised work experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

i. ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

ii. checking survey meters for proper operation;

iii. preparing, implanting, and removing sealed sources;

iv. using administrative controls to prevent the misadministration of radioactive material; and

v. using emergency procedures to control radioactive material.

c. To satisfy the requirement for a period of supervised clinical experience, training shall include one year

in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

- i. examining individuals and reviewing their case histories to determine their suitability for brachytherapy treatment, and any limitations or contraindications;
- ii. selecting the proper brachytherapy sources, dose, and method of administration;
- iii. calculating the dose; and
- iv. post-administration follow-up and review of case histories in collaboration with the authorized user.

G. Ophthalmic Use of Strontium-90. Except as provided in Subsection M of this Section, the licensee shall require the authorized user using only strontium-90 for ophthalmic radiotherapy to be a physician who:

1. is certified in radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or
2. is in the active practice of therapeutic radiology or ophthalmology, and has completed 24 hours of instruction in basic radionuclide handling techniques applicable to the use of strontium-90 for ophthalmic radiotherapy, and a period of supervised clinical training in ophthalmic radiotherapy.
 - a. To satisfy the requirement for instruction, the classroom and laboratory training shall include:
 - i. radiation physics and instrumentation;
 - ii. radiation protection;
 - iii. mathematics pertaining to the use and measurement of radioactivity; and
 - iv. radiation biology.
 - b. To satisfy the requirement for a period of supervised clinical training in ophthalmic radiotherapy, training shall be under the supervision of an authorized user at a medical institution and shall include the use of strontium-90 for the ophthalmic treatment of five individuals that includes:
 - i. examination of each individual to be treated;
 - ii. calculation of the dose to be administered;
 - iii. administration of the dose; and
 - iv. follow-up and review of each individual's case history.

H. Use of Sealed Sources for Diagnosis. Except as provided in Subsection M of this Section, the licensee shall require the authorized user using a sealed source in a device specified in LAC 33:XV.739 to be a physician, dentist, or podiatrist who:

1. is certified in:
 - a. radiology, diagnostic radiology with special competence in nuclear radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology;
 - b. nuclear medicine by the American Board of Nuclear Medicine;
 - c. diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or

d. nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or

2. has completed eight hours of classroom and laboratory instruction in basic radionuclide handling techniques specifically applicable to the use of the device.

a. To satisfy the requirement for instruction, the training shall include:

- i. radiation physics, mathematics pertaining to the use and measurement of radioactivity, and instrumentation;
- ii. radiation biology; and
- iii. radiation protection and training in the use of the device for the purposes authorized by the license.

I. Teletherapy. Except as provided in Subsection M of this Section, the licensee shall require the authorized user of a sealed source specified in LAC 33:XV.747 in a teletherapy unit to be a physician who:

1. is certified in:
 - a. radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology;
 - b. radiation oncology by the American Osteopathic Board of Radiology;
 - c. radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or
 - d. therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
2. is in the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic radionuclide techniques applicable to the use of a sealed source in a teletherapy unit, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
 - a. To satisfy the requirement for instruction, the classroom and laboratory training shall include:
 - i. radiation physics and instrumentation;
 - ii. radiation protection;
 - iii. mathematics pertaining to the use and measurement of radioactivity; and
 - iv. radiation biology.
 - b. To satisfy the requirement for supervised work experience, training shall be under the supervision of an authorized user at an institution and shall include:
 - i. review of the full calibration measurements and periodic spot-checks;
 - ii. preparing treatment plans and calculating treatment times;
 - iii. using administrative controls to prevent misadministrations;
 - iv. implementing emergency procedures to be followed in the event of the abnormal operation of a teletherapy unit or console; and
 - v. checking and using survey meters.
 - c. To satisfy the requirement for a period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic

Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

- i. examining individuals and reviewing their case histories to determine their suitability for teletherapy treatment, and any limitations or contraindications;
- ii. selecting the proper dose and how it is to be administered;
- iii. calculating the teletherapy doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses as warranted by patients' or human research subjects' reactions to radiation; and
- iv. post-administration follow-up and review of case histories.

J. Teletherapy Physicist. A teletherapy physicist shall meet the criteria in the definition of *Radiological Physicist* in LAC 33:XV.Chapter 1.

K. Authorized Nuclear Pharmacist. The licensee shall require the authorized nuclear pharmacist to be a pharmacist who either:

1. has current board certification as a nuclear pharmacist by the Board of Pharmaceutical Specialties; or
2. has obtained written certification, signed by a preceptor authorized nuclear pharmacist, that the individual has achieved a level of competency sufficient to independently operate a nuclear pharmacy and that the individual has completed 700 hours in a structured educational program consisting of both:
 - a. didactic training in the following areas:
 - i. radiation physics and instrumentation;
 - ii. radiation protection;
 - iii. mathematics pertaining to the use and measurement of radioactivity;
 - iv. chemistry of by-product material for medical use; and
 - v. radiation biology; and
 - b. supervised experience in a nuclear pharmacy involving the following:
 - i. shipping, receiving, and performing related radiation surveys;
 - ii. using and performing checks for proper operation of dose calibrators, survey meters, and if appropriate, instruments used to measure alpha-emitting or beta-emitting radionuclides;
 - iii. calculating, assaying, and safely preparing dosages for patients or human research subjects;
 - iv. using administrative controls to avoid mistakes in the administration of by-product material; and
 - v. using procedures to prevent or minimize contamination and using proper decontamination procedures.

L. Experienced Nuclear Pharmacists. A licensee may apply for and shall receive a license amendment identifying an experienced nuclear pharmacist as an authorized nuclear pharmacist before it allows this individual to work as an authorized nuclear pharmacist. A pharmacist who has completed a structured educational program, as specified in

Subsection K of this Section, before December 2, 1994, and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements on preceptor statement, as specified in Subsection K of this Section, and recentness of training, as specified in Subsection O of this Section, to qualify as an authorized nuclear pharmacist.

M. Experienced Authorized Users. Practitioners of the healing arts identified as authorized users for the human use of radioactive material on a division license on February 20, 1991, who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of this Section.

N. Physician Training in a Three-Month Program. A physician who, before July 1, 1984, began a three-month nuclear medicine training program approved by the Accreditation Council for Graduate Medical Education and has successfully completed the program, is exempted from the requirements of Subsection C or D of this Section.

O. Recentness of Training. The training and experience specified in Subsections A-L of this Section shall have been obtained within the five years preceding the date of application, or the individual shall have had continuing applicable experience since the required training and experience was completed.

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 24:2106 (November 1998).

§777. Quality Management Program

* * *

[See Prior Text in A-A.1.e]

2. that, prior to each administration, the patient's or human research subject's identity is verified by more than one method as the individual named in the written directive;

* * *

[See Prior Text in A.3-B.1]

a. a representative sample of patient or human research subject administrations;

* * *

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

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 21:554 (June 1995), amended LR 24:2110 (November 1998).

Chapter 10. Notices, Instructions, and Reports to Workers; Inspections

§1012. Instructions To Workers

A. All individuals who, in the course of employment, are likely to receive in a year an occupational dose in excess of 100 mrem (1 mSv) shall be:

1. kept informed of the storage, transfer, or use of sources of radiation in the licensee's or registrant's workplace;
2. instructed in the health protection problems associated with exposure to such radioactive material or

radiation (including biological risks to an embryo or fetus), in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;

3. instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of the Louisiana Radiation Protection Regulations (LAC 33:XV) and licenses for the protection of personnel from exposures to radiation or radioactive material;

4. instructed of their responsibility to report promptly to the licensee or registrant any condition that may constitute, lead to, or cause a violation of the Louisiana Radiation Protection Regulations (LAC 33:XV) and licenses or unnecessary exposure to radiation or radioactive material;

5. instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and

6. advised as to the radiation exposure reports that workers shall be furnished in accordance with LAC 33:XV.1013.

B. The extent of the instructions required by Subsection A of this Section shall be commensurate with potential radiological health protection problems present in the workplace.

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), LR 22:976 (October 1996), amended LR 24:2110 (November 1998).

§1013. Notifications and Reports to Individuals

* * *

[See Prior Text in A-C]

D. When a licensee or registrant is required, in accordance with LAC 33:XV.486, 487, or 488, to report to the division any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee or the registrant shall also provide the individual a written report on his or her exposure data included therein. Such reports shall be transmitted at a time not later than the transmittal to the division.

* * *

[See Prior Text in 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), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), amended LR 24:2111 (November 1998).

Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste

Subchapter A. General Provisions

§1307. Specific Technical Information

The specific technical information shall include the following information needed for demonstration that the performance objectives and the applicable technical requirements of this Chapter will be met:

* * *

[See Prior Text in A-M]

N. A description of the facility electronic recordkeeping system as required in LAC 33:XV.1333.J.

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 23:1139 (September 1997), amended LR 24:2111 (November 1998).

Subchapter E. Records, Reports, Tests, and Inspections

§1333. Maintenance of Records, Reports, and Transfers

* * *

[See Prior Text in A-B]

C. Records which shall be maintained in accordance with this Chapter may be the original or a reproduced copy or microfilm if this reproduced copy or microfilm is capable of producing copy that is clear and legible at the end of the required retention period. The record may also be stored in electronic media with the capability of producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, shall include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

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 county in which the facility is located, the county zoning board or land development and planning agency, the state governor, and other state, local, and federal governmental agencies as designated by the division at the time of license termination.

E. Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date of disposal of the waste, the date that the shipment is received at the disposal facility, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the containment integrity of the waste packages as received, any discrepancies between materials listed on the manifest and those received, the volume of any pallets, bracing, or other shipping or on-site generated materials that are contaminated and are disposed of as contaminated or suspect materials, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of limits specified in U.S. Department of Transportation and division regulations. The licensee shall briefly describe any repackaging operations of any of the waste packages included in the shipment, plus any other information required by the division as a license condition. The licensee shall retain these records until the division transfers or terminates the license that authorizes the activities described in this Section.

* * *

[See Prior Text in F]

G. Each licensee authorized to dispose of waste received from other persons, in accordance with this Chapter, shall submit annual reports to the division. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.

* * *

[See Prior Text in G.1-1.f]

2. If the quantities of waste released during the reporting period, monitoring results, or maintenance performed are significantly different from those expected in the materials previously viewed as part of the licensing action, the report shall cover this specifically.

H. If there is a conflict between the division's regulations in this Chapter, license condition, or other written division approval or authorization pertaining to the retention period for the same type of record, the longest retention period specified takes precedence.

I. Any transfer of radioactive materials by the licensee is subject to the requirements in LAC 33:XV.340.

J. In addition to the other requirements of this Section, the licensee shall store, or have stored, manifest and other information pertaining to receipt and disposal of radioactive waste in an electronic recordkeeping system.

1. The manifest information that shall be electronically stored is:

a. that required in LAC 33:XV.Chapter 4.Appendix D, with the exception of shipper and carrier telephone numbers and shipper and consignee certifications; and

b. that information required in Subsection E of this Section.

2. If specified in facility license conditions, the licensee shall report the stored information, or subsets of this information, on a computer-readable medium, as defined in LAC 33:XV.Chapter 4.Appendix 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), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2111 (November 1998).

Chapter 17. Licensing and Radiation Safety Requirements for Irradiators

§1701. Purpose and Scope

A. This Chapter contains requirements for the issuance of a license authorizing the use of sealed sources containing radioactive material in irradiators used to irradiate objects or materials using gamma radiation. This Chapter also contains radiation safety requirements for operating irradiators. The requirements of this Chapter are in addition to other requirements of these regulations. In particular, the provisions of LAC 33:XV.Chapters 1,3,4, and 10 apply to applications and licenses subject to this Chapter. Nothing in this Chapter relieves the licensee from complying with other applicable federal, state, and local regulations governing the siting, zoning, land use, and building code requirements for industrial facilities.

B. The regulations in this Chapter apply to panoramic irradiators that have either dry or wet storage of the radioactive

sealed sources and to underwater irradiators in which both the source and the product being irradiated are under water. Irradiators whose dose rates exceed 5 grays (500 rads) per hour at one meter from the radioactive sealed sources in air or in water, as applicable for the irradiator type, are covered by this Chapter.

C. The regulations in this Chapter do not apply to self-contained dry-source-storage irradiators in which both the source and the area subject to irradiation are contained within a device and are not accessible by personnel, medical radiology or teletherapy, radiography for the irradiation of materials for nondestructive testing purposes, gauging, or open-field, agricultural, irradiations.

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 24:2112 (November 1998).

§1703. Definitions

As used in this Chapter, the following definitions apply. Other definitions applicable to this Chapter may be found in LAC 33:XV.Chapters 1 and 2.

Annually—at intervals not to exceed one year.

Doubly Encapsulated Sealed Source—a sealed source in which the radioactive material is sealed within an inner capsule and that capsule is sealed within an outer capsule.

Irradiator—a facility that uses radioactive sealed sources for the irradiation of objects or materials and in which radiation dose rates exceeding five grays (500 rads) per hour exist at one meter from the sealed radioactive sources in air or water, as applicable for the irradiator type, but does not include irradiators in which both the sealed source and the area subject to irradiation are contained within a device and are not accessible to personnel.

Irradiator Operator—an individual who has successfully completed the training and testing described in LAC 33:XV.1735 and is authorized by the terms of the license to operate the irradiator without a supervisor present.

Irradiator Operator Supervisor—an individual who meets the requirements for an irradiator operator and who physically oversees operation of the irradiator by an individual who is currently receiving training and testing described in LAC 33:XV.1735.

Panoramic Dry-Source-Storage Irradiator—an irradiator in which the irradiations occur in air in areas potentially accessible to personnel and in which the sources are stored in shields made of solid materials. The term includes beam-type dry-source-storage irradiators in which only a narrow beam of radiation is produced for performing irradiations.

Panoramic Irradiator—an irradiator in which the irradiations are done in air in areas potentially accessible to personnel. The term includes beam-type irradiators.

Panoramic Wet-Source-Storage Irradiator—an irradiator in which the irradiations occur in air in areas potentially accessible to personnel and in which the sources are stored under water in a storage pool.

Pool Irradiator—any irradiator at which the sources are stored or used in a pool of water including panoramic wet-source-storage irradiators and underwater irradiators.

Product Conveyor System—a system for moving the product to be irradiated to, from, and within the area where irradiation takes place.

Radiation Room—a shielded room in which irradiations take place. Underwater irradiators do not have radiation rooms.

Sealed Source—any radioactive material that is used as a source of radiation and is encased in a capsule designed to prevent leakage or escape of the by-product material.

Seismic Area—any area where the probability of a horizontal acceleration in rock of more than 0.3 times the acceleration of gravity in 250 years is greater than 10 percent, as designated by the U.S. Geological Survey.

Underwater Irradiator—an irradiator in which the sources always remain shielded under water and humans do not have access to the sealed sources or the space subject to irradiation without entering the pool.

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 24:2112 (November 1998).

§1705. License Required

No person shall manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for use in an irradiator, except in accordance with a specific license issued by the division, the Nuclear Regulatory Commission, or an agreement state. Specific license application procedures and requirements may be found in LAC 33:XV.Chapter 3.

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 24:2113 (November 1998).

§1707. Start of Construction

An applicant for a license shall not begin construction of a new irradiator prior to the submission to the division of both an application for a license for the irradiator and any fee required by the applicable state requirement or statute. As used in this Chapter, the term *construction* includes the construction of any portion of the permanent irradiator structure on the site but does not include engineering and design work, purchase of a site, site surveys or soil testing, site preparation, site excavation, construction of warehouse or auxiliary structures, and other similar tasks. Any activities undertaken prior to the issuance of a license are entirely at the risk of the applicant and have no bearing on the issuance of a license with respect to the requirements of the appropriate state statute, rules, regulations, and orders issued under the appropriate state statute.

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 24:2113 (November 1998).

§1709. Applications for Exemptions

Any application for a license or for amendment of a license authorizing use of a teletherapy-type unit for irradiation of materials or objects may include proposed alternatives for the requirements of this Chapter. The division shall approve the proposed alternatives if the applicant provides adequate rationale for the proposed alternatives and demonstrates that they are likely to provide an adequate level of safety for workers and the public.

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 24:2113 (November 1998).

§1711. Request for Written Statements

Each license is issued with the condition that the licensee shall, at any time before expiration of the license and upon the division's request, submit a written statement to enable the division to determine whether the license should be modified, suspended, or revoked.

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 24:2113 (November 1998).

§1713. Performance Criteria for Sealed Sources

A. Requirements for sealed sources installed after promulgation of this Chapter:

1. shall have been evaluated by the division, the Nuclear Regulatory Commission, or an agreement state in accordance with 10 CFR 32.210;

2. shall be doubly encapsulated;

3. shall use radioactive material that is as nondispersible as practical and that is as insoluble as practical if the source is used in a wet-source-storage or wet-source-change irradiator;

4. shall be encapsulated in a material resistant to general corrosion and to localized corrosion, such as 316L stainless steel or other material with equivalent resistance, if the sources are for use in irradiator pools; and

5. in prototype testing of the sealed source, shall have been leak-tested and found leak-free after each of the tests described in Subsections B-G of this Section.

B. Temperature. The test source shall be held at -40EC for 20 minutes, 600EC for one hour, and then be subjected to thermal shock test with a temperature drop from 600EC to 20EC within 15 seconds.

C. Pressure. The test source shall be twice subjected for at least five minutes to an absolute external pressure of two million newtons per square meter.

D. Impact. A two kilogram steel weight, 2.5 centimeters in diameter, shall be dropped from a height of one meter onto the test source.

E. Vibration. The test source shall be subjected three times for ten minutes each to vibrations sweeping from 25 hertz to 500 hertz with a peak amplitude of five times the acceleration

of gravity. In addition, each test source shall be vibrated for 30 minutes at each resonant frequency found.

F. Puncture. A 50 gram weight and pin, 0.3 centimeter pin diameter, shall be dropped from a height of one meter onto the test source.

G. Bend. If the length of the source is more than 15 times larger than the minimum cross-sectional dimension, the test source shall be subjected to a force of 2,000 newtons at its center equidistant from two support cylinders, the distance between which is 10 times the minimum cross-sectional dimension of the source.

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 24:2113 (November 1998).

§1715. Access Control

A. Each entrance to a radiation room at a panoramic irradiator shall have a door or other physical barrier to prevent inadvertent entry of personnel, if the sources are not in the shielded position. Product conveyor systems may serve as barriers as long as they reliably and consistently function as a barrier. It shall not be possible to move the sources out of their shielded position if the door or barrier is open. Opening the door or barrier while the sources are exposed shall cause the sources to return promptly to the shielded position. The personnel entrance door or barrier shall have a lock that is operated by the same key used to move the sources. The control panel lock shall be designed so that the key cannot be removed unless the sources have been returned to the shielded position. The doors and barriers shall not prevent any individual in the radiation room from leaving.

B. In addition, each entrance to a radiation room at a panoramic irradiator shall have an independent backup access control to detect personnel entry while the sources are exposed. Detection of entry while the sources are exposed shall cause the sources to return to their fully shielded position and shall also activate a visible and audible alarm to make the individual entering the room aware of the hazard. The alarm shall also alert at least one other individual who is on-site of the entry. That individual shall be trained on how to respond to the alarm and prepared to promptly render or summon assistance.

C. A radiation monitor shall be provided to detect the presence of high radiation levels in the radiation room of a panoramic irradiator before personnel entry. The monitor shall be integrated with personnel access door locks to prevent room access when radiation levels are high. Attempted personnel entry while the monitor measures high radiation levels shall activate the alarm described in Subsection B of this Section. The monitor may be located in the entrance, normally referred to as the maze, but not in the direct radiation beam.

D. Before the sources move from their shielded position in a panoramic irradiator, the source control shall automatically activate conspicuous visible and audible alarms to alert people in the radiation room that the sources shall be moved from their shielded position. The alarms shall give individuals

enough time to leave the room before the sources leave the shielded position.

E. Each radiation room at a panoramic irradiator shall have a clearly visible and readily accessible control that would allow an individual in the room to make the sources return to their fully shielded position.

F. Each radiation room of a panoramic irradiator shall contain a control that prevents the sources from moving from the shielded position unless the control has been activated and the door or barrier to the radiation room has been closed within a preset time after activation of the control.

G. Each entrance to the radiation room of a panoramic irradiator and each entrance to the area within the personnel access barrier of an underwater irradiator shall have a sign bearing the radiation symbol and the words, "Caution (or danger) radioactive material." Panoramic irradiators shall also have a sign stating "Grave danger, very high radiation area," but the sign may be removed, covered, or otherwise made inoperative when the sources are fully shielded.

H. If the radiation room of a panoramic irradiator has roof plugs or other movable shielding, it shall not be possible to operate the irradiator unless the shielding is in its proper location. The requirement may be met by interlocks that prevent operation if shielding is not placed properly or by an operating procedure requiring inspection of shielding before operating.

I. Underwater irradiators shall have a personnel access barrier around the pool, which shall be locked to prevent access when the irradiator is not attended. Only operators or facility management shall have access to keys that operate the personnel access barrier. There shall be an intrusion alarm to detect unauthorized entry when the personnel access barrier is locked. Activation of the intrusion alarm shall alert an individual who is not necessarily on-site, but who is prepared to respond or summon assistance.

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 24:2114 (November 1998).

§1717. Shielding

A. The radiation dose rate in areas that are normally occupied during operation of a panoramic irradiator shall not exceed 0.02 millisievert (2 mrem) per hour at any location 30 centimeters or more from the wall of the room when the sources are exposed. The dose rate shall be averaged over an area not to exceed 100 square centimeters having no linear dimension greater than 20 centimeters. Any area where the radiation dose rate exceeds 0.02 millisievert (2 mrem) per hour shall be locked, roped off, or posted.

B. The radiation dose at 30 centimeters over the edge of the pool of a pool irradiator shall not exceed 0.02 millisievert (2 mrem) per hour when the sources are in the fully shielded position.

C. The radiation dose rate at one meter from the shield of a dry-source-storage panoramic irradiator when the source is shielded shall not exceed 0.02 millisievert (two mrem) per hour and at five centimeters from the shield shall not exceed 0.2 millisievert (20 mrem) per hour.

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 24:2114 (November 1998).

§1719. Fire Protection

A. The radiation room at a panoramic irradiator shall have heat and smoke detectors. The detectors shall activate an audible alarm. The alarm shall be capable of alerting a person who is prepared to summon assistance promptly. The sources shall automatically become fully shielded if a fire is detected.

B. The radiation room at a panoramic irradiator shall be equipped with a fire extinguishing system capable of extinguishing a fire without the entry of personnel into the room. The system for the radiation room shall have a shut-off valve to control flooding into unrestricted areas.

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 24:2115 (November 1998).

§1721. Radiation Monitors

A. Irradiators with automatic product conveyor systems shall have a radiation monitor with an audible alarm located to detect loose radioactive sources that are carried toward the product exit. If the monitor detects a source, an alarm shall sound and product conveyors shall stop automatically. The alarm shall be capable of alerting an individual in the facility who is prepared to summon assistance. Underwater irradiators in which the product moves within an enclosed stationary tube are exempt from the requirements of this Subsection.

B. Underwater irradiators that are not in a shielded radiation room shall have a radiation monitor over the pool to detect abnormal radiation levels. The monitor shall have an audible alarm and a visible indicator at entrances to the personnel access barrier around the pool. The audible alarm may have a manual shut-off. The alarm shall be capable of alerting an individual who is prepared to respond promptly.

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 24:2115 (November 1998).

§1723. Control of Source Movement

A. The mechanism that moves the sources of a panoramic irradiator shall require a key to actuate. Actuation of the mechanism shall cause an audible signal to indicate that the sources are leaving the shielded position. Only one key may be in use at any time, and only operators or facility management may possess it. The key shall be attached to a portable radiation survey meter by a chain or cable. The lock for source control shall be designed so that the key may not be removed if the sources are in an unshielded position. The door to the radiation room shall require the same key.

B. The console of a panoramic irradiator shall have a source position indicator that indicates when the sources are in the fully shielded position, when they are in transit, and when the sources are exposed.

C. The control console of a panoramic irradiator shall have a control that promptly returns the sources to the shielded position.

D. Each control for a panoramic irradiator shall be clearly marked as to its function.

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 24:2115 (November 1998).

§1725. Irradiator Pools

A. For licenses initially issued after promulgation of this Chapter, irradiator pools shall either:

1. have a water-tight stainless steel liner or a liner metallurgically compatible with other components in the pool; or

2. be constructed so that there is a low likelihood of substantial leakage, and have a surface designed to facilitate decontamination. In either case, the licensee shall have a method to safely store the sources during repairs of the pool.

B. For licenses initially issued after promulgation of this Chapter, irradiator pools shall have no outlets more than 0.5 meter below the normal low water level that could allow water to drain out of the pool. Pipes that have intakes more than 0.5 meter below the normal low water level and that could act as siphons shall have siphon breakers to prevent the siphoning of pool water.

C. A means shall be provided to replenish water losses from the pool.

D. A visible indicator shall be provided in a clearly observable location to indicate if the pool water level is below the normal low water level or above the normal high water level.

E. Irradiator pools shall be equipped with a purification system designed to be capable of maintaining the water during normal operation at a conductivity of 20 microsiemens percentimeter or less and with a clarity such that the sources can be seen clearly.

F. A physical barrier, such as a railing or cover, shall be used around or over irradiator pools during normal operation to prevent personnel from accidentally falling into the pool. The barrier may be removed during maintenance, inspection, and service operations.

G. If long-handled tools or poles are used in irradiator pools, the radiation dose rate to the operator at the handling areas of the tools may not exceed 0.02 millisievert (two mrem) per hour.

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 24:2115 (November 1998).

§1727. Source Rack Protection

If the product to be irradiated moves on a product conveyor system, the source rack and the mechanism that moves the rack shall be protected by a carrier or guides to prevent products and product carriers from hitting or touching the rack or mechanism.

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 24:2115 (November 1998).

§1729. Power Failures

A. If electrical power at a panoramic irradiator is lost for longer than ten seconds, the sources shall automatically return to the shielded position.

B. The lock on the door of the radiation room of a panoramic irradiator shall remain locked in the event of a power failure.

C. During a power failure, the area of any irradiator where sources are located shall be entered only when using an operable and calibrated radiation survey meter.

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 24:2116 (November 1998).

§1731. Design Requirements

A. Shielding. For panoramic irradiators, the licensee shall design shielding walls to meet generally accepted building code requirements for reinforced concrete and design the walls, wall penetrations, and entranceways to meet the radiation shielding requirements of LAC 33:XV.1717. If the irradiator shall use more than 2×10^{17} becquerels (5 million Ci) of activity, the licensee shall evaluate the effects of heating of the shielding walls by the irradiator sources.

B. Foundations. For panoramic irradiators, the licensee shall design the foundation, with consideration given to soil characteristics, to ensure it is adequate to support the weight of the facility shield walls.

C. Pool Integrity. For pool irradiators, the licensee shall design the pool to assure that it is leak resistant, that it is strong enough to bear the weight of the pool water and shipping casks, that a dropped cask would not fall on sealed sources, that all outlets or pipes meet the requirements of LAC 33:XV.1725.B, and that metal components are metallurgically compatible with other components in the pool.

D. Water Handling System. For pool irradiators, the licensee shall verify that the design of the water purification system is adequate to meet the requirements of LAC 33:XV.1725.E. The system shall be designed so that water leaking from the system does not drain to unrestricted areas without being monitored.

E. Radiation Monitors. For all irradiators, the licensee shall evaluate the location and sensitivity of the monitor to detect sources carried by the product conveyor system as required by LAC 33:XV.1721.A. The licensee shall verify that the product conveyor is designed to stop before a source on the product conveyor would cause a radiation overexposure to any person. For pool irradiators, if the licensee uses radiation monitors to detect contamination under LAC 33:XV.1743.B, the licensee shall verify that the design of radiation monitoring systems to detect pool contamination includes sensitive detectors located close to where contamination is likely to concentrate.

F. Source Rack. For pool irradiators, the licensee shall verify that there are no crevices on the source or between the source and source holder that would promote corrosion on a critical area of the source. For panoramic irradiators, the licensee shall determine that source rack drops due to loss of power shall not damage the source rack and that source rack drops due to failure of cables, or alternate means of support, shall not cause loss of integrity of sealed sources. For panoramic irradiators, the licensee shall review the design of the mechanism that moves the sources to assure that the likelihood of a stuck source is low and that, if the rack sticks, a means exists to free it with minimal risk to personnel.

G. Access Control. For panoramic irradiators, the licensee shall verify from the design and logic diagram that the access control system shall meet the requirements of LAC 33:XV.1717.

H. Fire Protection. For panoramic irradiators, the licensee shall verify that the number, locations, and spacing of the smoke and heat detectors are appropriate to detect fires and that the detectors are protected from mechanical and radiation damage. The licensee shall verify that the design of the fire extinguishing system provides the necessary discharge patterns, densities, and flow characteristics for complete coverage of the radiation room and that the system is protected from mechanical and radiation damage.

I. Source Return. For panoramic irradiators, the licensee shall verify that the source rack shall automatically return to the fully shielded position if power is lost for more than 10 seconds.

J. Seismic. For panoramic irradiators to be built in seismic areas, the licensee shall design the reinforced concrete radiation shields to retain their integrity in the event of an earthquake by designing to the seismic requirements of an appropriate source, such as the American Concrete Institute Standard ACI 318-89, *Building Code Requirements for Reinforced Concrete*, Chapter 21, "Special Provisions for Seismic Design," or local building codes, if current.

K. Wiring. For panoramic irradiators, the licensee shall verify that electrical wiring and electrical equipment in the radiation room are selected to minimize failures due to prolonged exposure to radiation.

L. Irradiators whose construction begins after promulgation of this Chapter shall meet the design requirements of this Section.

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 24:2116 (November 1998).

§1733. Construction Monitoring and Acceptance Testing

A. Shielding. For panoramic irradiators, the licensee shall monitor the construction of the shielding to verify that its construction meets design specifications and generally accepted building code requirements for reinforced concrete.

B. Foundations. For panoramic irradiators, the licensee shall monitor the construction of the foundations to verify that their construction meets design specifications.

C. Pool Integrity. For pool irradiators, the licensee shall verify that the pool meets design specifications and shall test

the integrity of the pool. The licensee shall verify that outlets and pipes meet the requirements of LAC 33:XV.1725.B.

D. Water Handling System. For pool irradiators, the licensee shall verify that the water purification system, the conductivity meter, and the water level indicators operate properly.

E. Radiation Monitors. For all irradiators, the licensee shall verify the proper operation of the monitor to detect sources carried on the product conveyor system and the related alarms and interlocks required by LAC 33:XV.1721.A. For pool irradiators, the licensee shall verify the proper operation of the radiation monitors and the related alarm if used to meet the requirements of LAC 33:XV.1743.B. For underwater irradiators, the licensee shall verify the proper operation of the over-the-pool monitor, alarms, and interlocks required by LAC 33:XV.1721.A.

F. Source Rack. For panoramic irradiators, the licensee shall test the movement of the source racks for proper operation prior to source loading; testing shall include source rack lowering due to simulated loss of power. For all irradiators with product conveyor systems, the licensee shall observe and test the operation of the conveyor system to assure that the requirements in LAC 33:XV.1729 are met for protection of the source rack and the mechanism that moves the rack; testing shall include tests of any limit switches and interlocks used to protect the source rack and mechanism that moves that rack from moving product carriers.

G. Access Control. For panoramic irradiators, the licensee shall test the completed access control system to assure that it functions as designed and that all alarms, controls, and interlocks work properly.

H. Fire Protection. For panoramic irradiators, the licensee shall test the ability of the heat and smoke detectors to detect a fire, to activate alarms, and to cause the source rack to automatically become fully shielded. The licensee shall test the operability of the fire extinguishing system.

I. Source Return. For panoramic irradiators, the licensee shall demonstrate that the source racks can be returned to their fully shielded positions without power.

J. Computer Systems. For panoramic irradiators that use a computer system to control the access control system, the licensee shall verify that the access control system shall operate properly if power is lost and shall verify that the computer has security features that prevent an irradiator operator from commanding the computer to override the access control system when the system is required to be operable.

K. Wiring. For panoramic irradiators, the licensee shall verify that the electrical wiring and electrical equipment that were installed meet the design specifications.

L. The requirements of this Section shall be met for irradiators whose construction begins after promulgation of this Chapter. The requirements shall be met prior to loading sources.

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 24:2116 (November 1998).

§1735. Training

A. Before an individual is permitted to act as an irradiator operator without a supervisor present, the individual shall be instructed in:

1. the fundamentals of radiation protection applied to irradiators. This shall include the differences between external radiation and radioactive contamination, units of radiation dose, dose limits, why large radiation doses shall be avoided, how shielding and access controls prevent large doses, how an irradiator is designed to prevent contamination, the proper use of survey meters and personnel dosimeters, other radiation safety features of an irradiator, and the basic function of the irradiator;

2. the requirements of this Chapter and LAC 33:XV.Chapter 10 that are relevant to the irradiator;

3. the operation of the irradiator;

4. those operating and emergency procedures listed in LAC 33:XV.1737 that the individual is responsible for performing; and

5. case histories of accidents or problems involving irradiators.

B. Before an individual is permitted to act as an irradiator operator without a supervisor present, the individual shall pass a written test on the instruction received, consisting primarily of questions based on the licensee's operating and emergency procedures that the individual is responsible for performing and other operations necessary to safely operate the irradiator without supervision.

C. Before an individual is permitted to act as an irradiator operator without a supervisor present, the individual shall have received on-the-job training or simulator training in the use of the irradiator as described in the license application. The individual shall also demonstrate the ability to perform those portions of the operating and emergency procedures that he or she is to perform.

D. The licensee shall conduct safety reviews for irradiator operators at least annually. The licensee shall give each operator a brief written test on the information. Each safety review shall include, to the extent appropriate, each of the following:

1. changes in operating and emergency procedures since the last review, if any;

2. changes in regulations and license conditions since the last review, if any;

3. reports on recent accidents, mistakes, or problems that have occurred at irradiators, if any;

4. relevant results of inspections of operator safety performance;

5. relevant results of the facility's inspection and maintenance checks; and

6. a drill to practice an emergency or abnormal event procedure.

E. The licensee shall evaluate the safety performance of each irradiator operator at least annually to ensure that regulations, license conditions, and operating, safety, and emergency procedures are followed. The licensee shall discuss the results of the evaluation with the operator and shall instruct the operator on how to correct any mistakes or deficiencies observed.

F. Individuals who shall be permitted unescorted access to the radiation room of the irradiator or the area around the pool of an underwater irradiator, but who have not received the training required for operators and the radiation safety officer, shall be instructed and tested in any precautions they should take to avoid radiation exposure, any procedures or parts of procedures listed in LAC 33:XV.1737 that they are expected to perform or comply with, and their proper response to alarms required in this Chapter. Tests may be oral.

G. Individuals who shall be prepared to respond to alarms required by LAC 33:XV.1715.B and I, 1719.A, 1721.A and B, and 1743.B shall be trained and tested on how to respond. Each individual shall be retested at least annually. Tests may be oral.

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 24:2117 (November 1998).

§1737. Operating and Emergency Procedures

A. The licensee shall have and follow written operating procedures for:

1. operation of the irradiator, including entering and leaving the radiation room;
2. use of personnel dosimeters;
3. surveying the shielding of panoramic irradiators;
4. monitoring pool water for contamination while the water is in the pool and before release of pool water to unrestricted areas;
5. leak testing of sources;
6. inspection and maintenance checks required by LAC 33:XV.1745;
7. loading, unloading, and repositioning sources, if the operations shall be performed by the licensee; and
8. inspection of movable shielding required by LAC 33:XV.1715.H, if applicable.

B. The licensee shall have and follow emergency or abnormal event procedures appropriate for the irradiator type for:

1. sources stuck in the unshielded position;
2. personnel overexposures;
3. radiation alarms from the product exit portal monitor or pool monitor;
4. detection of leaking sources, pool contamination, or alarm caused by contamination of pool water;
5. low or high water level indicators, abnormal water loss, or leakage from the source storage pool;
6. prolonged loss of electrical power;
7. fire alarms or explosions in the radiation room;
8. alarms indicating unauthorized entry into the radiation room, area around pool, or another alarmed area;
9. natural phenomena, including an earthquake, a tornado, flooding, or other phenomena as appropriate for the geographical location of the facility; and
10. jamming of automatic conveyor systems.

C. The licensee may revise operating and emergency procedures without division approval only if all of the following conditions are met:

1. the revisions do not reduce the safety of the facility;
2. the revisions are consistent with the outline or summary of procedures submitted with the license application;
3. the revisions have been reviewed and approved by the radiation safety officer; and
4. the users or operators are instructed and tested on the revised procedures before they are put into use.

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 24:2118 (November 1998).

§1739. Personnel Monitoring

A. Irradiator operators shall wear either a film badge or a thermoluminescent dosimeter (TLD) while operating a panoramic irradiator or while in the area around the pool of an underwater irradiator. The film badge or TLD processor shall be accredited by the National Voluntary Laboratory Accreditation Program for high energy photons in the normal and accident dose ranges in accordance with LAC 33:XV.430.C. Each film badge or TLD shall be assigned to and worn by only one individual. Film badges shall be processed at least monthly, and TLDs shall be processed at least quarterly.

B. Other individuals who enter the radiation room of a panoramic irradiator shall wear a dosimeter, which may be a pocket dosimeter. For groups of visitors, only two people who enter the radiation room are required to wear dosimeters. If pocket dosimeters are used to meet the requirements of this Subsection, a check of their response to radiation shall be done at least annually. Acceptable dosimeters shall read within ± 20 percent of the true radiation dose.

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 24:2118 (November 1998).

§1741. Radiation Surveys

A. A radiation survey of the area outside the shielding of the radiation room of a panoramic irradiator shall be conducted with the sources in the exposed position before the facility starts to operate. A radiation survey of the area above the pool of irradiators shall be conducted after the sources are loaded, but before the facility starts to operate. Additional radiation surveys of the shielding shall be performed at intervals not to exceed three years and before resuming operation after addition of new sources or any modification to the radiation room shielding or structure that might increase dose rates.

B. If the radiation levels specified in LAC 33:XV.1717 are exceeded, the facility shall be modified to comply with the requirements in LAC 33:XV.1717.

C. Portable radiation survey meters shall be calibrated at least annually to an accuracy of ± 20 percent for the gamma energy of the sources in use. The calibration shall be done at two points on each scale or, for digital instruments, at one point per decade over the range that shall be used. Portable

radiation survey meters shall be of a type that does not saturate and read zero at high radiation dose rates.

D. Water from the irradiator pool, other potentially contaminated liquids, and sediments from pool vacuuming shall be monitored for radioactive contamination before release to unrestricted areas. Radioactive concentrations shall not exceed those specified in LAC 33:XV.Chapter 4.Appendix B.Table II, Column 2, or Appendix B.Table III, "Annual Limits on Intake (ALIs) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure, Effluent Concentrations, Concentrations for Release to Sanitary Sewerage."

E. Before releasing resins for unrestricted use, they shall be monitored before release in an area with a background level less than 0.5 microsievert (0.05 mrem) per hour. The resins may be released only if the survey does not detect radiation levels above background radiation levels. The survey meter used shall be capable of detecting radiation levels of 0.5 microsievert (0.05 mrem) per hour.

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 24:2118 (November 1998).

§1743. Detection of Leaking Sources

A. Each dry-source-storage sealed source shall be tested for leakage at intervals not to exceed six months using a leak test kit or method approved by the division, the Nuclear Regulatory Commission, an agreement state, or a licensing state. In the absence of a certificate from a transferor that a test has been made within the six months before the transfer, the sealed source shall not be used until tested. The test shall be capable of detecting the presence of 200 becquerels (0.005 Ci) of radioactive material and shall be performed by a person approved by the division, the Nuclear Regulatory Commission, an agreement state, or a licensing state to perform the test.

B. For pool irradiators, sources shall not be put into the pool unless the licensee tests the sources for leaks or has a certificate from a transferor that a leak test has been done within the six months before the transfer. Water from the pool shall be checked for contamination each day the irradiator operates. The check may be done either by using a radiation monitor on a pool water circulating system or by analysis of a sample of pool water. If a check for contamination is done by analysis of a sample of pool water, the results of the analysis shall be available within 24 hours. If the licensee uses a radiation monitor on a pool water circulating system, the detection of above normal radiation levels shall activate an alarm. The alarm set-point shall be set as low as practical, but high enough to avoid false alarms. The licensee may reset the alarm set-point to a higher level if necessary to operate the pool water purification system to clear up contamination in the pool if specifically provided for in written emergency procedures.

C. If a leaking source is detected, the licensee shall arrange to remove the leaking source from service and have it decontaminated, repaired, or disposed of by a licensee that is authorized to perform these functions by the division, the

Nuclear Regulatory Commission, an agreement state, or a licensing state. The licensee shall promptly check its personnel, equipment, facilities, and irradiated product for radioactive contamination. No product shall be shipped until the product has been checked and found free of contamination. If a product has been shipped that may have been inadvertently contaminated, the licensee shall arrange to locate and survey that product for contamination. If any personnel are found to be contaminated, decontamination shall be performed promptly. If contaminated equipment, facilities, or products are found, the licensee shall arrange to have them decontaminated or disposed of by a licensee that is authorized to perform these functions by the division, the Nuclear Regulatory Commission, an agreement state, or a licensing state. If a pool is contaminated, the licensee shall arrange to clean the pool until the contamination levels do not exceed the appropriate concentration in LAC 33:XV.Chapter 4.Appendix B.Table II, Column 2. The licensee shall report all incidents in accordance with LAC 33:XV.486.

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 24:2119 (November 1998).

§1745. Inspection and Maintenance

A. The licensee shall perform inspection and maintenance checks that include, as a minimum, each of the following at the frequency specified in the license or license application:

1. operability of each aspect of the access control system required by LAC 33:XV.1715;
2. functioning of the source position indicator required by LAC 33:XV.1723.B;
3. operability of the radiation monitor for radioactive contamination in pool water, required by LAC 33:XV.1743.B, using a radiation check source, if applicable;
4. operability of the over-pool radiation monitor at underwater irradiators, as required by LAC 33:XV.1721.B;
5. operability of the product exit monitor required by LAC 33:XV.1721.A;
6. operability of the emergency source return control required by LAC 33:XV.1723.C;
7. visual inspection of leak-tightness of systems through which pool water circulates;
8. operability of the heat and smoke detectors and extinguisher system required by LAC 33:XV.1719, without turning extinguishers on;
9. operability of the means of pool water replenishment required by LAC 33:XV.1725.C;
10. operability of the indicators of high and low pool water levels required by LAC 33:XV.1725.D;
11. operability of the intrusion alarm required by LAC 33:XV.1715.I, if applicable;
12. functioning and wear of the system, mechanisms, and cables used to raise and lower sources;
13. condition of the barrier to prevent products from hitting the sources or source mechanism, as required by LAC 33:XV.1727;
14. amount of water added to the pool to determine if the pool is leaking;

15. electrical wiring on required safety systems for radiation damage; and

16. pool water conductivity measurements and analysis, as required by LAC 33:XV.1747.B.

B. Malfunctions and defects found during inspection and maintenance checks shall be repaired within time frames specified in the license or license application.

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 24:2119 (November 1998).

§1747. Pool Water Purity

A. Pool water purification systems shall be run sufficiently to maintain the conductivity of the pool water below 20 microsiemens per centimeter under normal circumstances. If pool water conductivity rises above 20 microsiemens per centimeter, the licensee shall take prompt actions to lower the pool water conductivity and shall take corrective actions to prevent future recurrences.

B. The licensee shall measure the pool water conductivity frequently, but no less than weekly, to assure that the conductivity remains below 20 microsiemens per centimeter. Conductivity meters shall be calibrated at least annually.

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 24:2120 (November 1998).

§1749. Attendance During Operation

A. Both an irradiator operator and at least one other individual, who is trained as to how to respond and prepared to promptly render or summon assistance if the access control alarm sounds, shall be present on site:

1. whenever the irradiator is operated using an automatic product conveyor system; and

2. whenever the product is moved into or out of the radiation room when the irradiator is operated in a batch mode.

B. At a panoramic irradiator at which static irradiations with no movement of the product are occurring, a person who has received the training as to how to respond to alarms described in LAC 33:XV.1735.G shall be on site.

C. At an underwater irradiator, an irradiator operator shall be present at the facility whenever the product is moved into or out of the pool. Individuals who move the product into or out of the pool of an underwater irradiator need not be qualified as irradiator operators; however, they shall have received the training described in LAC 33:XV.1735.F and G. Static irradiations may be performed without a person present at the facility.

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 24:2120 (November 1998).

§1751. Entering and Leaving the Radiation Room

A. Upon first entering the radiation room of a panoramic irradiator after an irradiation, the irradiator operator shall use a survey meter to determine that the source has returned to its fully shielded position. The operator shall check the functioning of the survey meter with a radiation check source prior to entry.

B. Before exiting from and locking the door to the radiation room of a panoramic irradiator prior to a planned irradiation, the irradiator operator shall:

1. visually inspect the entire radiation room to verify that no one else is in it; and

2. activate a control in the radiation room that permits the sources to be moved from the shielded position only if the door to the radiation room is locked within a preset time after setting the control.

C. During a power failure, the area around the pool of an underwater irradiator shall not be entered without using an operable and calibrated radiation survey meter, unless the over-the-pool monitor required by LAC 33:XV.1721.B is operating with backup power.

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 24:2120 (November 1998).

§1753. Irradiation of Explosive or Flammable Materials

A. Irradiation of explosive material is prohibited unless the licensee has received prior written authorization from the division. Authorization shall not be granted unless the licensee can demonstrate that detonation of the explosive would not rupture the sealed sources, injure personnel, damage safety systems, or cause radiation overexposures of personnel.

B. Irradiation of more than small quantities of flammable material with a flash point below 140°F is prohibited in panoramic irradiators, unless the licensee has received prior written authorization from the division. Authorization shall not be granted unless the licensee can demonstrate that a fire in the radiation room could be controlled without damage to sealed sources or safety systems and without radiation overexposures of personnel.

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 24:2120 (November 1998).

§1755. Records and Retention Periods

A. The licensee shall maintain the following records at the irradiator for a three year period:

1. records of each individual's training, tests, and safety reviews provided to meet the requirements of LAC33:XV.1735.A-D, F, and G until three years after the individual terminates work;

2. records of the annual evaluations of the safety performance of LAC 33:XV.1735.E for three years after the evaluation;

3. a copy of the current operating and emergency procedures required by LAC 33:XV.1737 until superseded or the division terminates the license. Records of the radiation safety officer's review and approval of changes in procedures, as required by LAC 33:XV.1737.C.3, shall be retained for three years from the date of the change;

4. records of radiation survey meter calibrations required by LAC 33:XV.1741 and pool water conductivity meter calibrations required by LAC 33:XV.1747.B until three years from the date of calibration;

5. records of the results of leak tests required by LAC 33:XV.1743.A and the results of contamination checks required by LAC 33:XV.1743.B for three years from the date of each test;

6. records of inspection and maintenance checks required by LAC 33:XV.1745 for three years;

7. records of major malfunctions, significant defects, operating difficulties or irregularities, and major operating problems that involve required radiation safety equipment for three years after repairs are completed; and

8. records of radiation surveys required by LAC 33:XV.1741 for three years from the date of the survey.

B. The licensee shall maintain the following records at the irradiator for the periods specified:

1. a copy of the license, the license conditions, documents incorporated into the license by reference, and amendments thereto until superseded by new documents or until the division terminates the license for documents not superseded;

2. film badge and TLD results required by LAC 33:XV.1739 until the division terminates the license;

3. records of the receipt, transfer, and disposal of all licensed sealed sources as required by LAC 33:XV.104 and 340;

4. records on the design checks required by LAC 33:XV.1731 and the construction control checks as required by LAC 33:XV.1733 until the license is terminated. The records shall be signed and dated. The title or qualification of the person signing shall be included; and

5. records related to decommissioning of the irradiator, as required by LAC 33:XV.325.D.7.

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 24:2120 (November 1998).

§1757. Reports

A. In addition to the reporting requirements in other parts of these regulations, the licensee shall report the following events if not reported under other parts of these regulations:

1. source stuck in an unshielded position;
2. any fire or explosion in a radiation room;
3. damage to the source racks;
4. failure of the cable or drive mechanism used to move the source racks;

5. inoperability of the access control system;

6. detection of radiation source by the product exit monitor;

7. detection of radioactive contamination attributable to licensed radioactive material;

8. structural damage to the pool liner or walls;

9. water loss or leakage from the source storage pool greater than the irradiator pool design parameters submitted by the licensee or applicant; and

10. pool water conductivity exceeding 100 microsiemens per centimeter.

B. The report shall include a telephone report within 24 hours, as described in LAC 33:XV.485.A, and a written report within 30 days, as described in LAC 33:XV.485.B.

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 24:2121 (November 1998).

Gus Von Bodungen, P.E.
Assistant Secretary

9811#043

RULE

Department of Environmental Quality Office of Water Resources Water Pollution Control Division

Procedures for Modifying Approved POTW Pretreatment Programs (LAC 33:IX.2715, 2723, and 2735)(WP030*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Pollution Control Division regulations, LAC 33:IX.2715, 2723, 2735 (Log Number WP030*).

This rule is identical to a federal regulation found in 62 FR 38405-38415, July 17, 1997, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule changes the number of public notices needed for a major modification from two to one. It also increases the number of modifications that will be considered minor modifications, and thus will not need to be public noticed. This change will equate Louisiana's regulations to the EPA federal regulations and will make the public notice requirements for pretreatment modifications the same as other modifications. The basis and rationale for this rule are to mirror the federal regulations.

This rule meets the exceptions 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.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations
Chapter 23. The Louisiana Pollutant Discharge
Elimination System (LPDES) Program
Subchapter T. General Pretreatment Regulations for
Existing and New Sources of Pollution
§2715. Pretreatment Program Requirements:
Development and Implementation by POTW

* * *

[See Prior Text in A - B]

C. Incorporation of Approved Programs in Permits. A POTW may develop an appropriate POTW pretreatment program any time before the time limit set forth in Subsection B of this Section. The POTW's LPDES permit will be reissued or modified by the NPDES state or EPA to incorporate the approved program conditions as enforceable conditions of the permit. The modification of a POTW's LPDES permit for the purposes of incorporating a POTW pretreatment program approved in accordance with the procedures in LAC 33:IX.2721 shall be deemed a minor permit modification subject to the procedures in LAC 33:IX.2385.

* * *

[See Prior Text in D - F.5.d.]

6. The POTW shall prepare and maintain a list of its industrial users meeting the criteria in LAC 33:IX.2705.*Significant Industrial User.a*. The list shall identify the criteria in LAC 33:IX.2705.*Significant Industrial User.a* applicable to each industrial user and, for industrial users meeting the criteria in LAC 33:IX.2705.*Significant Industrial User.a.ii* shall also indicate whether the POTW has made a determination in accordance with LAC 33:IX.2705.*Significant Industrial User.b* that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the approval authority in accordance with LAC 33:IX.2717 as a nonsubstantial program modification in accordance with LAC 33:IX.2735.B.2. Modifications to the list shall be submitted to the approval authority in accordance with LAC 33:IX.2723.I.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998).

§2723. Reporting Requirements for POTWs and Industrial Users

* * *

[See Prior Text in A - I.2]

3. a summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period;

4. a summary of changes to the POTW's pretreatment program that have not been previously reported to the approval authority; and

5. any other relevant information requested by the approval authority.

* * *

[See Prior Text in J-P.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998).

§2735. Modification of POTW Pretreatment Programs

* * *

[See Prior Text in A]

B. Substantial Modifications Defined

1. The following are substantial modifications for purposes of this Section:

a. modifications that relax POTW legal authorities (as described in LAC 33:IX.2715), except for modifications that directly reflect revision to the general pretreatment regulations, LAC 33:IX.Chapter 23.Subchapter T or Subchapter N, and reported in accordance with Subsection D of this Section;

b. modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported in accordance with Subsection D of this Section. Maximum Allowable Industrial Loadings mean the total mass of a pollutant that all industrial users of a POTW (or a subgroup of industrial users identified by the POTW) may discharge in accordance with limits developed under LAC 33:IX.2709;

c. changes to the POTW's control mechanism, as described in LAC 33:IX.2715.F.1.c;

d. a decrease in the frequency of self-monitoring or reporting required of industrial users;

e. a decrease in the frequency of industrial user inspections or sampling by the POTW;

f. changes to the POTW's confidentiality procedures; and

g. other modifications designated as substantial modifications by the approval authority on the basis that the modification could have significant impact on the operation of the POTW's pretreatment program, could result in an increase in pollutant loadings at the POTW, or could result in less stringent requirements being imposed on industrial users of the POTW.

2. The approval authority may designate other specific modifications, in addition to those listed in Subsection B.1 of this Section, as substantial modifications.

3. A modification that is not included in Subsection B.1 of this Section is nonetheless a substantial modification for purposes of this Section, if the modification:

a. would have a significant impact on the operation of the POTW's pretreatment program;

b. would result in an increase in pollutant loadings at the POTW; or

c. would result in less stringent requirements being imposed on industrial users of the POTW.

C. Approval Procedures for Substantial Modifications

1. The POTW shall submit to the approval authority a statement of the basis for the desired program modification, a modified program description (see LAC 33:IX.2717.B), or such other documents the approval authority determines to be necessary under the circumstances.

2. The approval authority shall approve or disapprove the modification based on the requirements of LAC 33:IX.2715.F, following the procedures in LAC

33:IX.2721.B-F, except as provided in Subsection C.3-4 of this Section. The modification shall become effective upon approval by the approval authority.

3. The approval authority need not publish a notice of decision under LAC 33:IX.2721.E, provided the notice of request for approval under LAC 33:IX.2721.B states that the request will be approved if no comments are received by a date specified in the notice, no substantial comments are received, and the request is approved without change.

4. Notices required by LAC 33:IX.2721 may be performed by the POTW, provided that the approval authority finds that the POTW notice otherwise satisfies the requirements of LAC 33:IX.2721.

D. Approval Procedures for Nonsubstantial Modifications

1. The POTW shall notify the approval authority of any other (i.e., nonsubstantial) modifications to its pretreatment program at least 45 days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Subsection C.1 of this Section.

2. Within 45 days after the submission of the POTW's statement, the approval authority shall notify the POTW of its decision to approve or disapprove the nonsubstantial modification.

3. If the approval authority does not notify the POTW within 45 days of its decision to approve or deny the modification or to treat the modification as substantial under Subsection B.1.g of this Section, the POTW may implement the modification.

E. Incorporation in the Permit. All modifications shall be incorporated into the POTW's LPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with LAC 33:IX.2385.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 24:2122 (November 1998).

Linda Korn Levy
Assistant Secretary

9811#042

RULE

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

Mobile Clinic
(LAC 46:LXXXV.711)

The Louisiana Board of Veterinary Medicine has amended LAC 46:LXXXV.711 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§711. Definitions for Classification of Practice Facilities

A. - B.1. - 3. ...

C. A *mobile clinic* as defined in §700 shall have a permanent base of operations with a published address, telephone facilities for making appointments or responding to emergencies, and the following.

1. A veterinarian operating or working in a mobile clinic must have a written agreement with a local veterinary hospital or clinic to provide hospitalization, surgery, and radiology if these services are not available at the mobile clinic. *Local* means within a 30-mile radius.

2. A veterinarian operating or working in a mobile clinic must have a written agreement with a local veterinary hospital or clinic to provide emergency services and must display a notice to that effect in public view. The phone number and address for this emergency service provider must be provided to each patron of the mobile clinic. *Local* means within a 30-mile radius.

3. A veterinarian operating or working in a mobile clinic must remain on site until all patients are discharged to their owners and must maintain autonomy for all medical decisions made.

4. A physical examination and history must be taken for each patient at a mobile clinic and the medical records for such patients must meet the requirements for record keeping in §701. These records must be maintained by the veterinarian for five years and must remain accessible to the client for that period.

5. The veterinarian operating or working in a mobile clinic is responsible for consultation with clients and referral of patients when disease is detected or suspected. The veterinarian is also responsible for information and recommendations given to the client by the mobile clinic's staff.

6. The veterinarian operating or working in a mobile clinic must have his current Louisiana veterinary license on display to the clients.

7. Operation of the veterinary medical mobile clinic requires the following:

- a. a clean, safe location;
- b. the mobile clinic must meet local sanitation regulations;
- c. lined waste receptacles;
- d. fresh, running water for cleaning and first aid;
- e. examination areas with good lighting and smooth, easily disinfected surfaces;
- f. examination and surgery preparation areas;
- g. surgical area must be sterile, and the surgery table must have an impervious surface which can be cleaned and easily disinfected;
- h. drugs must be kept according to federal, state, and local laws. If controlled drugs are kept on the premises, they must be kept in a locking, secure cabinet for storage and an accurate controlled substance log must be maintained and available for inspection;
- i. all equipment must be kept clean and in working order;
- j. the mobile clinic must have the capability to deal

with sudden emergencies and should have oxygen, resuscitation drugs and equipment, treatment for shock, and fluid administration materials readily available;

k. the mobile clinic must have all biomedical waste properly disposed of and must have documentation to prove that fact on the premises for inspection.

D.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1331 (October 1993), amended LR 23:969 (August 1997), LR 24:2123 (November 1998).

Charles B. Mann
Executive Director

9811#003

RULE

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Licensure; Supervised Experience
(LAC 46:LX.503, 703, and 705)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends the following with regard to licensing.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Chapter 5. License and Practice of Counseling

§503. Definitions

* * *

Practice of Mental Health Counseling—rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but are not limited to:

a. - e. ...

f. *Graduate Degree*—the substance of which is professional mental health counseling in content shall be defined as a graduate degree from a regionally accredited university that shall conform to one of the criteria below:

- i. a CACREP accredited counseling program;
- ii. a counseling program incorporating the word "counseling" or "counselor" in its title;
- iii. a program incorporating a counseling-related term in its title (e.g. "marriage and family therapy"); or
- iv. a program incorporating the eight content areas, a counseling practicum and a counseling internship.

In addition, the above should not be construed to include degrees in disciplines licensed elsewhere by the State

of Louisiana (e.g., social work, psychology) with the exception of counseling psychology and vocational rehabilitation counseling programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:303 (April 1990), LR 18:51 (January 1992), LR 22:102 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998).

Chapter 7. Requirements for Licensure

§703. Licensing Requirements

A.1. - 8. ...

a. The following eight areas are required to have at least one semester course:

- i. counseling/theories of personality;
 - ii. human growth and development;
 - iii. abnormal behavior;
 - iv. techniques of counseling;
 - v. group dynamics, processes, and counseling;
 - vi. lifestyle and career development;
 - vii. appraisal of individual;
 - viii. ethics.
- b.i. - ii. ...

9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), LR 22:102 (February 1996), LR 24:2124 (November 1998).

§705. Supervised Experience

A.1. - 2. ...

a. Based on the above, the board has broken down the required 3,000 hours of counseling experience in the following manner:

- i. a minimum of 1,900 hours (up to 2,900 hours) in direct client contact - individual or group counseling;
- ii. a maximum of 1,000 hours in additional client contact, counseling related activities (i.e., case notes, staffing, case consultation, or testing/assessment of clients) or education at the graduate level in the field of mental health as defined above;
- iii. a minimum of 100 hours of face-to-face supervision by a board approved supervisor.

An applicant may utilize supervised hours earned in post-master's degree courses in counseling or in a doctoral degree program in counseling toward the required hours of supervised experience in addition to exercising the option of substituting 30 graduate semester hours earned beyond the master's degree for 500 hours of supervised experience, as long as supervised experience, practicum, or internship courses are not included in the 30 graduate semester hours that are used to substitute for 500 hours of supervised experience. In no case, may the applicant have less than 2,000 hours of supervised experience.

b. The board recommends one hour of supervision for every 20 hours of direct client contact as outlined in Clause i. Supervision may not take place via mail or telephone. Telephone or mail contacts with supervisor may be counted under Clause ii (i.e., consultation); however, it cannot be counted as face-to-face supervision as defined in Clause iii.

c. To be eligible for supervision as a counselor intern, the applicant must provide proof of completion of a supervised practicum and internship as listed in §503, Definitions, §503.D.1.a-b and each of the following eight content areas. In order for a course to fulfill a content area requirement, it must include in a substantial manner, the areas in the description for the content area:

i. counseling/theories of personality. Description:
(a). counseling theories including both individual and systems perspectives;
(b). research and factors considered in applications of counseling theories; or
(c). theories of personality including major theories of personality;

ii. human growth and development. Description:
(a). the nature and needs of individuals at developmental levels;
(b). theories of individual and family development and transitions across the life-span;
(c). theories of learning and personality development;

(d). human behavior including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior;
(e). strategies for facilitating development over the lifespan;

iii. abnormal behavior. Description:
(a). emotional and mental disorders experienced by persons of all ages;
(b). characteristics of disorders;
(c). common nosologies of emotional and mental disorders utilized within the U.S. health care system;
(d). the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders*, as published by the American Psychiatric Association;
(e). preferred treatment approaches for disorders based on research;
(f). common medications used by psychiatrists to treat disorders;
(g). working with other health care and mental health care professionals in treating individuals with emotional and mental disorders;

iv. techniques of counseling. Description:
(a). basic interviewing, assessment, and counseling skills;
(b). counselor characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, orientations, and skills;
(c). client characteristics and behaviors that influence helping processes including age, gender and ethnic

differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, and life circumstances;

v. group dynamics, processes, and counseling. Description:

(a). principles of group dynamics including group process components, developmental stage theories, and group members' roles and behaviors; group leadership styles and approaches including characteristics of various types of group leaders and leadership styles;

(b). theories of group counseling including commonalities, distinguishing characteristics, and pertinent research and literature;

(c). group counseling methods including group counselor orientations and behaviors, ethical standards, appropriate selection criteria and methods, and methods of evaluation of effectiveness;

(d). approaches used for other types of group work, including task groups, prevention groups, support groups, and therapy groups;

vi. lifestyle and career development. Description:
(a). career development theories and decision-making models;

(b). career, avocational, educational, and labor market information resources, visual and print media, and computer-based career information systems; career development program planning, organization, implementation, administration, and evaluation;

(c). interrelationships among work, family, and other life roles and factors including multicultural and gender issues as related to career development; career and educational placement, follow-up and evaluation;

(d). assessment instruments and techniques relevant to career planning and decision-making; computer based career development applications and strategies, including computer-assisted guidance systems;

(e). career counseling processes, techniques and resources including those applicable to specific populations;

vii. appraisal of individuals. Description:
(a). theoretical and historical bases for assessment techniques;

(b). validity including evidence for establishing content, construct, and empirical validity; reliability including methods of establishing stability, internal and equivalence reliability;

(c). appraisal methods including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods;

(d). psychometric statistics including types of assessment scores, measures of central tendency, indices of variability, standard errors, and correlations;

(e). age, gender, ethnicity, language, disability, and culture factors related to the assessment and evaluation of individuals and groups;

(f). strategies for selecting, administering, interpreting, and using assessment and evaluation instruments and techniques in counseling;

viii. ethics. Description:

(a). ethical standards of the American Counseling Association, state counselor licensure boards, and national counselor certifying agencies;

(b). ethical and legal issues and their applications to various professional activities;

(c). history of the helping professions including significant factors and events;

(d). professional roles and functions of counselors including similarities and differences with other mental health professionals;

(e). professional organizations, primarily the American Counseling Association, its divisions, branches, and affiliates, including membership benefits, activities, services to members, and current emphases, professional preparation standards, their evolution, and current applications;

(f). professional credentialing including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues;

(g). public policy processes including the role of the professional counselor in advocating on behalf of the profession and its clientele.

d. If a counselor intern commences supervision prior to August 15, 1996 pursuant to §705.A.2.c above, the counselor intern must complete all of the eight content areas pursuant to R.S. 37:1107(B), in order to be eligible for licensure upon completion of the supervised internship.

3.a. ...

b. Group Supervision. The supervisory session is conducted by an approved supervisor with no more than 10 counselor interns present.

4.a. ...

b. A supervisor may not supervise more than 10 counselor interns at any given time.

5. Supervisors of counselor interns, as defined in these rules, have the responsibility of assisting counselor intern in increasing their skills as a mental health professional. Supervisors, as defined in these rules, have no control, oversight, or professional responsibility for the services of counselor interns whom they are supervising, unless a supervisor also serves as the administrative supervisor of a counselor intern in the setting in which the counselor intern is employed or contracted or is rendering counseling services on a volunteer basis. The control, oversight, and professional responsibility for counselor interns rests with the counselor intern's administrative supervisor in the setting in which the counselor intern is employed or contracted or is rendering counseling services on a volunteer basis. Counselor interns must notify and obtain permission for outside supervision from their administrative supervisor in the setting in which they are employed or contracted or are rendering counseling services on a volunteer basis. In obtaining permission for outside supervision, counselor interns must notify their administrative supervisor of the identity of their supervisor for the purposes of gaining the supervised experience for licensure and the nature of the supervisory activities, including any observations or taping that occurs with clients, after obtaining the clients' permission, in the setting.

6. - 12.a. ...

b. the professional setting can not include private

practice in which the counselor intern operates, manages or has an ownership interest in the private practice, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

13. - 14. ...

B. - C.3. ...

4. Counselor interns may not initiate private practice during their period of supervised counseling experience. Counselor interns who are employed within their supervisors' private practice setting cannot, under any circumstances, bill clients directly for services they render, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the State of Louisiana

5. - 6. ...

D.1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), amended LR 21:466 (May 1995), LR 22:102 (February 1996), LR 24:2124 (November 1998).

Gary S. Grand
Board Chair

9811#051

RULE

Department of Natural Resources Office of Conservation and Department of Revenue Severance Tax Division

Produced Water Injection Incentive
(LAC 43:XIX.Chapter 43)

Under the authority of R.S. 47:633.5 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation, and the Department of Revenue has adopted this jointly written rule governing implementation of the produced water injection incentive project. This rule outlines the application and approval process for produced water injection incentive projects.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 18. Enhanced Recovery

Chapter 43. Produced Water Injection Incentive

§4301. Definitions

Produced Water—water that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations.

Produced Water Injection Project—project approved in accordance with R.S. 47:633.5 and the rules adopted herein for the purpose of increasing the recovery of hydrocarbons therefrom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633.5 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, and Department of Revenue, Severance Tax Division, LR 24:2126 (November 1998).

§4303. Application and Hearing to Qualify a Produced Water Injection Project

A. A 30-day notice and a public hearing shall be required as per rules of procedure for conducting hearings before the commissioner of Conservation, LAC 43:XIX.3900, R.S. 30:5(C) and R.S. 30:6. In addition to any exhibits and testimony that may be necessary supporting compliance with LAC 43:XIX.3900, R.S. 30:5(C) and R.S. 30:6, the hearing testimony is to include discussions and exhibits of the following:

1. geological and engineering data to support *Produced Water Injection Project* classification as per R.S. 47:633.5;
2. geological and engineering data necessary to establish the estimated remaining primary and incremental oil and gas reserves expected from the proposed produced water injection project along with the estimated amount of severance tax to be forgiven;
3. estimated date of initiation of water injection which must begin on or after July 1, 1998;
4. proposed sources of produced water to be utilized for injection;
5. estimated date of commencement of incremental production;
6. any other pertinent information the application deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633.5 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, and Department of Revenue, Severance Tax Division, LR 24:2127 (November 1998).

§4305. Commencement of Incremental Production

A. Immediately after the commencement of incremental production and before any such incremental production shall be eligible for the reduction of severance tax, the unit operator shall petition the Commissioner of Conservation to issue a Supplemental Order establishing the beginning of the incremental production contemplated by Subsection C of R.S. 47:633.5. Engineering and geological data shall be submitted showing that the primary reserves have been depleted and the incremental production has commenced. The specific date upon which incremental production began shall also be submitted. Once the date of commencement of incremental production has been established by Supplemental Order, all production thereafter from the project will be subject to a 20 percent reduction in severance tax otherwise due on each barrel of oil produced and each 1,000 cubic feet of gas produced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633.5 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, and Department of Revenue, Severance Tax Division, LR 24:2127 (November 1998).

Philip N. Asprodites
Commissioner

9811#081

RULE

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-R; Fees
(LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation has amended the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 2. Statewide Order Number 29-R-98/99

Chapter 7. Fees

§701. Definitions

Annual Inspection Fee—repealed.

* * *

[See Prior Text *Application Fee—Application to Process Form R-4*]

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 8.

Capable Gas—natural and casinghead gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue and Taxation.

Class I Well—a Class I injection well used to inject hazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 or 29-N-2.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$336,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production (Status 63, 67), for annular disposal wells (Status 64), for enhanced recovery of oil or natural gas (Status 41, 42, 43), and for storage of hydrocarbons which are liquid at standard temperature and pressure (Status 44, 45). For purposes of administering the exemption provided in R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class II Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on nonexempted Class II wells in an amount not to exceed \$493,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000.

* * *

[See Prior Text *Emergency Clearance*]

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity between the producing wells. The tiered system shall be established annually by rule on annual volumes of capable oil and capable gas production in an amount not to exceed \$1,918,600 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

* * *

[See Prior Text *Production Well-Type B Facility*]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998).

§703. Fee Schedule for Fiscal Year 1998-1999

A. Application Fees

Application for Unit Determination	\$210
Application for Substitute Unit Well	\$210
Application for Public Hearing	\$630
Application for Multiple Completion	\$105
Application to Commingle	\$210
Application for Automatic Custody Transfer	\$210
Application for Noncommercial Injection Well	\$210
Application for Commercial Class I Injection Well	\$1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$525
Application for Commercial Class II Injection Well	\$525
Application for Commercial Class II Injection Well (Additional Wells)	\$262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$525
Application for Permit to Drill - Minerals: 10,000' +	\$1,050
Application to Amend Permit to Drill - Minerals	\$105
Application to Amend Permit to Drill - Injection or Other	\$105
Application for Surface Mining Exploration Permit	\$52
Application for Surface Mining Development Operations Permit	\$78
Application for Surface Mining Permit	\$1,837
Application to Process Form R-4	\$26
Application to Reinstate Suspended Form R-4	\$52
Application for Emergency Clearance Form R-4	\$52

B. Regulatory Fees

1. Operators of each permitted Type A Facility are

required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of record of Class I wells are required to pay \$8,280 per well.

4. Operators of record of nonexempt Class II wells are required to pay \$425 per well.

C. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0
Tier 2	1 - 5,000
Tier 3	5,001 - 15,000
Tier 4	15,001 - 30,000
Tier 5	30,001 - 60,000
Tier 6	60,001 - 110,000
Tier 7	110,001 - 9,999,999

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998).

§705. Failure to Comply

Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-98/99, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-98/99) supersedes Statewide Order No. 29-R.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998).

Philip N. Asprodites
Commissioner

9811#050

RULE

Department of Public Safety and Corrections Gaming Control Board

Board Hearings
(LAC 42:III.108)

The Gaming Control Board hereby amends LAC 42:III.108 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 1. General Provisions

§108. Board Hearings

* * *

E. A copy of the hearing officer's decision shall be mailed to all parties within two (2) business days of the date the decision is rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:77 (January 1997), amended LR 24:2129 (November 1998).

Hillary J. Crain
Chairman

9811#025

RULE

Department of Social Services Office of the Secretary Bureau of Licensing

Child Residential Care
(LAC 48:I.Chapter 79)

The Department of Social Services, Office of the Secretary, Bureau of Licensing has amended the *Louisiana Administrative Code*, Title 48, Part I, Subpart 3, Licensing and Certification.

This rule is mandated by Louisiana Revised Statutes 46:1401 through 1426.

These standards have been revised and supersede any previous regulations heretofore published and are effective March 1, 1999.

Title 48

SOCIAL SERVICES

Part I. General Administration

Subpart 3. Licensing and Certification

* * *

Chapter 79. Child Residential Care

* * *

§7901. Purpose

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 child care 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. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2129 (November 1998).

§7903. Authority

A. Legislative Provisions

1. The State of Louisiana, Department of Social Services, is charged with the responsibility of developing and publishing standards for the licensing of child residential facilities.

2. The licensing authority of the Department of Social Services is established by R.S. 46:1401-1425 and R.S. 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A 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 (twenty-four 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.

B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed.

2. As stipulated in R.S. 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 (R.S. 46:1417)."

2. When the department is advised or has reason to believe that any person, agency or organization is operating a nonexempt child residential facility without a license or provisional 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 Child Residential Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment received by the department will be investigated.

D. The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies (The Class A Child Care Committee)

1. The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies was created by Act 286 of 1985 to serve three functions:

a. to develop new minimum standards for licensure of Class A facilities ("new" meaning the first regulations written after Act 286 of 1985);

b. to review and consult with the Department of Social Services on all revisions written by the Bureau of Licensing after the initial regulations and to review all standards, rules and regulations for Class A facilities at least every three years;

c. to advise and consult with the Department of Social Services on matters pertaining to decisions to deny, revoke or refuse a Class A license.

2. The committee is composed of 20 members, appointed by the governor, including provider and consumer representatives from all types of child care services and the educational and professional community.

E. Waivers

The secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health, safety, and well-being of the staff/children are not imperiled. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, then the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2129 (November 1998).

§7905. Procedures

A. Initial Application

1. New buildings shall be noninstitutional 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: (504)922-0015
FAX: (504)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);
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;
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;
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 §7905. A.1.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

§7905.A.1.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 §7905.A.1.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 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. Fee schedules (based on licensed capacity) are listed below:

a. Four to six children	\$400
b. Seven to fifteen children	\$500
c. Sixteen or more children	\$600

3. Other licensure fees include:

a. a replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. (no replacement charge when the request coincides with the regular renewal of a license.);

b. a processing fee of \$5 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 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 Nonrenewal 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;

b. conviction of a felony, as shown by a certified copy of the record of the court of conviction, of the applicant;

i. or if the applicant is a firm or corporation, of any of its members or officers;

ii. or of 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;

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. Write to Department of Social Services, Bureau of Appeals, P.O. Box 2994, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 30 days of the receipt of the notification in §7905.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. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2130 (November 1998).

§7907. Definitions

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the child:

1. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person;

2. the exploitation or overwork of a child by a parent or any other person;

3. the involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's pornographic displays or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change fostering the child's self-control, and to prevent or interrupt a child's behavior which threatens harm to the child or others.

Bureau—the Bureau of Licensing within the Department of Social Services.

Department—the Department of Social Services.

Director—the person who has program authority.

Discipline—the ongoing practice of helping children or juveniles to develop inner control so that they can manage their own behavior in an appropriate and acceptable manner.

Documentation—written evidence or proof, including signatures of appropriate staff and date, on site and available for review.

Group (or *unit*)—refers to the number of children or juveniles who share a common space and relate to one primary staff person (who may be assisted by others) on a consistent or daily basis.

Human Service Field—Psychology, Sociology, Special Education, Rehabilitation Counseling, Juvenile Justice, Corrections, Nursing, etc.

License—the legal authority to operate.

Phases of Behavior Escalation:

a. a change in or an abnormal behavior occurs;

b. there is more agitation and the child begins to disrupt the environment;

c. finally, the child's behavior escalates to the level of possibly harming others or himself/herself at which time a physical restraint may occur;

d. following escalation there is a period of de-escalation.

Residential Parenting Facility—a facility in which teenage mothers and their children reside for the purpose of keeping mother and child together, teaching parenting and life skills to the mother and assisting teenage mothers in obtaining educational or vocational training and skills.

Shall or Must—a mandatory requirement.

Should—a requirement that is urged or advised.

Therapeutic Wilderness Program—an incorporation of a primitive camping program with a nonpunitive environment, and an experience curriculum for residents 9 years of age and older who have difficulty functioning in home, school and community.

Treatment Plan Manager—the individual who is assigned responsibilities as outlined in §7917 "Treatment Planning."

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2132 (November 1998).

§7909. Administration and Organization

A. General Requirements

1. A provider shall allow representatives of DSS in the performance of their mandated duties to inspect all aspects of a program's functioning that impact on children and to interview any staff member or child. DSS representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DSS representatives shall be permitted to verify that no children are present in that portion and that the private areas are inaccessible to children. Any area to which children have or have had access is presumed to be part of the facility and not the private quarters of the owner/operator.

2. A provider shall make any information that the provider is required to have under the present requirements, and any information reasonably related to assessment of compliance with these requirements available to DSS. The child's rights shall not be considered abridged by this requirement.

3. A provider accepting any child who resides in another state shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the Compact officers of each state involved.

B. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including initial and annual approval by the following:

1. the Office of Public Health, Sanitarian Services;

2. Office of the State Fire Marshal, Code Enforcement and Building Safety;
3. the City Fire Department (if applicable);
4. the local governing authority or zoning approval (if applicable);
5. the Department of Education (if applicable).

C. Governing Body. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the provider.

1. 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).

2. 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.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

D. 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 the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;

4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;

5. designate a person to act as administrator/director and delegate sufficient authority to this person to manage the provider;

6. formulate and annually review, in consultation with the administrator/director, written policies concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

7. have the authority to dismiss the administrator/director;

8. meet with designated representatives of DSS whenever required to do so;

9. inform designated representatives of DSS prior to initiating any substantial changes in the program, services or physical plant of the provider.

E. Administrative File. A provider shall have an administrative file including:

1. organizational chart of the provider;
2. all leases, contracts and purchase-of-service agreements to which the provider is a party;

3. insurance policies: every provider shall maintain in force at all times a comprehensive general liability insurance policy. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment;

4. all written agreements with appropriately qualified professionals, or a state agency, for required professional services or resources not available from employees of the provider;

(Note: The provider shall not contract with outside sources for any direct care staff, including one-on-one trainers or attendants.)

5. written policies and procedures governing all aspects of the provider's activities.

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 designated representatives of DSS at all times (twenty-four hours per day, seven days per week).

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 bylaws.

H. Accounting and Record Keeping

1. A provider shall 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 law.

4. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

I. Statement of Philosophy and Goals. A provider shall have a written statement describing its philosophy and describing both long-term and short-term goals.

J. Program Description

1. A provider shall have a written program plan describing the services and programs offered by the provider.

2. A provider shall have a written policy regarding participation of children in activities related to fundraising and publicity. Consent of the child and, where appropriate, the child's parent(s) or legal guardian(s) shall be obtained prior to participation in such activities.

3. A provider shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of children.

- a. The written consent of the child and, where appropriate, the child's parent(s) or legal guardian(s) shall be obtained before the child is photographed or recorded for research or program publicity purposes.

- b. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child.

4. A provider shall have written policies regarding the participation of children in research projects. No child shall participate in any research project without the express written consent of the child and the child's parent(s) or legal guardian(s).

K. Representation at Hearings. A provider shall, when required by law, have a representative present at all judicial, educational or administrative hearings that address the status of a child in care of the provider.

L. Children's Rights

1. All children shall be guaranteed the following rights, unless expressly contraindicated by the treatment plan. A provider shall have a comprehensive written policy on children's rights that assures each of those rights.

a. A child's civil rights are not abridged or abrogated solely as a result of placement in the provider's program.

b. A child has the right to consult freely and privately with his/her parent(s) or legal guardian(s).

c. A child has the right to consult freely and privately with legal counsel, as well as the right to employ legal counsel of his/her choosing.

d. A child is not denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, handicap, political beliefs, or any other nonmerit factor.

e. A child has the right to receive preventive, routine and emergency health care.

f. A child has the right to make complaints without fear of reprisal.

g. A child is protected from abuse and neglect.

h. A child has the right to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services.

i. A child is afforded the opportunity for telephone communication.

j. A child is allowed to send and receive mail.

k. A child is allowed visits to and from his/her family and friends.

l. A child is allowed to possess and use personal money and belongings, including personal clothing.

m. A child is explained the provider's policy on involvement of children in work.

n. A child is afforded opportunities for recreation and leisure.

o. A child has the right to adequate and appropriate food service.

p. A child has access to professional and specialized services as appropriate.

q. A child has the right to a timely (within 30 days of admission) treatment plan.

r. A child has the right to communicate freely and privately with state and local regulatory officials.

2. None of the rights guaranteed above shall be infringed or restricted in any way unless such restriction is necessary to the child's individual treatment plan. No treatment plan shall restrict the access of a child to legal counsel or restrict the access of state or local regulatory officials to a child.

3. Prior to admission, a provider shall clearly explain all of the child's civil rights to both the child and the child's parent(s) or legal guardian(s) and shall clearly explain any restrictions or limitations on those rights, the reasons that make those restrictions medically necessary in the child's individual treatment plan and the extent and duration of those

restrictions. Documentation shall consist of a statement of children's civil rights, together with any restrictions thereon, the reasons for those restrictions and the extent and duration of those restrictions, signed by provider staff, the child and the child's parent(s) or legal guardian(s).

M. 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 children's case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the child or his/her family, directly or indirectly, to any unauthorized person.

3. When the child is of majority age and noninterdicted, a provider shall obtain the child's written, informed permission prior to releasing any information from which the child or his/her family might be identified, except for authorized state and federal agencies.

4. When the child is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s) or legal guardian(s) prior to releasing any information from which the child might be identified, except for accreditation teams, authorized state and federal agencies.

5. A provider shall, upon written authorization from the child or his/her parent(s) or legal guardian(s), make available information in the case record to the child, his counsel or the child's parent(s) or legal guardian(s). If, in the professional judgement of the administration of the provider, it is felt that information contained in the record would be injurious to the health or welfare of the child, the provider may deny access to the record. In any such case the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the child's file.

6. A provider may use material from case records for teaching for research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the child or his/her parent(s) or legal guardian(s).

7. Children's records shall be retained in accordance with state/federal regulations.

N. Child's Case Record. A provider shall have a written record for each child that shall include administrative, treatment and educational data from the time of admission until the time the child leaves the provider. All children's records shall be available for inspection by the Department of Social Services. A child's case record shall include:

1. the name, home address, home telephone number, name of parent(s) or legal guardian(s), home address and telephone number of parent(s) or legal guardian(s) (if different from child's), sex, race, religion, birth date and birthplace of the child;

2. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

3. placement agreement, including proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved;

4. child's history including family data, educational background, employment record, prior medical history and prior placement history;

5. a copy of the child's individual service plan and any modifications thereto and an appropriate summary to guide and assist direct service workers in implementing the child's program;

6. quarterly status reports;

7. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints;

8. reports of any child's grievances and the conclusions or dispositions of these reports. If the child's grievance was in writing, a copy of the written grievance shall be included;

9. a summary of family visits and contacts including dates, the nature of such visits/contacts and feedback from the family;

10. a summary of attendance and leaves from the provider;

11. a summary of court visits;

12. medical and dental records;

13. written summaries from providers of professional or specialized services;

14. discharge summary at time of discharge;

15. a copy of the child's original intake evaluation/assessment. If the child was admitted as an emergency admission, a copy of the emergency admission note shall be included as well;

16. a copy of the physical assessment report;

17. a copy of all annual reports.

O. Medical and Dental Records

1. A provider shall maintain complete health records of a child including:

a. a complete record of all immunizations provided;

b. records of physical, dental and vision examinations;

c. a complete record of any treatment and medication provided for a specific illness or medical emergencies.

2. A provider shall compile a past medical history on every child. This history shall include:

a. allergies, and abnormal reactions 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 or former use of alcohol or nonprescribed drugs;

g. medical history.

P. Personnel File

1. A provider shall have a personnel file for each employee that shall contain:

a. the application for employment/resume;

b. documentation of contact with three references;

c. all required documentation of appropriate status that includes:

i. current driver's license for operating provider or private vehicles in transporting children;

ii. professional credentials/certification required to hold the position;

d. periodic, at least annual performance evaluations;

e. staff member's starting and termination dates;

f. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility;

g. documentation of satisfactory criminal record check;

h. documentation of employee's orientation and any training received.

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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2132 (November 1998).

§7911. Human Resources

A. Staff Plan

1. A provider shall have a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members whether directly employed, contract or volunteer.

2. A provider shall have written personnel policies and written job descriptions for each staff position.

3. A provider shall have a written employee grievance procedure.

B. Nondiscrimination. The provider shall have a written nondiscrimination policy that shall ensure the provider does not discriminate in employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, veteran's status or any non-merit factor in accordance with all state and federal regulations.

C. Staff Medical Requirement

1. Upon offer of employment, all staff shall be required to obtain a statement of good health signed by the physician or physician's designee. A statement of good health dated within three months prior to offer of employment or within one month after date of employment is acceptable. A health statement is due every three years.

2. All persons prior to or at time of employment shall be free of tuberculosis in a communicable state as evidenced by:

a. a negative Mantoux skin test for tuberculosis;

b. a normal chest x-ray if the aforementioned skin test is positive; or

c. a statement from a licensed physician certifying that the individual is noninfectious if the chest x-ray is other than normal.

3. Any employee who has a positive Mantoux skin test for tuberculosis, in order to remain employed, shall complete an adequate course of therapy as prescribed by a licensed physician or shall present a signed statement from a licensed physician stating that therapy is not indicated.

D. Screening

1. A provider's screening procedures shall address the prospective employee's qualifications, as related to the appropriate job description.

a. Prior to employment, each prospective employee shall complete an employment application. The application/resume shall contain complete information about an applicant's education, employment history, and criminal background, including any arrests or convictions.

b. No provider shall knowingly employ or continue in employment any person convicted of a felony or any crime involving a juvenile victim.

2. Prior to employing any person, a provider shall obtain three written references for each prospective staff member or telephone notes from contact with these references.

3. A provider shall maintain documentation of satisfactory criminal record check, as required by R.S. 15:587.1. A criminal record check shall be requested by the provider prior to the employment of any person who will have supervisory or disciplinary authority over children.

E. Orientation

1. A provider's orientation program shall provide a minimum of 24 hours of training in the following topics for all direct care staff within one week of the date of employment:

a. philosophy, organization, program, practices and goals of the provider;

b. instruction in the specific responsibilities of the employee's job;

c. implementation of treatment plans;

d. the provider's emergency and safety procedures including medical emergencies;

e. detecting and reporting suspected abuse and neglect;

f. reporting critical incidents;

g. children's rights;

h. health practices;

i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

j. basic skills required to meet the health needs and problems of the children;

k. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;

l. passive physical restraint which is to include a practice element in the chosen method;

m. safe administration and handling of all medications including psychotropic drugs, dosages and side effects.

2. The employee shall sign a statement of understanding certifying that such training has occurred.

3. A new employee shall not be given sole responsibility for the implementation of a child's program plan until this training is completed.

4. All new direct care employees shall receive certification in CPR and First Aid within the first 30 days of employment.

F. Training

1. A provider shall document that all support and direct care employees receive training on an annual basis in the following topics:

a. provider's administrative procedures and programmatic goals;

b. provider's emergency and safety procedures including medical emergencies;

c. children's rights;

d. detecting and reporting suspected abuse and neglect.

2. Direct care employees shall receive additional annual training to include but not be limited to the following topics:

a. implementation of treatment plans;

b. reporting critical incidents;

c. health practices;

d. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

e. basic skills required to meet the health needs and problems of the children;

f. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;

g. passive physical restraint which is to induce a practice element in the chosen method;

h. safe administration and handling of all medication including psychotropic drugs, dosages and side effects.

3. All direct care staff shall have documentation of current certification in CPR and First Aid.

G. Supervision and Evaluation

1. A provider shall complete an annual performance evaluation of all staff members. For any person who interacts with children, a provider's performance evaluation procedures shall address the quality and nature of a staff member's relationships with children.

2. A provider shall be responsible and have the authority for the supervision of the performance of all persons involved in any service delivery/direct care to children.

H. Staffing Requirements

1. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

a. administrative;

b. fiscal;

c. clerical;

d. housekeeping, maintenance and food service;

e. direct child service and treatment planning;

f. supervisory;

g. recordkeeping and reporting;

h. social service;

i. ancillary service;

j. treatment plan management.

2. A provider shall ensure that all staff members are properly certified, licensed as legally required and appropriately qualified for their position.

a. Director: the director shall have a bachelor's degree plus one year experience relative to the population being served.

b. Treatment plan manager: the treatment plan manager shall have one of the following:

i. a bachelor's degree in a human service field plus a minimum of three years' experience with the relevant population;

ii. a master's degree in a human service field plus a minimum of one year with the relevant population.

3. A provider shall ensure that an adequate number of qualified direct service staff are present with the children as necessary to ensure the health, safety and well-being of children. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider, the ages and needs of the children, and shall assure the continual safety, protection, direct care and supervision of children.

a. The provider shall have at least one adult staff present for every six children when children are present and awake.

b. The provider shall have at least one adult staff present and awake for every 12 children when children are present and asleep. In addition to required staff, at least one staff person shall be on call in case of emergency.

c. When children are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

d. At least one child care staff person for every five infants or toddlers shall be present in a residential parenting facility to provide care and supervision to children in the absence of teenage mothers.

e. A residential parenting facility shall not permit a teenage mother to provide care or supervision to any child other than her own in the absence of the child's mother or child care staff.

f. Children of staff members and children of residents living at the residential parenting facility shall be counted in all child care/staff ratios.

4. A provider shall make sufficient provisions for housekeeping and maintenance to ensure that direct service staff are able to adequately perform direct care functions.

5. A provider utilizing live-in staff shall have sufficient relief staff to ensure adequate off duty time for live-in staff.

I. Volunteers/Student Interns. A provider that utilizes volunteers or student interns on a regular basis shall be responsible for the actions of the volunteers and interns and shall have a written plan detailing the scope of the volunteers'/interns' work with the children. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall:

1. have direct supervision by a paid staff member. They shall never be left alone or in charge of a child or group of children without a paid staff member present;

2. have orientation and training in the philosophy of the facility and the needs of children and methods of meeting those needs;

3. have three documented reference checks as required for regular paid staff.

J. Staff Communications. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the child. This system of communication shall include recording and sharing of daily information noting unusual circumstances, individual and group problems of children, and other information requiring continued action by staff. Documentation shall be legible, signed and dated by staff.

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§7913. Quality of Life

A. Family Involvement

1. A provider shall have a written description of strategies used in the provider's program to foster ongoing positive communication and contact between children and their families, their friends and others significant in their lives.

2. A provider shall have evidence that the child's parent(s) or legal guardian(s), when appropriate, and the placing agency have been informed in writing of:

a. the philosophy and goals of the provider;

b. behavior management and disciplinary practices of the provider;

c. the provider's arrangements for children's participation in religious observances;

d. any specific treatment or treatment strategy employed by the provider to be implemented for a particular child;

e. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with children by mail or telephone;

f. a procedure for registering complaints with the provider, the contracting/funding agency and the licensing agency concerning the child's care or treatment;

g. the name, telephone number and address of a staff person who may be contacted by the family or the legally responsible person to ask questions or register concerns on an ongoing basis.

B. Telephone Communication. A provider shall allow a child to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child's treatment plan. There shall be no restrictions on communication between a child and the child's legal counsel. Any restriction on telephone communication in a child's treatment plan shall be formally approved by the treatment plan manager.

C. Mail

1. A provider shall allow children to receive mail unopened, uncensored and unread by staff unless contraindicated by the child's treatment plan. This restriction

shall be reviewed every 30 days by the treatment plan manager. No treatment plan shall restrict the right to write letters in privacy and to send mail unopened, uncensored and unread by any other person. Correspondence from a child's legal counsel shall not be opened, read or otherwise interfered with for any reason.

2. A provider shall ensure that children have access to all materials necessary for writing and sending letters and shall, when necessary, ensure that children who wish to correspond with others are given any required assistance.

D. Visits. A provider shall allow a child to visit or be visited by family and friends subject only to reasonable rules and to any specific restrictions in the child's treatment plan.

1. Special restrictions shall be imposed only to prevent serious harm to the child. The reasons for any special restrictions shall be recorded in the child's treatment plan.

2. Special restrictions shall be reviewed every 30 days by the treatment plan manager and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's treatment plan.

3. No treatment plan shall restrict home visits without approval from the legal custodian.

E. Routines. A provider shall have a written set of daily routines for children designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to children and in the provision of adequate periods of recreation, privacy, rest and sleep.

F. Money and Personal Belongings

1. A provider shall permit and encourage a child to possess his/her own money either by giving an allowance/ by providing opportunities for paid work, unless otherwise indicated by the child's treatment plan, and reviewed every 30 days by the treatment plan manager.

a. Money earned, or received either as a gift or an allowance by a child, shall be deemed to be that child's personal property.

b. Limitations may be placed on the amount of money a child may possess or have unencumbered access to when such limitations are considered to be in the child's best interests and are duly recorded in the child's treatment plan.

c. A provider shall, as appropriate to the child's age and abilities, provide training in budgeting, shopping and money management.

d. Children's monetary restitution for damages shall only occur when there is clear evidence of individual responsibility for the damages and the restitution is approved by the treatment team. The child and his/her parent(s) or legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The child and his/her parent(s) or legal guardian(s) shall be given a reasonable opportunity to respond to any claim for damages.

2. A provider shall allow a child to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the child's treatment plan. However, the provider may, as necessary, limit or supervise

the use of these items while the child is in care. Where extraordinary limitations are imposed, the child shall be informed by staff of the reasons, and the decisions and reasons shall be recorded in the child's case record. Reasonable provisions shall be made for the protection of the child's property.

G. Work

1. A provider shall have a written description regarding the involvement of children in work including:

a. description of any unpaid tasks required of children;

b. description of any paid work assignments including the pay scales for such assignments;

c. description of the provider's approach to supervising work assignments;

d. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

2. A provider shall demonstrate that any child's work assignments are designed to provide a constructive experience and are not used as a means of performing vital provider functions at low cost. All work assignments shall be in accordance with the child's treatment plan.

3. A provider shall assign as unpaid work for children only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated, at such rate and under such conditions as the child might reasonably be expected to receive for similar work in outside employment. The provider shall ensure that all such employment practices comply fully with state and federal laws and regulations. No child shall be employed in any industrial or hazardous occupation, nor under any hazardous conditions.

4. When a child engages in off-grounds work, the provider shall document that:

a. such work is voluntary and in accordance with the child's treatment plan;

b. the treatment plan manager approves such work;

c. the conditions and compensation of such work are in compliance with applicable state and federal laws;

d. such work does not conflict with the child's program.

H. Recreation

1. A provider shall have a written plan for insuring that a range of indoor and outdoor recreational and leisure opportunities are provided for children. Such opportunities shall be based on both the individual interests and needs of the children and the composition of the living group.

2. A provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to children. Recreation equipment and supplies shall be of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan.

3. A provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources. Access to such community resources shall not be denied or infringed except

as may be necessary to the child's treatment plan; and any such restrictions shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

I. Religion

1. A provider shall have a written description of its religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the child and the child's parent(s) or legal guardian(s).

a. Every child shall be permitted to attend religious services in accordance with his/her faith. The provider shall, whenever possible, arrange transportation and encourage participation by those children who desire to participate in religious activities in the community.

b. Children shall not be forced to attend religious services.

2. When the child is a minor, the provider shall determine the wishes of the parent(s) or legal guardian(s) with regard to religious observance and instruction at the time of placement and shall make every effort to ensure that these wishes are carried out.

J. Clothing

1. A provider shall ensure that children are provided with clean, well-fitting clothing appropriate to the season and to the child's age, sex and individual needs.

2. Clothing shall be maintained in good repair.

3. All clothing provided to a child shall go with the child at discharge.

4. Clothing shall belong to the individual child and not be shared in common.

K. Independent Life Training. A provider shall have a program to ensure that children receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

1. hygiene and grooming;
2. family life;
3. sex education including family planning and venereal disease counseling;
4. laundry and maintenance of clothing;
5. appropriate social skills;
6. housekeeping;
7. use of transportation;
8. budgeting and shopping;
9. cooking;
10. punctuality, attendance and other employment related matters;
11. use of recreation and leisure time.

L. Food Service

1. A provider shall ensure that a child is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council.

a. Menus shall be written and approved annually in writing by a registered dietician.

b. A provider shall develop written menus at least one week in advance.

c. Written menus and records of foods purchased shall

be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions.

2. A person designated by the administrator/director shall be responsible for the total food service of the provider. This person shall be responsible for:

- a. initiating food orders or requisitions;
- b. establishing specifications for food purchases and insuring that such specifications are met;
- c. storing and handling of food;
- d. food preparation;
- e. food serving;
- f. orientation, training and supervision of food service personnel;
- g. maintaining a current list of children with special nutritional needs;
- h. having an effective method of recording and transmitting diet orders and changes;
- i. recording information in the child's record relating to special nutritional needs;
- j. providing information on children's diets to staff.

3. A provider shall ensure that any modified diet for a child shall be:

- a. prescribed by the child's physician and treatment plan with a record of the prescription kept on file;
- b. planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

4. A provider shall ensure that a child 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.

5. The provider shall ensure that the food provided to a child in care by the provider is in accord with his/her religious beliefs.

6. No child shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the child's file.

7. When meals are provided to staff, a provider shall ensure that staff members eat the same food served to children in care, unless special dietary requirements dictate differences in diet.

8. A provider shall purchase and provide to children only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

9. A provider shall ensure that food served to a child and not consumed is discarded.

10. A provider shall show evidence of effective procedures for cleaning all equipment and work areas.

M. Professional and Special Programs and Services

1. A provider shall ensure services in the following areas to meet the specialized needs of the child:

- a. physical/occupational therapy;
- b. speech pathology and audiology;
- c. psychological and psychiatric services;
- d. social work services;

- e. individual, group and family counseling.
- 2. A provider shall ensure that all providers of professional and special services:
 - a. record all significant contacts with the child;
 - b. provide quarterly written summaries of the child's response to the service, the child's current status relative to the service and the child's progress;
 - c. participate, as appropriate, in the development, implementation and review of treatment plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;
 - d. provide services appropriately integrated into the overall program and provide training to direct service staff as needed to implement treatment plans;
 - e. provide child assessments/evaluations as needed for treatment plan development and revision.

3. A provider shall ensure that any provider of professional or special services (internal or external to the agency) meets the following:

- a. adequately qualified and, where appropriate, currently licensed or certified staff according to state or federal law;
- b. adequate space, facilities and privacy;
- c. appropriate equipment;
- d. adequate supplies;
- e. appropriate resources.

N. Health Care. The provider shall have a written plan for providing preventive, routine and emergency medical and dental care for children and shall show evidence of access to the resources outlined in the plan. This plan shall include:

- 1. ongoing appraisal of the general health of each child;
- 2. provision of health education, as appropriate;
- 3. provisions for keeping children's immunizations current;
- 4. approaches that ensure that any medical treatment administered will be explained to the child in language suitable to his/her age and understanding;
- 5. an ongoing relationship with a licensed physician, dentist and pharmacist to advise the provider concerning medical and dental care;
- 6. availability of a physician on a 24-hour, seven days a week basis;
- 7. reporting of communicable diseases and infections in accordance with law.

O. Medical Care

1. A provider shall arrange a general medical examination by a physician for each child within a week of admission unless the child has received such an examination within 30 days before admission and the results of this examination are available to the provider. This examination shall include:

- a. an examination of the child for physical injury and disease;
 - b. vision, hearing and speech screening;
 - c. a current assessment of the child's general health.
2. The provider shall arrange an annual physical examination of all children.
3. Whenever indicated, the child shall be referred to an appropriate medical specialist for either further assessment or

treatment, including gynecological services for female children.

4. A provider shall ensure that a child receives timely, competent medical care when he/she is ill or injured. A provider shall notify the child's parent or legal guardian, verbally /in writing, within 24 hours of a child's illness or injury that requires treatment from a physician or hospital.

5. Records of all medical examinations, follow-ups and treatment together with copies of all notices to parent(s) or guardian(s) shall be kept in the child's file.

P. Dental Care

1. A provider shall have an organized system for providing comprehensive dental services for all children that shall include:

- a. provision for dental treatment;
- b. provision for emergency treatment on a 24-hour, seven days a week basis by a licensed dentist
- c. a recall system specified by the dentist, but at least annually.

2. A provider shall arrange a dental exam for each child within 90 days of admission unless the child has received such an examination within six months before admission and the results of this examination are available to the provider.

3. Records of all dental examinations, follow-ups and treatment shall be documented in the child's file.

4. Provider shall notify the child's parent(s) or legal guardian(s), verbally/in writing, within 24 hours when a child requires or receives dental treatment. The notification shall include the nature of the dental condition and any treatment required.

Q. Immunizations. Within 30 days of admission, a provider shall obtain documentation of a child's immunization history, insuring the child has received all appropriate immunizations and booster shots that are required by the Office of Public Health.

R. Medications

1. A provider shall have written policies and procedures that govern the safe administration and handling of all drugs as appropriate to the provider.

2. A provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

3. A provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

4. A provider shall have a written policy for handling medication taken from the facility by children on pass.

5. A provider shall ensure that any medication given to a child for therapeutic and medical purposes is in accordance with the written order of a physician.

a. There shall be no standing orders for prescription medications.

b. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

c. Copies of all written orders shall be kept in the child's file.

d. Medication shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

6. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff, or any medication errors. Any such side effects or errors shall be promptly recorded in the child's file and the parent(s) or legal guardian(s) notified in writing within 24 hours.

7. Each drug shall be identified up to the point of administration.

8. Discontinued and outdated drugs and containers with worn, illegible or missing labels shall be properly disposed of.

9. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

a. Drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets at all locations.

b. All drugs, including refrigerated drugs, shall be kept under lock and key.

10. A provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications including:

a. a description of procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

b. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the child unobtainable through less restrictive measures;

c. a description of procedures to ensure continual physician review of medication and discontinuation of medication when there are no demonstrable benefits to the child;

d. a description of an ongoing program to inform children, staff, and where appropriate, children's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medication and to involve children and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication;

e. no child shall be given any psychotropic medication except on written authorization from a physician, a copy of which shall be kept in the child's file. Such written authorizations shall be reviewed and renewed at least every 90 days.

S. Grievance Procedure for Children

1. A provider shall have a written grievance procedure for children designed to allow children to make complaints without fear of retaliation.

2. The provider shall document that the child and the child's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

3. The provider shall document the resolution of the grievance in the child's record.

T. Abuse and Neglect

1. A provider shall have comprehensive written procedures concerning child abuse including:

a. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, mandated reporting requirements to the Office of Community Services Child Protection Agency and applicable laws;

b. a procedure for insuring that the child is protected from potential harassment during the investigation;

c. a procedure for disciplining staff members who abuse or neglect children;

d. a procedure for insuring that the staff member involved does not work directly with the child involved or any other child in the program until the investigation is complete.

2. Any case of suspected child abuse or neglect shall be reported immediately to the Bureau of Licensing and other appropriate authorities, according to state law. Written notification shall follow within 24 hours. The child's record shall include:

a. date and time the suspected abuse or neglect occurred;

b. description of the incident;

c. action taken as a result of the incident; and

d. name of the person to whom the report was made.

U. Reports on Critical Incidents

1. Any serious incident, accident or injury to a child, elopements, hospitalizations, overnight absence from the facility without permission, and any other unexplained absence shall be reported to the parent/legal guardian/placing agency within 24 hours. The child's record shall contain:

a. the date and time the incident occurred;

b. a brief description of the incident;

c. the action taken as a result of the incident;

d. the name of the person who completed the report; and the names of the person(s) who witnessed the incident;

e. the name of the person who made the report to the parent/legal guardian or placing agency; and

f. the name of the person to whom the report was made.

2. Any incident which involves the death of a child or any serious threat to the child's health, safety or well-being shall be reported to the parent/legal guardian/placing agency, Bureau of Licensing and other appropriate authorities. Written notification shall follow within 24 hours.

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§7915. Direct Service Management

A. Admission Policies

1. A provider shall have a written description of admission policies and criteria that shall include the following information:

a. policies and procedures related to intake;

b. the age and sex of children served;

c. the needs, problems, situations or patterns best addressed by the provider's program;

d. any other criteria for admission;

e. criteria for discharge;

f. any replacement requirements on the child, the legally responsible person, DSS or other involved agencies;

g. procedures for insuring that placement within the program is the least restrictive alternative, appropriate to meet the child's needs.

2. A provider shall only accept children for placement from the parent(s), legal guardian(s), custodial agency or a court of competent jurisdiction.

3. The written description of admission policies and criteria shall be available to the parent(s) or legal guardian(s) for any child referred for placement.

4. A provider shall not admit more children into care than the number specified on the provider's license.

5. A provider shall not accept any child for placement whose needs cannot be adequately met by the provider's program.

6. A provider shall not admit any child into care whose presence will be seriously damaging to the ongoing functioning of the provider or to children already in care.

7. When refusing admission to a child, a provider shall notify the referring agency of the reason for refusal of admission in writing. If the child was referred by his/her parent(s) or legal guardian(s) he/she shall be provided written reasons for the refusal. Copies of the written reasons for refusal shall be kept in the provider's administrative file.

8. A provider shall ensure that the child, the child's parent(s) or legal guardian(s) and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

9. No child shall be admitted unless the provider has first complied with all applicable provisions of the Interstate Compact on Juveniles, the Interstate Compact on Placement of Children and the Interstate Compact on Mental Health. Proof of such prior compliance shall be obtained prior to admission and shall be kept in the child's file.

B. Intake Evaluation

1. The provider shall accept a child into care only when a current, comprehensive intake evaluation/assessment, not over one year old, has been completed including, health and family history, medical, social, psychological and, as appropriate, developmental, vocational or educational assessment. This evaluation shall contain evidence that a determination has been made that the child cannot be maintained in a least restrictive environment within the community.

2. In emergency situations necessitating immediate placement into care, the provider shall gather as much information as possible about the child to be admitted and the circumstances requiring placement, formalize this in an "emergency admission note" within two days of admission and then 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 Children. The provider shall, consistent with the child's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the child 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 the child's record.

2. The placement agreement shall include, by reference or attachment, at least the following:

a. discussion of the child's and the family's expectations regarding family contact and involvement, the nature and goals of care including any specialized services to be provided, the religious orientation and practices of the child and the anticipated discharge date;

b. a delineation of the respective roles and responsibilities of all agencies and persons involved with the child and his/her family;

c. authorization to care for the child;

d. authorization to obtain medical care for the child;

e. arrangements regarding visits, vacation, mail, gifts and telephone calls;

f. arrangements regarding the nature and frequency of reports to, and meetings involving, the legally responsible person and referring agency;

g. provision for notification of the child's parent(s) or legal guardian(s) in the event of unauthorized absence, illness, accident or any other significant event regarding the child.

3. The provider shall ensure that an assessment of each child is conducted upon placement for illness, fever, rashes, bruises and injury. The child shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the child's record.

4. The provider shall assign a staff member to orient the child and, where available, the family to life at the facility.

E. Discharge

1. 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 child or other children might be endangered by the child's further placement at the agency. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

2. When a child is discharged, the provider shall compile a complete written discharge summary within 30 days of discharge. The discharge summary is to be kept in the child's record and shall include:

a. the name and home address of the child and, where appropriate, the child's parent(s) or legal guardian(s);

b. the name, address and telephone number of the provider;

c. the reason for discharge and, if due to child's unsuitability for provider's program, actions provider undertook to maintain placement;

d. a summary of services provided during care including medical, dental and health services;

e. a summary of the child's progress and accomplishments during care;

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

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§7917. Treatment Planning

A. The Treatment Plan Manager. A provider shall ensure that a qualified treatment plan manager is assigned to each child and given responsibility for and authority over:

1. supervision of the implementation of the child's treatment plan;

2. integration of the various aspects of the child's program;

3. recording of the child's progress as measured by objective indicators and making appropriate changes/modifications;

4. reviewing and approving quarterly status reports of the successes and failures of the child's program, including the child's educational program, with recommendations for any modifications deemed necessary. These reports may be prepared by designated staff, but the treatment plan manager shall also sign and date the report;

5. insuring the timely release, whenever appropriate, of the child to a least restrictive setting;

6. monitoring any extraordinary restriction of the child's freedom including use of any form of restraint, any special restriction on a child's communication with others and any behavior management plan;

7. asserting and safeguarding the human and civil rights of children and their families and fostering the human dignity and personal worth of each child;

8. helping the child and family to consider alternative services and make a responsible choice regarding whether and when placement is indicated during the evaluation process, that may or may not lead to admission;

9. serving as liaison between the child, provider, family and community during the child's admission to and residence in the facility, or while the child is receiving services from the provider in order to:

a. assist staff in understanding the needs of the child and his/her family in relation to each other;

b. assist staff in understanding social factors in the child's day-to-day behavior, including staff/child relationships;

c. assist staff in preparing the child for changes in his/her living situation;

d. help the family to develop constructive and personally meaningful ways to support the child's experience in the facility, through counseling concerned with problems associated with changes in family structure and functioning, and referral to specific services, as appropriate;

e. help the family to participate in planning for the child's return to home or other community placement.

B. The Treatment Plan

1. A provider shall ensure that a child has a current, (within the prior 12 months) comprehensive, written psychiatric/psychological, social and, as appropriate, educational assessment. This assessment shall be the basis of

a comprehensive, time limited, goal oriented individual treatment plan addressing the needs identified by the assessment within 30 days of admission.

a. The assessment shall identify the child's strengths and needs, establish priorities to assist in the development of an appropriate plan and conclude with recommendations concerning approaches and techniques to be used.

b. All methods used in assessing a child shall be appropriate considering the child's age, development and cultural background and dominant language or mode of communication.

2. Individual treatment plans shall be developed by an interdisciplinary team including the treatment plan manager, representatives of the direct service staff working with the child on a daily basis, representatives of other placing/funding agencies, the child, the child's parent(s) or legal guardian(s) and any other person(s) significantly involved in the child's care on an ongoing basis.

3. The provider shall document that, where applicable, the designated representative of the placing agency and the child's parent or legal guardian have been invited to participate in the planning process. When they do not participate, the provider shall document the reasons for nonparticipation.

4. A provider shall include in a child's treatment plan any community resources or programs providing treatment or training to that child, and shall involve representatives of such services and programs in the treatment planning process whenever feasible and appropriate. Any community resource or program involved in a treatment plan shall be appropriately licensed or shall be a part of an approved school program.

5. The completed treatment plan shall be signed by all team participants.

6. A provider shall complete a treatment plan at least annually and shall evaluate the degree to which the goals have been achieved.

7. A provider shall ensure that all persons working directly with the child are appropriately informed of the treatment plan and have access to information from the child's records that is necessary for effective performance of the employee's assigned tasks.

8. A child's treatment plan shall not be composed solely of activities and programs provided by agencies and organizations external to the provider.

9. A provider shall ensure that the treatment plan for each child includes the following components:

a. the findings of the assessment. The assessment shall describe the severity, duration and frequency of the targeted behavior;

b. a statement of goals to be achieved for the child and his/her family;

c. plan for fostering positive family relationships for the child, when appropriate;

d. schedule of the daily activities including training/education for children and recreation to be pursued by the program staff and the child in attempting to achieve the stated goals;

e. any specific behavior management plan;

f. any specialized services that will be provided directly or arranged for, stated in specific behavioral terms that permit the problems to be assessed, and methods for insuring their proper integration with the child's ongoing program activities;

g. overall goals and specific objectives that are time limited;

h. methods for evaluating the child's progress;

i. any restriction to "children's rights" deemed necessary to the child's individual treatment plan. Any such restriction shall be expressly stated in the treatment plan, shall specifically identify the right infringed upon, and the extent and duration of the infringement, and shall specify the reasons such restriction is necessary to the treatment plan, and the reasons less restrictive methods cannot be employed;

j. goals and preliminary plans for discharge;

k. identification of each person responsible for implementing or coordinating implementation of the plan.

C. Education

1. A provider shall ensure that each child has access to appropriate educational services consistent with the child's abilities and need, taking into account his/her age and level of functioning.

2. All children of school age shall be enrolled in and attending a school program approved by the Department of Education or an alternative educational program approved by the local school board.

3. The provider shall notify both the placing agency and the child's parent(s) or legal guardian(s) verbally/in writing within 24 hours of any truancy, expulsion or suspension from school. Notification shall be documented in the child's record.

D. Reports. The chief administrator of a provider or his/her designee shall report in writing to the child's parent or legal guardian at least annually, or as otherwise required by law, with regard to the child's progress with reference to the goals and objectives in the treatment plan. This report shall include a description of the child's medical condition.

E. Arrangement of Children into Groups

1. A provider shall arrange children into groups that effectively address the needs of children.

2. All children shall have privacy during periods of relative quiet and inactivity.

3. All children shall have an opportunity to build relationships within small groups.

4. Children shall be involved in decision making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

F. Behavior Management

1. The provider shall have a written description of the methods of behavior management to be used on facility-wide level, insuring that procedures begin with the least restrictive, most positive measures and follow a hierarchy of acceptable measures. This description shall be provided to all provider staff and shall include:

a. appropriate and inappropriate behaviors of children;

b. consequences of inappropriate behaviors of children;

c. the phases of behavior escalation and appropriate intervention methods to be used at each level.

2. Use of any methods other than those outlined in the written description required above is prohibited unless addressed in an individual behavior management plan approved by the treatment plan manager.

G. House Rules and Regulations. A provider shall have a clearly written list of rules and regulations governing conduct for children in care and shall document that these rules and regulations are made available to each staff member, child and, where appropriate, the child's parent(s) or legal guardian(s).

H. Limitations on Potentially Harmful Responses. A provider shall have a written list of prohibited responses to children by staff members and shall document that this list is made available to each staff member, child and, where appropriate, the child's parent(s) or legal guardian(s). This list shall include the following prohibited responses:

1. any type of physical hitting or other painful physical contact except as required for medical, dental or first aid procedures necessary to preserve the child's life or health;

2. requiring a child to take an extremely uncomfortable position;

3. verbal abuse, ridicule or humiliation;

4. withholding of a meal, except under a physician's order;

5. denial of sufficient sleep, except under a physician's order;

6. requiring a child to remain silent for a long period of time;

7. denial of shelter, warmth, clothing or bedding;

8. assignment of harsh physical work.

I. Limitations on Punishments

1. A provider shall have a written list of prohibited responses to children by staff when such responses are used as punishments and shall document that this list is made available to each staff member, child and, where appropriate, the child's parent(s) or legal guardian(s). This list shall include the following prohibited responses:

a. physical exercise or repeated physical motions;

b. excessive denial of usual services;

c. denial of visiting or communication with family or legal guardian;

d. extensive withholding of emotional response;

e. any other cruel and unusual punishment.

2. A provider shall not punish groups of children for actions committed by an individual.

3. Children shall neither punish nor supervise other children except as part of an organized therapeutic self government program that is conducted in accordance with written policy and is supervised directly by staff. Such programs shall not be in conflict with all regulations regarding behavior management.

4. Punishment shall not be administered by any persons who are not known to the child.

J. Restraints

1. A provider shall not use any form of mechanical, physical or chemical restraint. Passive physical restraint shall

only be utilized when the child's behaviors escalate to a level of possibly harming himself/herself or others.

2. Passive physical restraints are only to be performed by two trained staff personnel in accordance with an approved curriculum. A single person restraint can be initiated in a life threatening crisis with support staff in close proximity to provide assistance.

K. Time-Out Procedures

1. A provider using time-out rooms for seclusion of children for brief periods shall have a written policy governing the use of time-out procedures. This policy shall ensure that:

- a. the room shall be unlocked;
- b. time-out procedures are used only when less restrictive measures have been used without effect; written documentation of less restrictive measures used shall be required;
- c. emergency use of time-out shall be approved by the treatment plan manager or administrator for a period not to exceed one hour;
- d. time-out used as an individual behavior management plan shall be part of the overall plan of treatment;
- e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed eight hours;
- f. when a child is in time-out, a staff member shall exercise direct physical supervision of the child at all times;
- g. a child in time-out shall not be denied access to bathroom facilities, water or meals.

2. Copies of the behavior management policy, the prohibited response policy and the punishment policy, including restraint prohibitions and time out procedures, shall be provided in triplicate upon admission. The child and parent(s) or legal guardian(s) shall sign all three copies. The child and parent(s) or legal guardian(s) shall retain one copy each and the provider shall retain the other copy in the child's record.

3. Copies of the behavior management policy, the prohibited response policy and the punishment policy, including restraint prohibitions and time out procedures, shall be provided in duplicate to each new employee upon hiring. The employee shall sign both copies. The employee shall retain one copy and the provider shall retain the other copy in the employee's personnel record.

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§7919. Physical Environment

A. Exterior Space

1. A provider shall maintain all areas of the facility accessible to children in good repair and free from any reasonably foreseeable hazard to health or safety. All

structures on the grounds of the facility shall be maintained in good repair.

2. A provider shall maintain the grounds of the facility in good condition.

a. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be separate from play area.

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 or have natural barriers to protect children.

e. Playground equipment shall be so located, installed and maintained as to ensure the safety of children.

3. Children shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

4. A provider shall have at least 75 square feet of accessible exterior space for each child. The exterior space shall be adequate to accommodate one-half the licensed capacity of the facility.

B. Interior Space

1. The arrangement, appearance and furnishing of all interior areas of the facility shall be similar to those of a normal family home in the community.

2. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the facility.

3. Each living unit of a facility shall contain a space for the free and informal use of children. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the provider.

4. 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.

5. A facility shall have an appropriate variety of interior recreational spaces.

C. Dining Areas

1. A facility shall have dining areas that permit children, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated and attractively furnished.

D. Sleeping Accommodations

1. A provider shall ensure that each single occupancy bedroom space has a floor area of at least 80 square feet and that each multiple occupancy bedroom space has a floor area of at least 60 square feet for each occupant.

2. A provider shall not use a room with a ceiling height of less than seven feet six inches as a bedroom space. In a room with varying ceiling height, only portions of the room with a ceiling height of at least seven feet six inches are allowed in determining usable space.

3. A provider shall not permit more than four children to occupy a designated bedroom space.

4. No child over the age of 5 years shall occupy a bedroom with a member of the opposite sex.

5. A provider shall not use any room that does not have a window as a bedroom space.

6. Each child shall have his/her own bed. A child's bed shall be no shorter than the child's height and no less than 30 inches wide and shall have a clean, comfortable, nontoxic fire retardant mattress.

7. A provider shall ensure that sheets, pillow, bedspread and blankets are provided for each child.

a. Enuretic children shall have mattresses with moisture resistant covers.

b. Sheets and pillow cases shall be changed at least weekly, but shall be changed more frequently if necessary.

8. Each child shall have a solidly constructed bed. Cots or other portable beds are not to be used on a routine basis.

9. 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.

10. Each child shall have 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 child.

11. Each child shall have his/her own designated area for rest and sleep.

12. The decoration of sleeping areas for children shall allow some scope for the personal tastes and expressions of the children.

E. Bathrooms

1. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to child care needs.

a. Bathrooms shall be so placed as to allow access without disturbing other children during sleeping hours.

b. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless children are individually given such items. Children shall be provided individual items such as hair brushes, toothbrushes, razors, etc.

c. Tubs and showers shall have slip proof surfaces.

2. A facility shall have toilets and baths or showers that allow for individual privacy unless children in care require assistance.

3. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold running water.

4. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the children's basic hygienic needs.

5. A provider shall ensure that bathrooms are equipped to facilitate maximum self help by children. Bathrooms shall be large enough to permit staff assistance of children if necessary.

6. Toilets, wash basins 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.

F. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean up of all meals for all of the children and

staff regularly served. All equipment shall be maintained in proper working order.

2. 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 children in care.

3. A provider shall ensure that all dishes, cups and glasses used by children in care are free from chips, cracks or other defects and are in sufficient number to accommodate all the children.

4. Animals shall not be permitted in food storage, preparation and dining areas.

G. Laundry Space. A provider shall have a laundry space complete with washer and dryer.

H. Staff Quarters. A provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

I. Administrative and Counseling Space

1. A provider shall provide a space that is distinct from children's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. A provider shall have a designated space to allow private discussions and counseling sessions between individual children and staff.

J. Furnishings

1. A provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of children shall be appropriately designed to suit the size and capabilities of these children.

2. A provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

K. Doors and Windows

1. A provider shall provide insect screening for all windows that can be opened. This screening shall be readily removable in emergencies and shall be in good repair.

2. A provider shall ensure that all closets, bedrooms and bathrooms with doors can be readily opened from both sides.

L. Storage

1. A provider shall ensure that there are sufficient and appropriate storage facilities.

2. 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.

M. Electrical Systems

1. A provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

2. A provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

3. A provider shall ensure that exterior areas are well lit at night.

N. Heat

1. A provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of children.

2. A provider shall not use open flame heating equipment.

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§7921. Emergency and Safety

A. Emergency and Safety Plan. A provider shall have a written overall plan of emergency and safety procedures that shall provide for the following:

1. the evacuation of children to safe or sheltered areas;
2. training of staff and, as appropriate, children in preventing, reporting and responding to fires and other emergencies;
3. an on-going safety program including continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies;
4. training of personnel in their emergency duties and the use of any fire fighting or other emergency equipment in their immediate work areas.

B. Drills

1. A provider shall conduct fire drills once per month, one drill per shift every 90 days, at varying times of the day.
2. A provider shall make every effort to ensure that staff and children recognize the nature and importance of fire drills.

C. Notification of Emergencies. A provider shall immediately notify the Bureau of Licensing and other appropriate agencies of any fire, disaster or other emergency that may present a danger to children or require their evacuation from the facility.

D. Access to Emergency Services

1. A provider shall have access to 24-hour telephone service.
2. The provider shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

E. 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 a manner that ensures the safety of children, staff and visitors.
3. A provider shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport children.
4. A provider shall prohibit the use of candles in sleeping areas of the children.
5. Power-driven equipment used by a provider shall be safe, and properly maintained. Such equipment shall be used by children only under the direct supervision of a staff member and according to state law.
6. A provider shall have procedures to prevent insect and rodent infestation.

7. A provider shall allow children to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

F. Transportation

1. The provider shall ensure that each child is provided with the transportation necessary for implementation of the child's treatment plan.
2. The provider shall have means of transporting children in cases of emergency.
3. The provider shall ensure and document that any vehicle used in transporting children, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law and carries current liability insurance.
4. Any staff member of the provider, or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting children shall be currently licensed.
5. The provider shall not allow the number of persons in any vehicle used to transport children to exceed the number of available seats in the vehicle. The provider shall not transport children in the back or the bed of a truck.
6. The provider shall ensure that children being transported in the vehicle are properly supervised while in the vehicle and during the trip.
7. All vehicles used for the transportation of children shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.
8. Vehicles used to transport children shall not be identified in a manner that may embarrass or in any way produce notoriety for children.
9. The provider shall ascertain the nature of any need or problem of a child that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting children.

10. The following additional arrangements are required for a provider serving handicapped, nonambulatory children:

- a. a ramp device to permit entry and exit of a child from the vehicle shall be provided for all vehicles except automobiles normally used to transport physically handicapped children. A mechanical lift may be utilized if a ramp is also available in case of emergency;
- b. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle;
- c. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

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§7923. Therapeutic Wilderness Program

A. The Therapeutic Wilderness Program shall meet all of the following standards in addition to the core requirements

except §§7919 and 7921 (Physical Environment and Emergency and Safety) and any specific exceptions as noted in the module.

B. Staff Qualifications

1. Administrator

a. The administrator shall be selected by the board of directors and shall be accountable to the board of directors for satisfactory performance of duties.

b. The administrator shall be a graduate of a four-year college or university and shall hold at least a bachelor's degree in a human service field.

c. The administrator shall have at least 10 years' verifiable experience in the field of human services.

d. The administrator shall have responsibility for oversight and accountability for the overall program.

2. Director

a. The director shall answer to the administrator for satisfactory performance of duties.

b. The director shall hold at least a bachelor's degree in a human service field.

c. The director shall have at least five years' verifiable experience in a human services field or at least three years' progressively responsible experience in a program for at-risk or troubled youth and in the area of therapeutic wilderness programs.

3. Treatment Plan Manager

a. The treatment plan manager shall be licensed/certified in one of the following fields:

i. medicine;

ii. psychology;

iii. psychiatry;

iv. social work;

v. professional counseling.

b. The treatment plan manager shall have at least three years' experience in the field of therapeutic programming.

C. Administrative Area

1. There shall be permanent buildings including, but not limited to the following:

a. an administrative area with adequate space for administrative staff, counseling staff, clerical staff, supplies, equipment and records;

b. infirmary space that is separate, private, accessible to a bathroom, equipped with adequate beds, medication storage and supplies. This space shall be used for medical purposes only;

c. laundry space supplied with hot and cold running water under pressure, washers, dryers and supplies. The use of commercial equipment is recommended. If household equipment is used, there shall be a ratio of one washer and dryer for every 15 children. Laundry service may be contracted from a commercial service;

d. an indoor food service and dining area, that meets the requirements of the Office of Public Health, Sanitarian Services. This shall include appropriate food storage areas;

e. a shower or bathing area designed to provide adequate hot water and showers. Separate shower facilities shall be provided for co-ed facilities. All showers or bathing

facilities shall meet Office of Public Health, Sanitarian Services requirements;

f. adequate toilet and handwashing facilities. All toilets and hand washing facilities shall meet Office of Public Health, Sanitarian Services requirements;

g. adequate indoor space and supplies for the educational program to meet the needs of the children when the wilderness program is conducted during regular school months/hours. Rooms shall provide at least 25 square feet of floor space per child and be equipped with chairs, tables/desks to accommodate the educational component of the program;

h. adequate storage space for equipment, recreational supplies, off-season clothing and bedding, tools and other supplies;

i. if hazardous materials are stored, the area of storage shall be locked to prevent access by children;

ii. children's personal belongings that require storage shall be inventoried and placed under lock until discharge;

i. adequate space for children to seek shelter during hazardous weather conditions or emergencies. Buildings used for sleeping during adverse weather shall contain at least 35 square feet per child and be maintained at a comfortable temperature.

2. All permanent buildings shall be adequately maintained to provide for the safety and well-being of the children.

3. All areas shall be free of debris, noxious plants and uncontrolled weeds and brush.

4. All walkways and heavily traveled common areas shall be safe and adequately maintained.

5. Adequate lighting for walkways shall be provided after dark.

6. Areas shall be selected that prevent offensive conditions, safety hazards and provide adequate drainage.

D. Campsites. Campsites may consist of tents, tepees, cabins, wagon trains, or other nonpermanent structures.

1. Campsites shall be separated from the central administrative areas by a maximum of 1.25 miles if the children walk back and forth to the administrative areas. Vehicle transportation shall be provided if the campsite is located over 1.25 miles from the administrative areas.

2. Sleeping areas shall be:

a. structurally sound, sanitary, in good repair and provide protection against insects and the elements;

b. constructed of durable, flame-resistant, waterproof material, whether it is tents, tepees, wagons, etc.;

c. all tents or tepees used in residential campsites shall be on a raised platform and constructed to prevent the entrance of ground and surface water;

d. the sleeping area shall be protected by screening or netting against admittance of flies and mosquitoes;

e. the area shall provide for cross-ventilation;

f. males and females shall not sleep in the same sleeping unit;

g. same sex counselors are permitted to sleep in housing with children;

h. each temporary sleeping unit shall be limited to no more than 12 persons;

i. all heating equipment shall be maintained and operated in a safe manner to eliminate the possibility of fire and meet requirements of the State Fire Marshal, Code Enforcement and Building Safety;

j. there shall be adequate storage space for each child's personal belongings.

3. Bedding

a. Separate suitable beds shall be provided for each child.

b. All bedding shall be clean and sanitary.

c. Waterproof coverings, in good repair, shall be on all mattresses/pads.

d. All mattresses shall be covered by a protective mattress cover or pad.

e. Linens shall be changed as often as necessary for cleanliness and sanitation, but not less than weekly.

f. There shall be at least six feet between heads of sleepers.

g. There shall be at least 36 inches between sides of beds.

h. Triple bunk beds shall not be used.

i. If bunk beds are used, the top bunk shall have sufficient clearance between the bunk and the ceiling to allow the child to sit up in bed.

j. If sleeping bags are used, they shall:

i. be placed on a mattress or a plastic-covered foam rubber pad;

ii. be flame resistant;

iii. be cleaned monthly or as often as necessary to maintain sanitary conditions;

iv. be of sufficient weight and construction to maintain children's comfort in the climate and conditions in which the sleeping bag is used, according to manufacturer's label.

k. Sleeping bags shall be aired every five days.

l. If sleeping bags are used, each child shall be provided with his/her own bag that shall be given to the child upon discharge.

4. Cooking and Eating Areas in Campsite

a. All meals at campsite shall be coordinated with all meals for the day so as to meet the daily nutritional needs of the children as outlined by the Food Nutrition Board of the National Research Council.

b. The eating area shall have flooring that is constructed to prevent the entrance of ground/surface water.

c. The eating and cooking area shall have a covering sufficient to protect against rain and the elements.

d. A table and benches are required for the eating area.

e. The cooking area shall be located so that ground and surface water cannot accumulate or enter.

f. The working area shall have adequate sanitary storage area for cooking utensils, food and cleaning supplies. Cleaning supplies shall be stored separately from food.

g. There shall be appropriate materials for handling hot cookware and for cleaning all cooking and eating utensils.

h. Appropriate cookware and dining utensils for the preparation and consumption of food shall be provided to meet the needs of the children.

i. There shall be a sanitary surface area for food preparation.

j. Proper food sanitation practices shall be written and posted in the cooking area.

5. Toilet facilities shall be provided and shall:

a. include privies, water closets, latrines, chemical toilets, etc.;

b. be in compliance with Office of Public Health, Sanitarian Services requirements and constructed, located and maintained so as to prevent any nuisance or public health hazard;

c. have toilet tissue at each toilet seat at all times;

d. have soap, towels and clean water for purposes of handwashing;

e. allow for individual privacy unless children in care require assistance;

f. be separate in co-ed facilities;

g. be well lit and ventilated;

h. be kept clean and sanitary.

6. A sheltered area, with adequate lighting, shall be provided for personal and recreational activities for the residents. The eating area may serve in this capacity.

7. A personal hygiene area shall be provided with an adequate supply of clean water, soap and towels. Wash basins may be used.

8. An appropriate storage area for tools shall be provided. Tools posing a threat to safety shall be kept in a locked area.

9. A bulletin board shall be erected at each campsite.

10. A fire safety station with adequate fire extinguishers, sand, water, shovels, signaling devices and posted procedures shall be maintained at each campsite within easy access of each tent, tepee or other sleeping area and food preparation area.

11. There shall be potable water at each campsite. The supply shall be adequate for hand washing, cooking and drinking.

12. An emergency access road shall be constructed to each campsite.

13. Durable trash and garbage containers of adequate size with tight fitting lids shall be provided at each campsite.

14. Counselors' sleeping areas shall be located so that no child's sleeping area will be out of calling range.

15. A well equipped Red Cross standard or equivalent first aid kit shall be maintained with each group.

E. Activity and Equipment Requirements

1. The provider shall assure that all equipment used in the program is appropriate for its purposes and is properly maintained.

a. All sports and outdoor equipment used in the program shall be selected on the basis of safety factors and shall be regularly checked or tested to ensure that it is up to the provider's standards that comply at a minimum with applicable national standards for the equipment in use. Materials or equipment that do not meet the standards shall be repaired or discarded promptly, as appropriate.

b. When participants or personnel wish to or are asked to provide their own equipment, the provider shall

require that such equipment meet the required standards or provide appropriate equipment as a substitute.

- c. The use of chainsaws by clients is prohibited.
- d. All firearms are prohibited.

2. A provider engaging in any of the following activities shall do so with appropriate regard for associated safety and technical requirements:

- a. initiative and problem solving activities;
- b. orienting;
- c. hiking or backpacking;
- d. camping;
- e. group expeditions;
- f. community service;
- g. environmental projects;
- h. running;
- i. bicycle touring;
- j. remote travel;
- k. flat water canoeing or flat water rafting;
- l. sailing;
- m. ropes courses, climbing towers and artificial wall climbing;
- n. other activities with a limited degree of perceived or actual risk for which its staff are appropriately prepared and trained.

3. Prior to initiation of an activity:

- a. staff are familiarized with the terrain site or waterways that are to be utilized and have direct experience and up-to-date information about the conditions that are likely to be encountered;
- b. participants are provided with complete information about boundaries of the activity, rendezvous times and places and emergency procedures.

4. Terrain, water temperature and other environmental conditions involved in an activity are determined to be appropriate to the skill levels in the group and to contain no unusual hazards or threats.

5. When the activity involves travel or movement such as hiking, running, climbing, canoeing, bicycle touring or similar pursuits, participants are instructed in proper techniques, pacing, need for fluids and sunscreen, appropriate footwear and equipment and potential hazards that should be anticipated.

6. The pace set in a group shall be related to the capacities of the least able or fit member of the group, take into account previous illness or injury and be designed to prevent the occurrence of accidents or illness.

7. Repair kits for equipment used, location devices and reflectors for any dusk or nighttime activity and other protective gear or equipment are provided as appropriate to the activity involved. Personal flotation devices (Type III) shall be worn at all times when on the water.

8. There shall be clear guidelines for the use of fire and governing the uses and storage of any potentially hazardous material or equipment such as propane, axes, knives, etc. in which personnel and participants are trained.

9. Techniques and skills needed for an activity shall be taught progressively. Less skilled participants shall be appropriately supported and supervised. No groups shall

travel or engage in an activity without supervision with the exception of planned, unaccompanied activities that are part of the program design.

10. Ropes courses, alpine or climbing towers and artificial wall climbing program components shall meet the following requirements:

- a. the facilities and equipment used in the program shall be constructed by or under the supervision of recognized experts in the field;
- b. staff shall have been trained by recognized experts in the field and have working knowledge of ropes course and climbing equipment elements, technology and construction and accepted standard usage and inspection of same;
- c. there shall be appropriate inspection and safety procedures in place and implemented.

F. Health and Safety

1. General Health Practices

a. The provider shall ensure that each child has a health examination, performed prior to participation in program activities, by a licensed physician that documents:

- i. the child can perform each type of adventure activity that he/she will be asked to do;
- ii. receipt of a tetanus shot;
- iii. notation of asthma, allergies/dietary needs; and
- iv. notation of whether the child is on medication that would require the child to avoid the sun/to take other special precautions.

b. The provider shall develop and give to each staff member a written policy for emergency procedures.

2. Emergency and Safety Procedures

a. The provider shall develop and maintain on file a written list of all activities in which children will participate.

b. The provider shall have a written plan for each activity. This plan shall include the following:

- i. a description of the activity;
- ii. staff requirements;
- iii. children's requirements for participation;
- iv. equipment necessary for the activity;
- v. safety equipment;
- vi. emergency and evacuation procedures;
- vii. location for activity;
- viii. a written plan for search and rescue procedures.

c. The provider shall have a written plan for fire safety and other emergencies that includes the following:

i. provisions for training all staff in fire safety procedures and in the use of equipment and techniques for fighting small fires. Such training shall be documented;

ii. name(s), address(es) and telephone number(s) of local rescue squads, law enforcement agencies and hospitals and guidelines for when and how to contact them.

d. The provider shall develop a method of recording all fires, accidents and other emergencies.

e. The provider shall maintain operable fire extinguishers in each building and at each camp site.

f. Staff safety training requirements:

i. the provider shall ensure that all staff involved in wilderness activities are certified in first aid and cardiopulmonary resuscitation (CPR);

RULE

Department of Transportation and Development Board of Registration for Professional Engineers and Land Surveyors

Registration Certificate; Individual/Corporation
Certification (LAC 46:LXI.1903); Continuing Professional
Development (LAC 46:LXI.2001-2021)

In accordance with R.S. 49:950 et seq., the Board of Registration for Professional Engineers and Land Surveyors adopts LAC 46:LXI.1903 and 46:LXI.2001-2021.

The board makes continuing professional development mandatory for all professional engineers and professional land surveyors practicing engineering and/or land surveying. Beginning January 1, 1999, all professional engineers and professional land surveyors must begin complying with the continuing professional development requirements of these rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 19. Certificates of Registration; Certification of Individuals or Corporations

§1903. Registration Status

Active Status—the registration status which exists for a registrant of the board who has complied with all the registration and registration renewal requirements of the board.

Expired Status—the registration status which exists for a board registrant who has failed to properly renew registration as required in L.R.S. 37:697 and 37:697.1. A registrant in an *expired status* can no longer offer or provide professional engineering or professional land surveying services in Louisiana.

Inactive Status—the registration status which exists for a registrant of the board who has chosen not to offer or provide professional engineering services and/or professional land surveying services in Louisiana and who has indicated that fact on the board biennial registration renewal form. This registrant can represent himself to the public as a *P.E. Inactive*, or a *P.L.S. Inactive*, but cannot otherwise offer or provide any professional engineering services and/or professional land surveying services in Louisiana.

Retired Status—the registration status which exists for a registrant of the board who has chosen not to offer or provide professional engineering services and/or professional land surveying services in Louisiana, and who has indicated that fact on the board biennial registration renewal form. To qualify for the *retired status*, the registrant must be at least 70 years of age or have been a registrant of the board for at least 35 years. The renewal fee for the *retired status* shall be one-half of the current renewal fee for the *active status*. This registrant can represent himself to the public as a *P.E. Retired*, or a *P.L.S. Retired*, but cannot otherwise offer or provide professional engineering services and/or professional land surveying services in Louisiana.

ii. no employee or other individual may be left alone with a child or group of children unless that employee or individual has been certified in CPR and first aid;

iii. for each activity, at least one staff member who is present shall be certified or has had at least one year's experience in the adventure activity for which he or she will be supervising children;

iv. for all water activities, at least one staff is present who is certified in emergency water safety and life saving techniques.

g. The provider shall have a safety review committee or another similar mechanism to include in-house technical and supervisory personnel, that meets monthly, who will conduct ongoing safety reviews, evaluations of all accidents, incidents or patterns of incidents and identify health and safety issues. Documentation of corrective action implemented by the committee addressing health and safety issues identified shall be maintained by the facility. The committee shall establish specific rules and procedures governing the safety of each activity including, but not limited to, outdoor hiking, horseback riding, ropes courses, canoeing and any other adventure/sports/recreation activity in which children participate. The rules and procedures for each type of activity shall be reviewed and approved by a professional in that area to ensure that appropriate safety measures are adopted and followed.

G. Service Program. The agency's overall program shall be designed to help the child develop behaviors, skills and knowledge required to function effectively in life situations through therapeutic adventure-based activities. The program will provide children with outdoor physical, environmental, educational, athletic or other challenging activities within a supportive and therapeutic environment. This will involve physical and psychological challenges that are designed to stimulate competence and personal growth, to expand individual capabilities, to develop self-confidence and insight, and to improve interpersonal skills and relationships.

H. Staff to Child Ratio. Section 7911.H.4. regarding child/staff ratio shall not apply to Wilderness Programs. The following standards shall apply:

1. The provider shall ensure that:
 - a. there are at least two staff persons present at all times (24 hours per day) with a group of two to 12 children;
 - b. if more than 12 children are involved, the provider shall maintain a one to six/staff to child ratio.
2. Only those staff members who are providing direct care and supervision of the children shall be counted in determining whether required child/staff ratio is met. These staff persons may be regular staff persons or adventure staff persons. Administrative staff are not counted in determining compliance with child/staff ratio unless a portion of their time is dedicated to direct care and there is documentation to support this.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2147 (November 1998).

Madlyn B. Bagneris
Secretary

9811#073

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2151 (November 1998).

Chapter 20. Continuing Professional Development (CPD)

§2001. Introduction

A. Chapter 20 provides for a continuing education program to insure that all professional engineers practicing engineering, and professional land surveyors practicing land surveying, remain informed of those technical and professional subjects necessary to safeguard life, health, property and promote the public welfare. Beginning on January 1, 1999, every registrant shall meet the continuing professional development requirements of LAC 46:LXI.Chapter 20 as a condition for registration renewal.

B. The primary purpose of licensing for professional engineers and professional land surveyors is to protect the public from unqualified or unethical practitioners. The requirement for continuing professional development is also intended to protect the public by reinforcing the need for lifelong learning in order to stay more current with changing technology, equipment, procedures, processes, tools, and established standards. Chapter 20 provides flexibility in selecting among a broad range of subjects that are intended to strengthen or maintain competency in technical, managerial (business) or ethical fields. Registrants are encouraged to select meaningful CPD activities which will be of benefit in the pursuit of their chosen fields.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998).

§2003. Definitions

Terms used in Chapter 20 are defined as follows:

Acceptable Activity—subject matter which is technical in nature or addresses business management practices, professional ethics, quality assurance, codes or other similar topics which facilitate the registrant's professional development as a professional engineer or professional land surveyor, and/or serves to safeguard life, health, property and promote the public welfare. Any course/activity offered or approved by a *Board-Approved Sponsor/Provider* will qualify as an *Acceptable Activity* (see definition of *Board-Approved Sponsor/Provider*). It will be the responsibility of the registrant attendee to determine if a course or activity offered by an unapproved *Sponsor/Provider* is an acceptable activity.

Board—Louisiana State Board of Registration for Professional Engineers and Land Surveyors.

Board-Approved Sponsor/Provider—the Louisiana Engineering Society; the Louisiana Society of Professional Surveyors; professional and technical engineering or land surveying societies; federal, state or local government agencies; colleges or universities; and any individual, firm, corporation or educational institution approved by the board on a case-by-case basis. All sponsors/providers must conduct

courses which will enhance and improve a registrant's professional development as a professional engineer or professional land surveyor, and/or serve to safeguard life, health, property and promote the public welfare. Failure to do so will be grounds for the board to revoke its sponsorship/provider approval.

Continuing Education Unit (CEU)—a unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in approved continuing education courses.

Continuing Professional Development (CPD)—the educational process whereby a professional engineer or professional land surveyor registrant engages in a continuing program to maintain, improve or expand skills and knowledge.

Course/Activity—any qualifying program with a clear purpose and objective which will maintain, improve or expand the skills and knowledge relevant to the registrant's field of practice.

Dual Registrant—a person who is registered in both land surveying and one or more branches of engineering.

Professional Development Hour (PDH)—a nominal contact hour of instruction or presentation.

Registration Status—

a. *Active Status*—a registrant of the board as defined in §1903.

b. *Expired Status*—a registrant of the board as defined in §1903.

c. *Inactive Status*—a registrant of the board as defined in §1903.

d. *Retired Status*—a registrant of the board as defined in §1903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998).

§2005. Requirements

A. During each biennial registration renewal period, every engineering registrant, including those registered in two or more branches, is required to obtain 30 PDHs in engineering related activities.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. A minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every engineering registrant who designs buildings and/or building systems.

B. During each biennial registration renewal period, every land surveyor registrant is required to obtain 15 PDHs in land surveying related activities.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional land surveyor.

2. A minimum of four PDHs shall be earned in the Minimum Standards for Property Boundary Surveys in Louisiana during any two consecutive biennial periods.

C. During each biennial registration renewal period, each dual registrant shall obtain 30 PDHs; however, at least one-third of the PDHs shall be obtained separately for each profession.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer and/or professional land surveyor.

2. A minimum of four PDHs shall be earned in the Minimum Standards for Property Boundary Surveys in Louisiana during any two consecutive biennial periods.

3. A minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every engineering registrant who designs buildings and/or building systems.

D. Excess PDHs

1. If a registrant exceeds the biennial registration renewal period requirement, a maximum of 15 PDHs may be carried forward into the subsequent biennial registration renewal period.

2. Excess PDHs may include, without limitation, those obtained in professional ethics, Minimum Standards for Property Boundary Surveys, Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines.

E. Registrants will be required to verify compliance with these CPD requirements at the end of their first full biennial registration renewal period which begins after the effective date of these rules and at the end of each subsequent biennial registration renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998).

§2007. Reciprocity/Out-of-Jurisdiction Resident

A. The continuing professional development requirements for Louisiana will be deemed as satisfied when a nonresident provides evidence of having met the requirements of the registrant's resident jurisdiction; provided, however, that as part of satisfying these requirements nonresidents practicing building design or building systems design in Louisiana must meet the requirements of §2005.A.2 or §2005.C.3, as applicable, and nonresidents practicing land surveying in Louisiana must meet the requirements of §2005.B.2.

B. If the registrant resides in a jurisdiction that has no continuing professional development requirements applicable to that registrant, the registrant must meet all requirements of Louisiana set forth in §2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998).

§2009. Exemptions

A. A registrant may be exempt from the continuing professional development requirements for any one or more of the following reasons.

1. New registrants shall be exempt at their first renewal. Compliance with the CPD requirements must be certified upon the registrant's second renewal and thereafter.

2. A registrant serving on active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a biennial registration renewal period shall be exempt from obtaining the PDHs required during that biennial registration renewal period.

3. Registrants experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board.

4. Registrants who certify their status as *Inactive* on the board-approved renewal form and who further certify that they are no longer offering or practicing professional engineering and/or professional land surveying in Louisiana shall be exempt. In the event such a person elects to return to the active practice of professional engineering and/or professional land surveying, the registrant must meet the requirements set forth in §2021.

5. Registrants who certify their status as *Retired* on the board-approved renewal form and who further certify that they are no longer offering or practicing professional engineering and/or professional land surveying in Louisiana shall be exempt. In the event such a person elects to return to the active practice of professional engineering and/or professional land surveying, the registrant must meet the requirements set forth in §2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998).

§2011. Determination of Credit

A. PDHs may be earned as indicated in §2013 for the following Acceptable Activities:

1. successful completion of college courses, correspondence courses, continuing education courses, seminars, tutorials, short courses and/or by teaching/instructing these items;

2. attending or presenting qualifying seminars; in-house courses sponsored by corporations, agencies or other organizations; workshops; or professional/technical presentations made at meetings, conventions, or conferences;

3. obtaining teaching credit for teaching/instructing or presenting; to obtain teaching credit for teaching/instructing or presenting, registrants must be able to document that research and preparation were necessary, such as in the case of a first-time teaching;

4. membership in engineering and land surveying professional associations or technical societies;

5. authoring and publishing articles in engineering or land surveying journals;

6. obtaining patents.

B. PDHs may not be earned through informal, unstructured activities such as reading technical journals.

C. The board has final authority with respect to the acceptability of courses, PDH credit, PDH value for courses, and other methods of earning credit. PDH credit for

acceptable college or correspondence courses may be based upon course credit established by the college or school.

D. Selection of activities is the responsibility of the registrant; however, guidance is available from the board (see §2003, *Acceptable Activity*, and §2011).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998).

§2013. Units

A. The conversion of other units of credit to PDHs is as follows.

1. One college or unit semester hour = 45 PDHs.
2. One college or unit quarter hour = 30 PDHs.
3. One Continuing Education Unit = 10 PDHs.

B. PDH credit will be awarded as follows.

1. Fifty contact minutes of instruction or attendance at an activity = one PDH.

2. Membership in engineering and land surveying professional associations or technical societies = one PDH per biennial registration renewal period for each professional or technical association or society. A maximum of three PDHs will be allowed per biennial registration renewal period.

3. In accordance with §2011.A.1, 2, and 3, credit for teaching or making presentations may be earned at twice the PDHs allowed for attending a course, but shall not exceed 30 PDHs in any biennial registration renewal period.

4. Authoring and publishing peer reviewed (refereed) articles/papers in engineering or land surveying journals = 10 PDHs.

5. Authoring and publishing nonpeer reviewed (nonrefereed) articles/papers in engineering or land surveying journals = five PDHs.

6. Each patent = 10 PDHs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998).

§2015. Record Keeping

A. All renewal applications will require the completion of a board-approved renewal form. This form will contain an affirmation of eligibility certifying that the registrant has met all requirements for registration renewal, including CPD requirements.

B. In addition, the registrant will be required to maintain and document a worksheet form specified by the board outlining PDHs claimed. The registrant must:

1. supply sufficient detail on the form to permit audit verification;
2. certify and sign the form; and
3. submit the form to the board upon request.

C. Maintaining records to be used to support PDHs claimed is the responsibility of the registrant. These records

must be maintained for at least three consecutive biennial registration renewal periods (six years) and copies may be requested by the board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998).

§2017. Audit and Review of Records

A. The board may request, at any time, that a registrant provide proof of compliance with all CPD requirements.

B. Additionally, the board will conduct random audits of biennial renewals of up to 30 percent of all board registrants.

C. Additionally, the board will require that all registrants against whom formal disciplinary charges are pending in Louisiana provide proof of compliance with all CPD requirements.

D. Should the registrant fail to provide proof of compliance, or if discrepancies or deficiencies are discovered as the result of any of the reviews provided for in §2017.A-C, the registrant will be deemed not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998).

§2019. Failure to Comply

A. When a registrant is deemed not in compliance with the CPD requirements of the board, the registrant will be so notified and given 120 days to satisfy the board requirements. The registrant must provide documented evidence of compliance accompanied by the registrant's affidavit attesting to such compliance and payment of an administrative fee of \$200. Failure to comply will subject the registrant to disciplinary action as provided in L.R.S. 37:698.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998).

§2021. CPD Reinstatement

A. To become reinstated, an *Expired*, *Inactive*, or *Retired* registrant must show proof of having obtained all delinquent PDHs. However, the maximum number required will be the number of PDHs required for one biennial registration renewal period as provided in §2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998).

H. Glen Kent, Jr., P.L.S.
Executive Secretary

9811#053

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Game Fish Fingerling Aquaculture (LAC 76:VII.159)

The secretary of the Department of Wildlife and Fisheries does hereby amend the rule governing game fish fingerling aquaculture in Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

§159. Game Fish Fingerling Aquaculture—Rules and Permits

* * *

D. A fish farmer raising and selling live game fish fingerlings must submit an annual report delineating the total numbers of fishes stocked statewide by species and total acreage. This report will be sent to the Louisiana Cooperative Extension Service, where data will be compiled and remitted to the secretary of the Department of Wildlife and Fisheries. The deadline for submission of the annual report will be no later than one month after the reporting year has ended.

E. Game fish farmers transporting game fish fingerlings for sale must possess a bill of lading which shall accompany each shipment showing species of fish contained in the shipment, number, the origin of the payload, destination of the shipment, the name of the consignee and consignor, and the grower's name and fish farmer's license number.

* * *

H. Per R.S. 56:327.A.1.b.iv., the department shall have the authority to cancel sales or to confiscate and destroy shipments of game fish fingerlings that are determined by department personnel to have fish diseases or parasites that would endanger native fish populations. Game fish farmers must agree to allow department personnel or a department approved contractor to conduct unannounced random inspections of the transport vehicle. Those individuals may remove or take fish samples for analysis and/or inspection.

I. Genetic purity shall be maintained and game fish fingerlings produced shall not be genetically manipulated or altered in any way without prior approval of the department, except for hybrid crosses within the genera of *Lepomis*, *Pomoxis*, *Micropterus*, or *Morone*, or fish produced with polyloid chromosomes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(1)(b) and R.S. 56:327(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:893 (September 1991), amended by the Office of Fisheries, LR 24:2155 (November 1998).

James H. Jenkins, Jr.
Secretary

9811#083

RULE

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

Goose Creeping (LAC 76:V.307)

The Wildlife and Fisheries Commission hereby abolishes the regulation that prohibits goose creeping.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§307. Goose Creeping

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:547 (August 1988), repealed LR 24:2155 (November 1998).

Thomas M. Gattle, Jr.
Chairman

9811#082

Notices of Intent

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Advisory Commission on Pesticides**

Wood Infestation Report (LAC 7:XXV.121)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry proposes to amend regulations regarding the completion of the wood destroying insect report.

The Department of Agriculture and Forestry deems it necessary to amend rules and regulations regarding the instructions as to completing WDIR form LPCA - 142. These rules comply with and are enabled by LSA-R.S. 3:3203.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§121. Wood Infestation Report

A. - C.8. ...

C.9A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997) LR 25:

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Wood Infestation Report

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

There will be no costs or savings to state or local governmental units. The proposed rule eliminates the current requirement that only one block can be checked in Section 9 of the wood destroying insect report (LPCA-142). This change would allow for the reporting of both evidence of wood destroying insects and evidence of damage due to wood destroying insects.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no additional costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Skip Rhorer
Assistant Commissioner
9811#032

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Animal Health Services
Livestock Sanitary Board**

Livestock Auction Market Requirements
(LAC 7:XXI.305-311)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of the Commissioner proposes to amend regulations governing livestock auction market requirements. These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 3. Cattle

§305. Brucellosis Vaccination and Fee

A. - C. ...

D. All heifer calves between 4 and 12 months of age not vaccinated for brucellosis which are to be sold through an approved livestock auction market, and are to remain in Louisiana more that 30 days, must be vaccinated with USDA approved brucellosis vaccine prior to being sold. There shall be a fee to be paid by the seller of \$2 for each heifer calf required to be vaccinated for brucellosis, which fee shall be known as the brucellosis vaccination fee. The brucellosis vaccination fee shall be collected on the date of the sale from the seller by the approved livestock auction market and forwarded to the Louisiana Department of Agriculture and Forestry no later that the tenth day of the month following the month in which the fee was collected.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2223.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:75 (February 1989), amended LR 22:960 (October 1996), LR 25:

§307. Livestock Auction Market Requirements

A. - A.1.c.iv ...

d. All heifer calves, between 4 and 12 months of age not vaccinated for brucellosis must be vaccinated with USDA approved Brucellosis vaccine prior to being sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

d.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), amended LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695(October 1988), LR 15:813 (October 1989), LR 17:30 (January 1991), LR 18:837 (August 1992), amended LR 22:960 (October 1996), LR 25:

§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers

A. - 2.b.ii. ...

3.a. All heifer calves between 4 and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), LR 11:651 (June 1985), amended LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996), LR 25:

§311. Governing the Sale of Purchases, within Louisiana, of All Livestock not Governed by Other Regulations (Brucellosis Requirements)

A. ...

1. Heifer calves 4 to 12 months of age, must be official brucellosis calthood vaccinates to be eligible to be sold other than to slaughter or to a quarantined feedlot.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:238 (March 1985), LR 11:615 (June 1985), amended 12:502 (August 1986), LR 13:559 (October 1987), LR 17:31 (January 1991), LR 18:837 (August 1992), LR 25:

All interested persons should submit written comments on the proposed amendments by the end of business on December 28, 1998 to Dr. Maxwell Lea, Jr., Louisiana Department of Agriculture and Forestry at 5825 Florida Boulevard, Baton Rouge, LA 70806.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Livestock Auction Market Requirements

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

It is estimated that there will be no costs or savings to state or local governmental units to implement the proposed rule. Currently, there are approximately 80,000 calves sold yearly at Louisiana livestock auction barns in which veterinarian contractors perform brucellosis vaccinations at a cost to buyers of \$2.00 per calf. The \$2.00 feed collected is forwarded to the department. The department pays \$1.75 per calf to the veterinarian and keeps \$.25 per calf for administrative costs. Although the current rule requires that calves sold in-state be vaccinated, the current practice is that all calves, including those sold out-of-state be vaccinated. This rule change is intended to make the department's rule consistent with current practice.

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

It is anticipated that there will be no effect on revenue collections of state or local governmental units. All calves 4 to 12 months old are currently vaccinated and the state is already collecting the fees associated with these vaccinations.

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

The proposed rule change will impose the \$2.00 per calf brucellosis vaccination fee on the seller. The prior rule required buyers of 4 to 12 month old calves to pay the brucellosis vaccination fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that the proposed action will have no impact on competition in the public or private sectors due to a nation-wide initiative to eradicate brucellosis.

Skip Rhorer
Assistant Commissioner
9811#033

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Marketing
Market Commission**

Fees and Costs (LAC 7:V.1615)

In accordance with the provisions of the Administrative Procedure Act. R.S. 49:950 et seq., the Department of Agriculture and Forestry, State Market Commission proposes to amend regulations regarding the certification and inspection of all meat, poultry and seafood products at state institutions and local school districts. These rules comply with and are enabled by R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

No preamble concerning the rule is available.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 16. Meat, Poultry and Seafood Grading and Certification Program

§1615. Fees and Costs

A. ...

B. Any vendor delivering a food product inspected and certified by the Department, under these regulations, shall pay an inspection fee of \$.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of \$.025 per dozen. All fees and costs shall be immediately due and payable to the Department upon presentation to the vendor by the Department of the statement for services rendered.

C. If any product received by the public entity is in noncompliance with these regulations or purchase order requirements, but is accepted by the public entity because the product is needed for immediate consumption by either students, residents, patients or inmates then the vendor delivering such products shall pay the to the Department an inspection fee of \$.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of \$.025 per dozen. Any public entity accepting a product that is in noncompliance with these regulations or purchase order requirements will immediately notify the Department of any such acceptance and will provide the Department with all necessary information to allow the Department to bill the vendor for payment under this Subsection.

D. Any vendor, state agency, state institution, local school district or person needing certification services from the Department and failing to notify the Department at least twenty-four (24) hours in advance of need shall be subject to a penalty of \$50.00, regardless of the time required for the services or the fees assessed by the Department.

E. Fees charged and collected by the Department under any other grading or certification program operated by the Department shall not be affected by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 24:629 (April 1998), amended LR 25:

All interested persons should submit written comments on the proposed amendments by the end of business on December 28, 1998 to Mr. James Pruitt, Louisiana Department of Agriculture and Forestry at 5825 Florida Blvd., Baton Rouge, LA 70806.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees and Costs**

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

There should be no implementation costs to state or local governmental units, as existing personnel will be utilized to

administer these rules. It is anticipated that there could be savings to local school and state institutions in food cost because improvement of quality should result in less loss.

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

It is anticipated that there will be no effect on revenue collections of state or local governmental units.

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

Vendors will be charged \$.025 per pound for grading and certification of red meat, poultry and seafood products, and \$.025 per dozen for grading and certification of shell eggs. These grading and certification costs will be imposed when there are violations of the standards and requirements and the product must be used.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment. These rules will apply to all producers of red meat, poultry and seafood products in the state.

Skip Rhorer
Assistant Commissioner
9811#031

Robert Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of State Museum**

**Small Museum Matching Grant Program
(LAC 25:III.Chapter 5)**

The Department of Culture, Recreation and Tourism, Office of State Museum proposes to adopt the following rule relative to the Office of State Museum, providing matching funds for grants to small museums with rules promulgated to establish eligibility standards, per authority of R.S. 25:342. The purpose for the rule is to establish eligibility standards for the small museums within the State of Louisiana to apply for a program grant and to outline program and accountability requirements.

Title 25

CULTURAL RESOURCES

Part III. Office of State Museums

Chapter 5. Small Museum Matching Grant Program in the State Museum

§501. Policy for Administration of the Program

A. A small museum matching grant program was established within the Louisiana State Museum by Section 15 of Act 19, the General Appropriations Act of 1998, Regular Session.

B. This program is limited annually to only those funds appropriated by the Legislature within the State Museum budget which are specifically included for this grant program and are so designated for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:

§503. Eligibility Requirements

A. Small museums throughout the State of Louisiana may apply for a grant based on a one-to-one match in accordance with the guidelines below.

1. Eligibility is restricted to museums with documented total annual operating budgets of less than \$100,000 from all sources of income.

2. Eligible museums must be open to the public a minimum of twenty (20) hours per week, have a permanent staff operating the museum, and have collections and/or offer exhibitions that pertain to Louisiana culture, heritage and history.

3. Grants will be limited to not more than \$40,000 per museum per year.

4. Each recipient must match the grant from the state on a one-to-one basis, although documented and measurable in-kind services may be substituted for cash.

5. Such grants *may not* be used for operating support but are limited to care of collections, educational programs, or exhibits.

6. No museum may be eligible for an additional grant until all reporting/accounting and other requirements for a previous state grant have been successfully completed and submitted.

7. Only one grant per parish may be awarded annually through this program.

8. State-operated museums *are not eligible* for this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:

§505. General Guidelines

A. The program year will be the State’s fiscal year for the purposes of appropriations by the Legislature for the program.

B. Small museums receiving grants will have one year from the date of the award to complete their program and submit a final report.

C. Grant recipients must comply with all State laws, rules and requirements for expenditure of State provided funds.

D. The initial application will fully describe the program, its objectives, performance indicators to measure the success of the program, and a complete breakdown of the funds required, how they are to be used, and the one-to-one match in cash or in-kind services. The application must show how the program relates to care of collections, educational programs, and/or exhibitions, and explain the benefits to the people of Louisiana.

E. Each grant recipient will submit quarterly reports which outline their compliance with the program as submitted and to applicable state laws, rules and requirements regarding accountability of state funds.

F. Each program must be completed within one year of the date of the grant award. A final report will be submitted to the Department of Culture, Recreation and Tourism, Office of Management and Finance, citing program success as

measured against the initial performance indicator projections. A copy of all reports must be provided to the State Museum.

G. Museums failing to comply with these grant guidelines will be ineligible for additional grants.

H. The State Museum Statewide Curator will visit with and assist each grant recipient during their grant cycle.

I. The Department of Culture, Recreation and Tourism, Office of Management and Finance shall have oversight responsibility to ensure fiscal reliability and that all guidelines and State requirements are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum, LR 25:

Written comments may be addressed to James F. Sefcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Post Office Box 2448, New Orleans, Louisiana, 70176-2448.

James F. Sefcik
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Small Museum Matching Grant Program**

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

There will be no estimated implementation costs or savings to state or local governmental units. The proposed rule establishes eligibility standards and guidelines for small museums (less than \$100,000 in operating expenses) to receive grant funds appropriated by the Legislature.

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

The proposed rule will have no effect on revenue collections of state or local governmental units. This is pass-through money to be awarded to small museums throughout the state based on applications and eligibility standards.

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

Each grant recipient is required to match the dollar amount of the grant from the state on a one-to-one basis. In-kind services may be substituted for cash. Grant recipients will benefit from additional state funding to support museum collections, educational programs and exhibits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may increase competition between small museums in each parish to receive a state grant. Only one grant may be awarded annually in each parish. Grant recipients may become more competitive with improved collections and additional exhibits. The effect on employment will depend upon the individual needs of the museums which are awarded these grants.

James F. Sefcik
Assistant Secretary
9811#052

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Used Motor Vehicle and Parts Commission

Licensing Requirements and Hearing Procedures
(LAC 46:V.Chapters 29-33 and Chapter 47)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission intends to amend sections of existing rules and regulations regarding licensing requirements, propose rules regarding hearing procedures and repeal §2909 which pertains to sign requirements.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 29. Used Motor Vehicle Dealer

§2905. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Existing signs prior to adoption of this rule will not have to meet the new requirements. If two or more dealers share a location, each dealer must display his own sign. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. Each dealer must have their own listed business telephone. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. All dealers are required to furnish and keep in force the minimum required liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state. For those dealers who, in addition to selling vehicles, conduct the business of daily vehicle rentals, a separate renter's policy must be in effect.

3. ...

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Part Commission, LR 15:258 (April 1989), amended LR 15:375 (May 1989), LR 24:

§2909. Sign Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 2:119 (April 1976), repealed by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

Chapter 31. License for Salesman

§3101. Qualifications and Eligibility for Licensure

A. - A.1. ...

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's liability insurance policy. It is not intended that the dealer pay for licenses for it salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesman licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:

Chapter 33. Automotive Dismantler and Recycler

§3303. Qualifications and Eligibility for Licensure

A. ...

1. The ability of the applicant to establish an adequate place of business, properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment. Existing signs prior to adoption of this rule will not have to meet the new requirements. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. ...

B. - D. ...

E. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

F. No person, firm, or corporation may advertise, sell or display for sale used parts without first obtaining a used parts dealer's license to do business in this state. All these types license numbers will be prefixed by UP, followed by a four digit number then the current year of license.

1. Used parts are broadly described as those parts necessary for operation of a vehicle and have been removed from a vehicle for resale. They include, but not limited to, the

following: motors, wheels, generators, alternators, water pumps, glass, radiators, spark plugs, fuel tanks, etc.

2. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S. 32:754.

3. At least one salesman's license shall be issued for each business. License fee charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

4. A surety bond will not be required for dealers whose principal business is selling used parts.

G. An out of state parts dealer may open a parts business in this state. License for an out of state parts dealer to open a used parts business is \$500 per location.

H. Dealers whose only business is selling rebuilt or remanufactured parts, used batteries, tires and/or wheel covers are not included herein. Service stations are also specifically excluded from the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752, 32:753, 32:754, 32:755 and 32:756, 32:772(E), and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), repromulgated LR 20:645 (June 1994), amended LR 24:

Chapter 47. Hearing Procedures

§4701. Hearing Officer

A. A hearing may be conducted by a hearing officer designated by the Chairman.

B. The hearing officer shall have all the powers of the Commission in connection with the hearing and shall have authority to issue subpoenas, order the taking of depositions, administer oaths, hear testimony, admit evidence, make rulings on objections and motions, and prepare a proposed order consisting of findings of fact and conclusions of law and submit the proposed order to the commission for its consideration.

C. Any party who feels that he cannot receive a fair and impartial hearing from the hearing officer shall make a motion either orally at the time of the hearing or in writing requesting that such hearing officer withdraw from the case. That request must set forth the specific grounds in accordance with LSA C.C.P. art. 151. The hearing officer may withdraw without further proceedings and immediately refer the matter to the chairman for reassignment; otherwise, the request shall be heard before the commission sitting at a regular monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4703. Time for Hearing

A. The time set for a hearing, specified in the notice, shall not be less than 15 days after the date the notice is completed.

B. Any request for a continuance of a hearing shall be made in writing in a reasonable time prior to the hearing and shall state the reasons for the request. The hearing officer is

authorized to rule on the motion for continuance. The hearing may be continued from time to time as announced openly before the hearing is recessed without further notice or otherwise by giving reasonable notice less than 15 days before the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4705. Subpoenas

A. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission, and/or for the production of evidence of records of any kind shall be issued by the hearing officer. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

B. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party shall file a list of names and addresses of such witnesses with the hearing officer at least 10 days before the date set for the hearing.

C. Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to him in the course of the hearing, the hearing officer may institute appropriate judicial proceedings under the laws of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the hearing officer or the commission, in its discretion, at any time may continue the proceeding for the purpose of taking the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4707. Rights of the Parties

Any party whose rights may be affected at any hearing shall have the right to appear personally and by counsel, to cross-examine adverse witnesses, to produce evidence and witnesses in their own behalf and to provide arguments on all issues involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4709. Evidence

The commission shall not be bound by the technical rules of evidence and may admit material and relevant evidence. The principles underlying the *Louisiana Code of Evidence* shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission, in the discretion of the chair or the presiding member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4711. Record of the Hearing

A. The record in every individual proceeding shall include the following:

1. all pleadings, motions, and intermediate rulings;
2. evidence received and considered;
3. a statement of matters officially noticed;
4. questions and offers of proof, objections and rulings thereon;
5. the proposed order;
6. any decision, opinion, or report by the person(s) presiding at the hearing;
7. all staff memorandum or data submitted to the hearing officer of the commission in connection with their consideration; and
8. the minutes from the commission meeting in which action was taken on the proposed order.

B. A recording and a transcript of the hearing will be performed by a certified court reporter. The record and the file containing the pleadings will be maintained in a place designated by the hearing officer. Any party requesting a transcript of the hearing will pay a fee according to a schedule established by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4713. Rulings

A. When a hearing officer is used and a majority of the commissioners have not heard the case or read the record, any decision adverse to any party other than the commission shall be postponed until a copy of the proposed order is served upon all parties and each is given an opportunity to reply, either orally or in writing. The proposed order shall be prepared by the person(s) who conducted the hearing. A statement of the reasons for the order and each issue of fact or law necessary to the order shall accompany the proposed order. This requirement may be waived by the written stipulation of all parties, or where there is no contest (as in the failure of a party to appear after due notice), the commission may eliminate compliance therewith.

B. Any party affected by the proposed order may prepare a written brief which must be filed with the commission within 10 days from receipt of the proposed order, or the affected party may present an oral response at the next monthly meeting of the commission.

C. During its regular monthly meetings (or upon a special meeting as called by the chairman and upon reasonable notice to all parties), the commission shall make the final decision based on the record and the proposed order.

D. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Parties shall be notified either personally or by mail of any decision

or order along with their attorney of record, if any. The parties by written stipulation may waive, and the commission in the event there is no contest may eliminate, compliance with this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

§4715. Rehearings

No rehearing shall be permitted from any ruling of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:

Interested persons may submit written comments no later than 30 days from the date of publication of the notice of intent to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA 70808, (225) 925-3870.

John M. Torrance
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensing Requirements and Hearing Procedures

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs anticipated from the proposed amendments and adoption of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections as a result of the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Independent used motor vehicle dealers will be required to have a telephone installed in the business name. The used motor vehicle dealer will incur the cost of a business phone as opposed to the cost of a residential phone. There will be a minimal cost for signs on a shared dealer lot. Salesmen are covered under the dealer's insurance policy; they are being required to list the individual names on the certificate of insurance. This rule explicitly requires that a salesman for an Automotive Dismantler have a license. This is already required under state law.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
All licensees will be incurring the same costs and operating under the same laws and rules, thereby, eliminating any unfair competition.

John M. Torrance
Executive Director
9811#045

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Board Advisory Councils (LAC 28:I.105)

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 the following revision to the structure of the Textbook and Media Advisory Council and the School Library Advisory Council. The Board merged the School Library Advisory Council into the Textbook and Media Advisory Council, which will now consist of fourteen members and will be named the Textbook and Media Advisory Council.

The responsibilities of the Council will be to advise the Board on issues relating to policies, procedures, and/or programs regarding the adoption of textbooks, library and reference materials, and all other materials of instruction.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 1. Organization

§105. Board Advisory Councils

- A. ...
1. - 7. ...
 8. Special Education Advisory Council (R.S. 17:1954)
 9. Teacher Certification Advisory Council (R.S. 17:31)
 10. Proprietary School Commission (R.S. 17:3141.3)
 11. Textbook and Media Advisory Council (R.S. 17:415.1)

* * *

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution Article VII, §10.1; R.S. 17:6(9); R.S. 17:11; R.S. 17:24.4; R.S. 17:415.1; R.S. 17:1954; R.S. 17:3762; R.S. 17:3801; R.S. 42:4.1-12; 20 USC 1413 (§613) and 20 USC 3474 (§112).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:427 (November 1978), amended LR 5:137 (June 1979), LR 5:383 (December 1979); LR 14:10, 11, 146, 228, 229, 293, 702, 790, 862 (January, March, April, May, October, November, December 1988); LR 16:297 (April 1990); LR 19:1310 (October 1993); LR 21:550 (June 1995); LR 22:99-100 (February 1996), LR 24:1092 (June 1998), LR 25:

Interested persons may submit comments until 4:30 p.m., January 10, 1999, to Jeannie Stokes, 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: Board Advisory Councils

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

This rule change will decrease costs to the state as one council with fourteen members will be created as opposed to two groups with thirty-four members. This will lower reimbursable travel

expenses of these members. BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.

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

This action will have no effect on revenue collections of state or local government units.

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 non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
9811#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Minimum Time Requirements (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). The proposed rule change requires that LEAs comply with R.S. 17:154.1. This Statute states that a school day shall include a full 360 minutes of instructional time and shall consist of a minimum of 175 days of instruction. The Statute allows school systems to change the number of minutes of instruction per day and the number of days per year, as long as the total minutes of instructional time per year equal at least 63,000 minutes (360 minutes per day x 175 days per year = 63,000 minutes per year). The Bulletin was revised to incorporate changes in state legislation as well as greater LEA flexibility in scheduling. School systems will implement the new policies beginning with the 1998-99 school session.

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. 17:1541.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 25:

Revise standard 1.009.16 to read:

Each school system shall adopt a calendar for a minimum session of 182 days, of which at least 175 days shall be scheduled to provide the required instructional time.

Revise a procedural block under standard 1.009.16 to read:

Effective with the 1997-98 school year, the length of the school year shall consist of 182 days of which no fewer than 175 days, or the equivalent, shall be used to provide instruction to students; two (2) days shall be for staff development; the remaining days may be used for emergencies and/or other instructional activities.

Add a new procedural block under standard 1.009.16 to read:

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,000 minutes of instructional time per year are met.

Revise standard 1.010.02 to read:

Each school system shall have policies and procedures that address, but are not limited to, the following items:

- C setting the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;
- C providing special education and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 175 days or the equivalent during the normal 182-day school cycle;
- C operating special departments and special programs in each school;
- C admission to and dismissal from special education programs;
- C excluding students with communicable diseases and readmitting them following their recovery;
- C the controlling of communicable problems such as lice and scabies;
- C taking care of sick or injured students, including notification of parents, in cases of emergencies that occur while students are under the jurisdiction of the school;
- C the administering of medication in schools (including the procedures to be followed);
- C the operation of summer schools and extended school year programs for eligible exceptional students;
- C the discipline of handicapped students; and
- C a written personnel policy that requires the use of universal precaution when individuals have direct contact with blood or other body fluids and that provided sanctions, including discipline if warranted, for failure to use universal precautions.

Add two new procedural blocks to standard 2.037.11 to read:

Secondary Schools

It is strongly recommended that the additional instructional time as required by R.S. 17:154.1 (2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

Any high school class scheduled for a 90 minute block of instructional time, must meet for a minimum of one full semester or the equivalent in order to earn a Carnegie unit.

Revise a procedural block under standard 2.037.11 to read:

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week provided that the yearly aggregate time requirements are met.

Revise standard 2.037.12 to read:

The minimum instructional day for a full-day kindergarten program shall be 360 minutes.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,000 minutes of instructional time per year are met.

Revise standard 2.037.13 to read:

For grades K-12, the minimum school day shall include 360 minutes of instructional time exclusive of recess, lunch, and planning periods.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,000 minutes of instructional time per year are met.

Add a new procedural block under standard 1.055.03 to read:

Students attending high school classes operating in 90 minute blocks of instructional time, shall be in attendance 80 days, or its equivalent in order to be eligible to receive grades.

Add a new procedural block under standard 2.055.03 to read:

Students attending high school classes operating in 90 minute blocks of instructional time, shall be in attendance 80 days, or its equivalent in order to be eligible to receive grades.

Revise standard 1.055.15 to read:

School systems shall provide educational and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 175 days or the equivalent during the normal 182-day school cycle.

Revise standard 2.055.15. to read:

Schools shall provide educational and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 175 days or the equivalent during the normal 182-day school cycle.

Revise standard 2.090.05 to read:

Minimum Time Requirements for Kindergarten:

Teacher directed activities
(whole or small group)

40 percent

Student initiated activities (learning center)	35 percent
Snack and restroom time	10 percent
Lunch	
Rest period and/or quiet activities	15 percent

The above minimum time requirements shall be flexibly scheduled to meet the developmental needs of young students.

Revise standard 2.090.09 and add three new procedural blocks to read as follows:

Each grade level, Grades 1-8, shall teach the following content subject areas ensuring strict adherence to the Louisiana Content Standards and locally developed curriculum.

Grades 1, 2, and 3		
	Suggested Minimum Minutes Per Week	Refer to Bulletin:
Language Arts	825	1965
Mathematics	300	1955
Science and Social Studies	225	1962 1964
	Required Minimum Minutes per Week	
Health and Physical Education	150	1597 1596
Music, Arts and Crafts	150	1963

The additional 150 minutes per week of instructional as required by R.S. 17:154.1(2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

It is strongly recommended that teachers integrate reading (skills and comprehension) throughout all content areas.

For students in Grades 1-4 who have been identified as reading below grade level, the minimum time requirements in Health and Physical Education and Music, Arts and Crafts are suggested in lieu of required.

Grades 4, 5, and 6		
	Suggested Minimum Minutes Per Week	Refer to Bulletin:
Language Arts	600	1965
Mathematics	300	1955
Science	225	1962
Social Studies	225	1964
	Required Minimum Minutes Per Week	
Health and Physical Education	150	1597 1596
Music, Arts and Crafts	150	1963

It is strongly recommended that the additional 150 minutes per week of instructional as required by R.S. 17:154.1(2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

It is strongly recommended that teachers integrate reading (skills and comprehension) throughout all content areas.

For students in Grades 5-8 who have scored below the *Basic* level on *LEAP for the 21st Century* in English/Language Arts or Mathematics, the minimum time requirements in Health and Physical Education, Music, Arts and Crafts or electives are suggested in lieu of required.

Grades 7 and 8 (6 Period Day Option)		
	Suggested Minimum Minutes Per Week	Refer to Bulletin:
Language Arts	550	1965
Mathematics Grade 8—Introduction to Algebra	275	1955
Social Studies Grade 7—American Studies Grade 8—Louisiana Studies	275	1964
Science	275	1962
	Required Minimum Minutes Per Week	
Health and Physical Education, Elective, Exploratory Studies	275	1596 1597

It is strongly recommended that the additional 150 minutes per week of instructional as required by R.S. 17:154.1(2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

Grades 7 and 8 (7 Period Day Option)		
	Suggested Minimum Minutes Per Week	Refer to Bulletin:
Language Arts	500	1965
Mathematics Grade 8—Introduction to Algebra	250	1955
Social Studies Grade 7—American Studies Grade 8—Louisiana Studies	250	1964
Science	250	1962
	Required Minimum Minutes Per Week	
Health and Physical Education	250	1596
Electives	250	1597

It is strongly recommended that the additional minutes per week of instructional time as required by R.S. 17:154.1(2), shall be dedicated to those subjects for which content standards have been adopted with emphasis on mathematics, reading or language arts.

For students in Grades 5-8 who have scored below the *Basic* level on *LEAP for the 21st Century* in English/Language Arts or Mathematics, the minimum time requirements in Health and Physical Education, Music, Arts and Crafts or electives are suggested in lieu of required.

Revise standard 2.093.04 to read:

Instructional time allotments for exceptional students are as follows:

Types of Classes	Time Allotments
A. Regular	Special education instruction and related services are provided outside of the regular classroom for less than 21 percent of the school day.
B. Resource	Special education instruction and related services are provided outside of the regular classroom for at least 21 percent but no more than 60 percent of the school day.
C. Self-contained/Self-contained Departmentalized	Special education instruction and related Departmentalized services are provided outside the regular classroom for more than 60 percent of the school day.
D. Gifted Resource Center	Minimum of 150 minutes per week.
E. Adapted Physical Education	Comparable with regular physical education requirements.

Revise policy 1.119.00 to read:

School systems shall provide eligible exceptional students special education and related services in excess of 175 school days or the equivalent, during the normal 182 day school cycle when stated in the Individualized Education Program (IEP).

Revise standard 2.119.01 to read:

The determination concerning the need or lack of need for an educational program beyond 175 school days or the equivalent, during the normal 182 day school cycle made by the participants in an Individualized Education Program (IEP) meeting shall be reviewed annually to ascertain any changes in the student's needs.

Revise standard 2.119.02 to read:

The Individualized Education Program (IEP) shall include special education and related services in excess of 175 school days or the equivalent during the normal 182 day school cycle when the multi-source data indicate that the student's exceptionality is of such severity that, without instruction in excess of 182 days, a significant loss of educational skills shall occur.

Revise the procedural block under standard 2.119.03 to read:

A program ranging from 182 up to 240 school days shall be available when appropriate.

Revise standard 3.037.11 to read:

All students in special schools shall receive a comparable instructional day (as noted in the LEA Pupil Progression Plan) as their non-disabled peers.

Revise standard 3.037.13 to read:

The Individualized Education Program (IEP) Committee shall determine when a student shall receive less than the minimum time required during a school systems instructional day.

Interested persons may submit written comments until 4:30 p.m., January 9, 1999, to Jeannie Stokes, 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 741—Minimum
Time Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately \$60.00.
There will also be a state cost increase of approximately \$70 million to increase salaries and benefits of teachers. This change mirrors a change in state law which increased the minimum instructional time. The state funded this increase in instructional time at a total cost of \$70 million in fiscal year 1998-99.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no effects in costs or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9811#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Applicants with Foreign Credentials
(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 amendment expands the current policy to allow applicants who hold foreign credentials to present an evaluation from the American Association of Collegiate Registrars and Admissions Officers, Office of International Education Services, for teacher certification purposes.

**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

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 435, 541 (April, July, September, October, December 1975), amended LR 24:283 (February 1997), LR 24:1091 (June 1998), LR 25:

**Bulletin 746—Teacher
Certification Standards and Regulations**

* * *

Applicants with Foreign Credentials

The Department of Education does not translate foreign credentials or evaluate transcripts from colleges and universities outside the United States unless the institution is accredited by one of the U.S. regional accrediting agencies. Teachers who hold a bachelor's degree from a regionally accredited institution may follow the guidelines for out-of-state applicants prescribed on pages 4-5 of this bulletin.

Other applicants with foreign credentials may follow one of the following options:

Colleges/universities in Louisiana are not obligated to evaluate foreign credentials/transcripts. If a college/university within Louisiana chooses to evaluate a foreign transcript or credential for a candidate, the following procedure will apply.

The applicant shall submit the credentials to a regionally accredited institution for evaluation. If the institution is located in Louisiana, the dean of education must recommend the applicant for certification based on the requirements set forth in this bulletin. If the institution is located in another state/country, the guidelines for out-of-state applicants prescribed on pages 4-5 of this bulletin must be followed.

OR

The applicant shall submit the credentials to the American Association of Collegiate Registrars and Admissions Officers (AACRAO), Office of International Education Services, at the following address:

One Dupont Circle, NW
Suite Number 520
Washington, D.C. 20036-1135
(202) 293-9161
FAX (202) 872-8857

The original evaluation from AACRAO on "Script Safe" paper must be submitted to the Department of Education,

certification and Higher Education, and must include a statement verifying the comparability of the baccalaureate degree in the field of education with a course-by-course evaluation.

Interested persons may submit comments until 4:30 p.m., January 10, 1999 to: Jeannie Stokes, 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 746—Applicants
with Foreign Credentials**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL 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 the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. 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 provides the option for persons with foreign credentials to present an evaluation from the American Association of Collegiate Registrars and Admissions Officers, Office of International Education Services, for teacher certification purposes. There is an evaluation fee of \$190 (\$75 if not recommended for university-level recognition). There is no fee for evaluations by Louisiana teacher education institutions.

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

This expanded evaluation policy may allow additional foreign applicants to obtain teacher certification and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9811#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—PRAXIS/National Teacher
Examination Scores (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, a revision to LAC 28:I.903.B.

The proposed revision adopts the scores required for teacher certification on the new PRAXIS tests which will replace certain parts of the NTE in September, 1999. It also allows persons who have achieved the required NTE scores prior to September, 1999, to use those scores for certification. Effective September, 1999, all newly adopted PRAXIS scores must be sent directly from ETS to the State Department of Education. A review of the new test scores shall be conducted by September, 2002 for reevaluation purposes, and revalidation studies on each test adopted shall be conducted every five years. The proposed rule will be effective September 1, 1999.

**Title 28
EDUCATION**

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

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

1. - 2. ...

B. PRAXIS/National Teacher Examinations

PRAXIS/National Teacher Examinations scores required for initial certification in Louisiana are:

PRAXIS/NTE SCORES

Area Examinations	Area Score	*PPST:R	*PPST:W	*PPST:M	PLT K-6	PLT 7-12
Administration and Supervision (0410)	620	---	---	---	---	---
Agriculture **	---	172	171	170		161
Art Education **	---	172	171	170	161 or	161
Biology and General Science (0030)	580	172	171	170		161
Business Education (0100)	540	172	171	170		161
Chemistry/Physics/General Science (0070)	530	172	171	170		161
Early Childhood Education (0020)	510	172	171	170	161	
Elementary Education:						
Curriculum, Instruction, and Assessment (0011)	156	172	171	170	161	
Content Area Exercises (0012)	137	172	171	170	161	
Education of Mentally Retarded	540	172	171	170	161 or	161
English Language, Literature, and Composition:						
Content Knowledge (0041)	160	172	171	170		161
Pedagogy (0043)	130	172	171	170		161
French (0170)	520	172	171	170		161
German (0180)	500	172	171	170		161
Home Economics Education (0120)	510	172	171	170		161
Industrial Arts Education **	---	172	171	170		161
Mathematics (0060)	550	172	171	170		161
Media Specialist/Library/A-V (0310)	560	172	171	170	161 or	161
Music Education (0110)	530	172	171	170	161 or	161
Physical Education (0090)	550	172	171	170	161 or	161
Social Studies:						
Content Knowledge (0081)	149	172	171	170		161
Interpretation of Materials (0083)	152	172	171	170		161
Spanish (0190)	540	172	171	170		161
Speech Communications **	---	172	171	170		161

PST:R—Pre-Professional Skills Test: Reading (0710)
PPST:W—Pre-Professional Skills Test: Writing (0720)
PPST:M—Pre-Professional Skills Test: Mathematics (0730)
PLT K-6—Principles of Learning and Teaching K-6 (0522)
PLT 7-12—Principles of Learning and Teaching 7-12 (0524)

*Computer-Based PPSTs are also available. Scores are: Reading (0711) - 319;
Writing (0721) - 316; Mathematics (0731) - 315
**Area examination is not required.

C. - K. ...

* * *

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. 17:10; 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, 399, 435, 541(April, July, September, October, December 1975), amended LR 24:283 (February 1997), LR 24:1091 (June 1998), amended LR 25:

Interested persons may submit written comments on the proposed revision until 4:30 p.m. January 10, 1999 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Marlyn Langley
Deputy Superintendent

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—PRAXIS/National Teacher
Examination Scores**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 \$60.00. 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 applicants for teacher certification present the designated PRAXIS test scores effective September 1, 1999. There will be no impact on costs or economic benefits to directly affected persons or non-governmental groups as a result of this policy.
- 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
9811#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

N

TICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

**Tuition Opportunity Program for Students
(TOPS) (LAC 28:IV.Chapters 1-21)**

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed manual until 4:30 p.m., December 20, 1998, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Tuition Opportunity Program for Students**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated costs to implement these rule changes include the routine charges from the Louisiana Register of \$500 to publish the Declaration of Emergency, the Notice of Intent and the Final Rule; and costs for additional awards of \$149,096 in FY 1998-99, \$391,877 in FY 1999-2000, and \$388,178 in FY 2000-2001.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The economic benefit would directly affect: 1997-98 Tuition Assistance Plan (TAP) recipients, Louisiana Honors Scholarship recipients, and TOPS award recipients who choose to defer acceptance because of a previous commitment to an ineligible school.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
General Counsel
9811#061

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Crime Victims Reparation Board

Award Limits (LAC 22:XIII.503)

In accordance with the provisions of R.S.46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations relative to the awarding of compensation to applicants.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§503. Limits on Awards

A.1. ...

2. All applications filed as the result of the death of a victim will be assigned one claim number with the deceased listed as the *primary* victim. Each additional claimant and/or *secondary victim* must submit a separate application with the appropriate claim form(s) and supporting documents. The aggregate claims arising out of the same crime will be subject to the maximum amount authorized by law.

B. ...

C. Funeral Expenses

1. The board will reimburse up to a maximum of \$3,500 to cover reasonable expenses actually incurred for the funeral, burial or cremation.

2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid may be considered as a collateral source.

3. Repealed.

D. ...

E. Loss of Support

1. - 2. ...

3. The board will reimburse loss of support with a maximum of \$10,000.

a. The board may award loss of support up to the maximum amount per week authorized for lost wages in §503.D.4. That amount is based on net, after-tax, or take home pay.

b. When only gross income is provided by a claimant, then the board will award the loss of support at 80 percent of the amount authorized in §503.D.4 for lost wages.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended LR 24:328 (February 1998), LR 25:

Interested persons may submit written comments on this proposed rule no later than December 8, 1998, at 5 p.m. to Bob Wertz, CVR Program Manager, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

A public hearing will be held December 8, 1998 at 4 p.m. at 1885 Wooddale Boulevard, Seventh Floor Conference Room, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed rule.

Lamarr Davis
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Award Limits

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

It is estimated that implementation of the proposed rules will increase expenditures by approximately \$71,000 annually in statutorily dedicated funds from the Crime Victims Reparation Fund which is derived from costs levied in state criminal courts. This rule will increase current limits in certain categories of payments which can be made to eligible victims of violent crimes. Printing costs of \$340.00 for publication of these rules have been included in the total expenditures. Sufficient funds are available in the Crime Victims Reparation Fund to cover these additional expenditures.

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

It is estimated that implementation of the proposed rules will increase revenue collections beginning in FY00, however, the exact amount is unknown. The dollar amount of federal grant funding allotted annually to the Louisiana Commission on Law Enforcement (LCLE) is contingent upon the dollar amount of state funds which the agency expends for crime victims in the preceding year; therefore, increased state expenditures will generate additional federal funding for the agency in the next fiscal year. Implementation of this rule should increase state expenditures beginning in FY99, thereby increasing federal revenue collections beginning in FY00.

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

The proposed amendments will result in award increases up to \$3,500 to homicide victims of violent crimes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of these proposed amendments.

Michael A. Ranatza
Executive Director
9811#047

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Adjudication Proceeding Costs (LAC 46:XXXIII.421)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.421, Subpoenas. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 4. Fees and Costs

Subchapter E. Adjudication Proceeding Costs

§421. Subpoenas

For issuance of a subpoena or subpoena duces tecum with respect to an administrative hearing, a fee of \$15.00 shall be payable by the respondent to the board, but not by the board, in addition to the witness fees prescribed by law. [see R.S. 49:956(5)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 14:791 (November 1988), amended by the Department of Health and Hospitals, Board of Dentistry, LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Adjudication Proceeding Costs

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#026

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Advertising and Soliciting by Dentists (LAC 46:XXXIII.301)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301, Advertising and Soliciting by Dentists. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§301 Advertising and Soliciting by Dentists

A. - I. ...

J. Advertisement of Fees and Discounted Services

1. An appropriate disclosure regarding advertised fees is necessary to protect the public so all procedures or devices which are advertised with fees must adequately describe the procedure or device in such a way that a layperson is not misled. Proof of customary fee must be available if discounted fees are advertised, and the true fee from which the discount is taken must be in the advertisement also.

2. - 3. ...

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, (December 1970), amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty

ays of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Advertising and Soliciting by Dentists**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The costs of implementing this rule are negligible. Notification of this rule amendment will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden Executive Director 9811#007	Robert E. Hosse General Government Section Director Legislative Fiscal Office
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NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Continuing Education—Dentists and Hygienists
(LAC 46:XXXIII.1611 and 1613)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8) and (13), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1611, Continuing Education Requirements for Relicensure of Dentists, and LAC 46:XXXIII.1613, Continuing Education Requirements for Relicensure of Dental Hygienists. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 16. Continuing Education Requirements

§1611. Continuing Education Requirements for Relicensure of Dentists

A. - J. ...

K. Dentists who successfully complete certification courses in advanced cardiac life support continuing education will be

awarded up to 16 hours of clinical continuing dental education. However, dentists completing the shorter recertification course in advanced cardiac life support will be awarded 3 hours of non-clinical continuing dental education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)and(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661(June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 25:

§1613. Continuing Education Requirements for Relicensure of Dental Hygienists

A. - J. ...

K. Dental hygienists who successfully complete a continuing education course as set forth in §710, Administration of Local Anesthesia for Dental Purposes, will be awarded 72 hours of clinical continuing dental hygiene education. However, these hours may not be carried over to a subsequent renewal period and will count only toward the renewal of their license during the period in which they attended the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8)and(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR: 20:661 (June 1994), amended LR 21:570 (June 1995), LR 22:24 (January 1996), LR 22:1217 (December 1996), LR 23:1526 (November 1997), LR 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Relicensure of Dentists and Dental Hygienists—Continuing Education Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefit to directly affected person or non-governmental groups. However, dentists who avail themselves of this rule change may enjoy an economic benefit because this allows them more continuing education

redit thereby reducing costs of complying with continuing education requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#030

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Expanded Duty Dental Assistant Course Providers
(LAC 46:XXXIII.504)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.504, Authorized Providers of Instruction for Expanded Duty Dental Assistant Courses. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 5. Dental Assistants

**§504. Authorized Providers of Instruction for Expanded
Duty Dental Assistant Courses**

A. Louisiana State University School of Dentistry and Northeast Louisiana School of Dental Hygiene; or

B. Louisiana state schools of allied health science including vocational technical schools in affiliation with Louisiana State University School of Dentistry and Northeast Louisiana School of Dental Hygiene; or

C. . . .

D. The board reserves the right to randomly monitor any and all courses given under Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

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

**RULE TITLE: Providers of Instruction for
Expanded Duty Dental Assistant Courses**

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

The costs of implementing this rule are negligible. Notification of this rule amendment will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

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

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#027

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Formal Adjudication
(LAC 46:XXXIII.901)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:75 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.901, Scope of Chapter. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 9. Formal Adjudication

§901. Scope of Chapter

The rules of Chapter 9 govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension or revocation, of a license issued by the board, imposition of probation on or other disciplinary action against persons holding licenses, permits, certifications, or registrations issued by the board, applicants therefor, or any non-licensed person illegally practicing dentistry or dental hygiene. The rules of Chapter 9 are promulgated in order to supplement the provisions of the Administrative Procedure

Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:751 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (4), (5), and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 13:178 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 19:1317 (October 1993), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Formal Adjudication**

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

The costs of implementing this rule are negligible. Notification of this rule amendment will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups. Rather, this rule is being amended to notify persons who are subjected to administrative disciplinary proceedings for practicing dentistry or dental hygiene without a license that the board will utilize the same procedures for formal adjudication which it utilizes in prosecuting persons who possess such licenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#029

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Guidelines for Returning to Active Practice
(LAC 46:XXXIII.124)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental

Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to add LAC 46:XXXIII.124, Guidelines for Returning to Active Practice. No preamble has been prepared.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§124. Guidelines for Returning to Active Practice

A. Section 124 is intended to provide guidelines to enable the Board to provide evaluation and remediation to dentists and dental hygienists who have not actively practiced their professions for a sufficient length of time which would justify various levels of remediation to assure the board that the dentist or dental hygienist is sufficiently qualified to again practice on the public.

B. In all cases where a dentist or dental hygienist has not practiced their profession due to a problem concerning unprofessional conduct, substance abuse, criminal activity, or other issues concerning moral turpitude, said dentist or dental hygienist shall be assessed by a psychiatrist or psychologist of the board's choosing to determine remediability. The cost of the assessment shall be borne by the dentist or dental hygienist.

C. Evaluations of the diagnostic, clinical, and laboratory skills of the dentist or dental hygienist shall be evaluated by an entity of the board's choosing. The costs of the evaluation shall be borne by the dentist or dental hygienist. Evaluations may include, but not be limited to, comprehensive table examinations, written examinations, and clinical examinations. These examinations shall cover those areas of dentistry the board feels are necessary to have evaluated.

D. When a license has been inactive for a period of three months to one year, it is the prerogative of the board to have the licensee evaluated in any specific or all fields of dentistry or dental hygiene as deemed necessary by the board.

E. In all cases where a license has been suspended for a period of three months or more, the dentist or dental hygienist shall successfully complete a course in ethics as determined by the board.

F. When a license has been inactive for one year or greater, an evaluation by a dentist and/or specialist appointed by the board shall be conducted. Varying degrees of remediation shall be determined by the board on a case-by-case basis. Areas of specific concern for general dentists are:

1. oral diagnosis/treatment planning;
2. dental materials;
3. operative dentistry;
4. fixed prosthodontics;
5. removable prosthodontics;
6. periodontics;
7. endodontics;
8. pain control/pharmacology;
9. nitrous oxide sedation;
10. cardiopulmonary resuscitation;
11. infection control;
12. OSHA regulations;
13. jurisprudence;

- 14. implantology;
- 15. ethics.

G. Specialists may be evaluated by other specialists in that field appointed by the board, or oral examinations, or written examinations.

H. Dental hygienists shall be evaluated on all areas of dental hygiene for which they are authorized to perform. These evaluations may be performed by written and/or clinical examinations.

I. In all cases, the board has the discretion to prescribe any course of remediation it deems fit and proper, including, but not limited to, requiring further schooling at a dental or dental hygiene school, participation in mini-residencies, or practicing only under the direct supervision of other licensed dentists.

J. Any dentist or dental hygienist who is authorized to return to active practice with restrictions or requirements on their license who do not completely satisfy said requirements or restrictions shall be subject to sanctions, including, but not limited to, revocation of their license whether or not a complaint has been received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

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

RULE TITLE: Guidelines for Returning to Active Practice

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups. This rule addition merely codifies remediation policies when one seeks to return to active status by setting forth those procedures which the board has been following for years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#006

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Health Care Provider—Financial Interest Disclosure
(LAC 46:XXXIII.316)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., particularly R.S. 37:760(8), and under the mandate of R.S. 37:1744, notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.316, Disclosure of Financial Interest by Referring Dental Health Care Provider. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

**§316. Disclosure of Financial Interest by Referring
Dental Health Care Provider**

A. This rule is authorized and mandated by R.S. 37:1744 and a violation of §316 will constitute a violation of either R.S. 37:776(A)(24) or R.S. 37:777(18).

B. No dental health care provider shall make referrals outside the same group practice as that of the referring dental health care provider to any licensed health care facility, or provider of health care goods and services, including, but not limited to, providers of clinical laboratory services, diagnostic services, medicinal suppliers, and therapeutic services when the referring dental health care provider has a financial interest served by such referrals, unless in advance of any such referral, the referring dental health care provider discloses to the patient, in writing, the existence of such financial interest. Nothing herein shall be construed to allow any Louisiana dentist or dental hygienist to violate LSA-R.S. 37:776(A)(19) or 37:777(A)(15), which prohibits patient referrals in return for the payment of something of value, except as provided therein, whether or not the arrangement is first disclosed, in writing, to the patient.

C. ...

D. It shall be a violation of §316 for any licensee to enter into any arrangement or scheme, including cross-referral arrangements, if the licensee knows, or should know, that he or she has a principal purpose of insuring referrals by the licensee to a particular entity, which referral, if made directly by the licensee, would be a violation of §316.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and mandated R.S. 37:1744.

HISTORICAL NOTE: Adopted by the Department of Health and Hospitals, Board of Dentistry, LR 23:1527 (November 1997), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

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

**RULE TITLE: Disclosure of Financial Interest by
Referring Dental Health Care Provider**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#010

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Inventories of Controlled Substances
(LAC 46:XXXIII.320)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., particularly R.S. 37:760(8), and under the mandate of R.S. 37:1744, notice is hereby given that the Department of Health and Hospitals, Board of

Dentistry intends to add LAC 46:XXXIII.320, Required Inventories. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§320. Required Inventories

A. The purpose of §320 is to supplement R.S. 37:794, Dispensing of Controlled Substances; Records.

B. All licensees handling controlled substances in Schedules I, II, III, IV, or V shall prepare a complete and accurate inventory of each such substance in his or her possession or under his or her control. All licensees will have records open for inspection by the Department of Health and Hospitals, the Drug Enforcement Administration, and the Louisiana State Board of Dentistry.

C. This inventory shall list a common or established name of each such controlled substance.

D. If the controlled substances are in dosage unit form, it will fully identify the form (e.g., amphetamine sulfate, 10 mg. tablets), and record the number of dosage units. If the controlled substance is in an ingredient in a powder, crystalline, liquid, bead, or other form, this inventory will fully identify the form (e.g., dextroamphetamine sulfate, elixir, 5 mg. per 5 ml.) and record the amount of each form.

E. This inventory shall be placed on the record separate from other business, professional, or required records. This record shall be prepared, dated, and signed by the dentist under whose control the controlled substances are placed.

F. The record shall be kept for a period of at least two (2) years from the date of preparation. Inventory records shall be prepared in accordance with the provisions of §320.F every two (2) years on the anniversary date of the initial inventory. These inventories may coincide with the dentist's regular fiscal inventory, provided that he maintains his records of receipt, distribution, and dispensing in such a manner as to facilitate complete accounting for his or her handling of controlled substance (perpetual inventory control).

G. Any dentist failing to comply with the above conditions shall be deemed to have violated R.S. 37:776(A)(24) and R.S. 37:794.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and mandated R.S. 37:1744.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

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

RULE TITLE: Inventories of Controlled Substances

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#011

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Licensure by Credentials—Dental Hygienists
(LAC 46:XXXIII.706)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.706, Requirements of Applicants for Licensure by Credentials. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 7. Dental Hygienists

**§706. Requirements of Applicants for Licensure by
Credentials**

A. ...

1. - 5. ...

6. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

7. - 20. ...

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice. No preamble has been prepared.

C. Barry Ogden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure by Credentials—Dental Hygienists**

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

The costs of implementing this rule are negligible. Notification of this rule amendment will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected person or non-governmental groups, except that persons who have been convicted of misdemeanors involving moral turpitude or who have been convicted of crimes such as driving while under the influence of alcohol or drugs may or may not receive a license by credentials depending upon the circumstances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment other than as noted in Section III above.

C. Barry Ogden
Executive Director
9811#008

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Licensure by Credentials—Dentists
(LAC 46:XXXIII.306)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S.

37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.306, Requirement of Applicants for Licensure by Credentials. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§306. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 5. ...

6. has never been convicted of a felony or a misdemeanor involving moral turpitude including, but not limited to, driving while under the influence of alcohol or drugs;

7. - 20. ...

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Licensure by Credentials—Dentists

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected person or non-governmental groups, except that persons who have been convicted of misdemeanors involving moral

urpitude or who have been convicted of crimes such as driving while under the influence of alcohol or drugs may or may not receive a license by credentials depending upon the circumstances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment other than as noted in Section III above.

C. Barry Ogden
Executive Director
9811#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Provision of Dental Services at Locations
Other Than Dental Office
(LAC 46:XXXIII.314)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.314, Provision of Dental Services at Locations Other Than Dental Office. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§314. Provision of Dental Services at Locations Other Than Dental Office

A. When dental services are provided by dental health care providers to patients in locations other than the dental health care provider's dental office, or an accredited hospital, the dental health care provider shall:

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1525 (November 1997), amended LR 25:

Interested persons may submit written comments on these proposed rules to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

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

**RULE TITLE: Provision of Dental Services
at Locations Other Than Dental Office**

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

The costs of implementing this rule are negligible. Notification of this rule addition will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups.

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

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#009

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

**Reinstatement of Licenses Revoked for Non-Payment
(LAC 46:XXXIII.114)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to add LAC 46:XXXIII.114, Reinstatement of Licenses Revoked for Non-Payment. No preamble has been prepared.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

**§114 Reinstatement of Licenses Revoked for
Non-Payment**

A. Any licensee seeking the reinstatement of his or her license to practice dentistry or dental hygiene in the State of Louisiana shall request in writing the reinstatement of his or her license, and personally appear before the board for an interview to determine the merits of the request for reinstatement.

B. When a dentist or dental hygienist has allowed their Louisiana license to lapse for any reason whatsoever, but continued to practice dentistry or dental hygiene in another state, that person must seek relicensure by credentials and is

prohibited from receiving relicensure by reinstating their Louisiana license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 25:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Louisiana State Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, Louisiana 70112. Written comments must be submitted to and received by the Board within sixty days of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within twenty days of the date of this notice.

C. Barry Ogden
Executive Director

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

**RULE TITLE: Reinstatement of Licenses
Revoked for Non-Payment**

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

The costs of implementing this rule are negligible. Notification of this rule change will be provided to our licensees via publication of the Louisiana Dental Practice Act booklet which is budgeted for publication in 1999.

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

There will be no effect on revenue collections by the Louisiana State Board of Dentistry or any other state or local governmental unit.

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

There will be no costs and/or economic benefit to directly affected persons or non-governmental groups. However, higher costs will apply if one waits longer than one year to reinstate his license.

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

There will be no effect on competition and employment.

C. Barry Ogden
Executive Director
9811#005

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Ketamine—Usage and Storage
(LAC 46:LXXXV.704)**

The Board of Veterinary Medicine proposes to amend LAC 46.LXXXV.704.B in accordance with the provisions of the

Administrative Procedure Act, R.S. 49:950, and the Veterinary Practice Act, LA R.S. 37:1518 et seq.

By act of the legislature, effective June 16, 1998, ketamine hydrochloride is a schedule III controlled dangerous substance in Louisiana. Prior to this act, ketamine was a drug available to and used by animal control personnel to immobilize aggressive and dangerous animals. As a scheduled drug, only licensed practitioners who hold a valid controlled dangerous substances license may administer or dispense ketamine. Under current law and regulations, an animal control agency must have a licensed veterinarian readily available and on-site to administer ketamine to dangerous animals. Many parishes of the state are unable to obtain the services of a veterinarian to accompany animal control personnel into the field at any time of the day. Therefore, feral, diseased, and vicious animals which pose a risk to public health and safety may escape capture. In the case of some animals, ketamine (sometimes in combination with non-controlled drugs) is the preferred drug for restraint or capture. In addition, animal control agency personnel may be placed at greater risk from dangerous animals because of their lack of access to ketamine.

To protect the public health and safety, the board has amended LAC 46:LXXXV.704.B to include ketamine hydrochloride as a controlled substance which an animal control agency may use for the sole purpose of animal capture and restraint, so long as a licensed veterinarian who possesses a state controlled dangerous substance license at the shelter location where the drugs will be stored and administered agrees to be responsible for the ketamine used. Section 704.B prescribes the conditions under which ketamine is used and stored. This amendment will mean that a licensed veterinarian will not be required to be on-site with animal control personnel when ketamine is used for animal restraint and capture.

The full text of this rule can be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested parties may submit written comments to Charles B. Mann, executive director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on December 28, 1998. Pursuant to the Administrative Procedure Act, if oral presentation or argument is requested by the requisite number of persons or proper entities, then a public hearing on these matters will be held on December 29, 1998, at 9:00 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Please contact the board office at 225-342-2176 to confirm whether or not the public hearing will be held.

Charles B. Mann
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Consulting and Providing Legend and Certain
Controlled Substances (Ketamine)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendments (estimated \$200). The veterinary profession will be informed of this rule change via the board's regular newsletter or other direct mailings, which are already a budgeted cost of the board.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units. There will be no revenue impact as no increase in fees will result from these amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on employment and competition.

Charles B. Mann
Executive Director
9811#057

Robert E. Hosse
General Government Section Division
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners**

Disciplinary Proceedings (LAC 46:LX.Chapter 13)

The Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby intends to repeal and adopt the following with regard to licensing.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LX. Licensed Professional Counselors
Board of Examiners
Chapter 13. Disciplinary Proceedings
§1301. Causes for Administrative Action**

A. The board, after due notice and hearing as set forth herein and the Louisiana Administrative Procedure Act, LSA

R.S. 49:950 et seq., may withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor on a finding that the person has violated the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. Sometimes hereinafter in this Chapter, where the context allows, a licensed professional counselor or applicant for licensure may be referred to as *person*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February, 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 15:837 (October, 1989), LR 17:778 (August, 1991), repealed and repromulgated by the Licensed Professional Counselors Board of Examiners LR 25:

§1303. Disciplinary Process and Procedures

A. The purpose of the following rules and regulations is to supplement and effectuate the applicable provisions of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., regarding the disciplinary process and procedures incident thereto. These rules and regulations are not intended to amend or repeal the provisions of the Louisiana Administrative Procedure Act, and to the extent any of these rules and regulations are in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

B. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

C. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he did, whether those acts or omissions violated the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, the Code of Ethics of the American Counseling Association, or prior Final Decisions and/or Consent Orders involving the licensed professional counselor or applicant for licensure and to determine the appropriate disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1305. Initiation of Complaints

A. Complaints may be initiated by any person or by the board on its own initiative.

B. All complaints shall be addressed confidential to the Ad Hoc Committee for Disciplinary Affairs of the board and shall be sent to the board office. The Ad Hoc Committee for Disciplinary Affairs of the board shall, during an executive session of the board, convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request the Ad Hoc Committee for Disciplinary Affairs to prepare the

etters of denial for his signature. If the board agrees to investigate, the board shall request the Ad Hoc Committee for Disciplinary Affairs to notify the person that allegations have been made that he may have committed a breach of statute, rule and regulation, ethical code, and/or prior final decisions or consent orders and that he must respond in writing to the board within a specified time period. A response is to be made to the Ad Hoc Committee for Disciplinary Affairs of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the person. However, sufficiently specific allegations shall be conveyed to the person for his response. Once the person has answered the complaint, a determination will be made if a disciplinary proceeding is required.

C. Pursuant to its authority to regulate this industry, the board through its Ad Hoc Committee on Disciplinary Affairs, may issue subpoenas to secure evidence of alleged violations of the Louisiana Mental Health Counselor Licensing Act, any of the rules and regulations promulgated by the board, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the licensed professional counselor or applicant for licensure. The confidential or privileged records of a patient or client which are subpoenaed are to be sanitized by the custodian of such records so as to maintain the anonymity of the patient or client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1307. Informal Disposition of Complaints

A. Some complaints may be settled informally by the board and the person accused of a violation without a formal hearing. The following types of informal dispositions may be utilized.

1. Disposition by Correspondence. For complaints less serious, the Ad Hoc Committee for Disciplinary Affairs of the board may write to the person explaining the nature of the complaint received. The person's subsequent response may satisfactorily explain the situation, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be pursued through an informal conference or formal hearing.

2. Informal Conference

a. The Ad Hoc Committee for Disciplinary Affairs of the board may hold a conference with the person in lieu of, or in addition to, correspondence in cases of less serious complaints. If the situation is satisfactorily explained in conference, a formal hearing is not scheduled.

b. The person shall be given adequate notice of the conference, of the issues to be discussed, and of the fact that information brought out of the conference may later be used in a formal hearing. Board members may not be involved in informal conferences.

3. Settlement. An agreement worked out between the person making the complaint and the person accused of a violation does not preclude disciplinary action by the board. The nature of the offense alleged and the evidence before the board must be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1309. Formal Hearing

A. The board has the authority, granted by LSA R.S. 37:1101 et seq., to bring administrative proceedings against persons to whom it has issued a license to practice as a licensed professional counselor or any applicant requesting a license. The person has the right to:

1. appear and be heard, either appearing alone or with counsel;
 2. the right of notice;
 3. a statement of what accusations have been made;
 4. the right to present evidence and to cross-examine;
- and
5. the right to have witnesses subpoenaed.

B. If the person does not appear, either in person or through counsel, after proper notice has been given, the person may be considered to have waived these rights and the board may proceed with the hearing without the presence of the person.

C. The process of administrative action shall include certain steps and may include other steps as follows.

1. The board received a complaint alleging that a person has acted in violation of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations of the board, or the Code of Ethics of the American Counseling Association. Communications from the complaining party shall not be revealed to any person until and unless a formal complaint is filed except those documents being subpoenaed by a court.

- 2.a. The complaint is investigated by the board's agent or attorney to determine if there is sufficient evidence to warrant disciplinary proceedings. No board member may communicate with any party to a proceeding or his representative concerning any issue of fact or law involved in that proceeding.

- b. A decision to initiate a formal complaint or charge is made if one or more of the following conditions exists:

- i. the complaint is sufficiently serious;
- ii. the person fails to respond to the board's correspondence concerning the complaint;
- iii. the person's response to the board's letter or investigation demand is not convincing that no action is necessary;
- iv. an informal approach is used, but fails to resolve all of the issues.

3. A Notice of Hearing is issued pursuant to La. R.S. 49:955, charging the violation of one or more of the provisions of the Louisiana Mental Health Counselor Licensing Act, the rules and regulations promulgated thereto, the Code of Ethics of the American Counseling Association, or prior final decisions and/or consent orders involving the person.

4. A time and place for a hearing is fixed by the chairman or an agent of the board.

- 5.a. At least twenty days prior to the date set for the hearing, a copy of the charges and a notice of the time and

place of the hearing are sent by certified mail to the last known address of the person accused. If the mailing is not returned to the board, it is assumed to have been received. It is the person's obligation to keep the board informed of his whereabouts. The board will conduct the hearing, with the accused person in absentia, in the event that certified mail at the last known address is unsuccessful.

- b. The content of the charges limits the scope of the hearing and the evidence which may be introduced. The charges may be amended at any time up to ten days prior to the date set for the hearing.

- c. If the board is unable to describe the matters involved in detail at the time the sworn complaint is filed, this complaint may be limited to a general statement of the issues involved. Thereafter, upon the person's request, the board shall supply a more definite and detailed statement to the person.

6. Except for extreme emergencies, motions requesting a continuance of a hearing shall be filed at least five days prior to the time set for the hearing. The motion shall contain the reason for the request, which reason must have relevance to due process. The decision to grant or deny a motion to continue shall be left to the discretion of the board chair and may only be granted for compelling reasons.

- 7.a. The chairman, or an authorized agent of the board, issues subpoenas for the board for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

- i. a subpoena requiring a person to appear and give testimony; and
- ii. a subpoena *dues tecum*, which requires that a person produce books, records, correspondence, or other materials over which he has custody.

- b. A motion to limit or quash a subpoena may be filed with the board, but not less than seventy-two hours prior to the hearing.

- 8.a. The hearing is held, at which time the board's primary role is to hear evidence and argument, and to reach a decision. Any board member who, because of bias or interest, is unable to assure a fair hearing, shall be recused from the particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

- b. The board is represented by its agent who conducted the investigation and presents evidence that disciplinary action should be taken against the person and/or by the board's attorney. The person may present evidence personally or through an attorney, and witnesses may testify on behalf of the person.

- c. Evidence includes the following:

- i. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by the requesting party);

- ii. documentary evidence, i.e., written or printed materials including public, business, institutional records, books and reports;

- iii. visual, physical and illustrative evidence;
- iv. admissions, which are written or oral statements of a party made either before or during the hearing;
- v. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.

d. All testimony is given under oath. If the witness objects to swearing, the word *affirm* may be substituted.

9. The chairman of the board presides and the customary order of proceedings at a hearing is as follows.

a. The board's representative makes an opening statement of what he intends to prove, and what action, he wants the board to take.

b. The person, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The board's representative presents the case against the person.

d. The person, or his attorney, cross-examines.

e. The person presents evidence.

f. The board's representative cross-examines.

g. The board's representative rebuts the person's evidence.

h. Both parties make closing statements. The board's representative makes the initial closing statement and the final statement.

10. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

11. a. The record of the hearing shall include:

i. all papers filed and served in the proceeding;

ii. all documents and/or other materials accepted as evidence at the hearing;

iii. statements of matters officially noticed;

iv. notices required by the statutes or rules; including notice of hearing;

v. affidavits of service or receipts for mailing or process or other evidence of service;

vi. stipulations, settlement agreements or consent orders, if any;

vii. records of matters agreed upon at a prehearing conference;

viii. reports filed by the hearing officer, if one is used;

ix. orders of the board and its final decision;

x. actions taken subsequent to the decision, including requests for reconsideration and rehearing;

xi. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

b. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

12.a. The decision of the board shall be reached according to the following process.

i. Determine the facts at issue on the basis of the evidence submitted at the hearing.

ii. Determine whether the facts in the case support the charges brought against the person.

iii. Determine whether charges brought are a violation of the Louisiana Mental Health Counselor Licensing Act or rules and regulations of the board.

b. Deliberation

i. The board will deliberate in closed session.

ii. The board will vote on each charge as to whether the charge has been supported by the evidence. (The standard will be *preponderance of the evidence*).

iii. After considering and voting on each charge, the board will vote on a resolution to dismiss the charges, withhold, deny, revoke or suspend any license issued or applied for or otherwise discipline a licensed professional counselor or applicant for licensure.

iv. The board by affirmative vote of at least four of its seven members, shall be needed to withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of Chapter 13 or otherwise discipline a licensed professional counselor or applicant.

c. Sanctions against the person who is party to the proceeding are based upon findings of fact and conclusion of law determined as a result of the hearing. The party is notified by mail of the final decision of the board.

13. Every order of the board shall take effect immediately on its being rendered unless the board in such order fixes a probationary period for an applicant or licensee. Such order shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgement in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

14.a. The board may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party who is dissatisfied with a decision of the board files a motion requesting that the decision be reconsidered by the board.

b. The board shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

c. A motion by a party for reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The motion shall set forth the grounds for the rehearing, which include one or more of the following.

i. The board's decision is clearly contrary to the law and evidence.

ii. There is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing.

iii. There is a showing that issues not previously considered ought to be examined in order to dispose of the case properly.

iv. It would be in the public interest to further consider the issues and the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1311. Consent Order

A. An order involving some type of disciplinary action may be made by the Board with the consent of the person. A consent order requires formal consent of four of seven members of the board. It is not the result of the board's deliberation; it is the board's acceptance of an agreement reached between the board and the person. The consent order is issued by the board to carry out the parties' agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1313. Withdrawal of a Complaint

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1315. Refusal to Respond or Cooperate with the Board

A. If the person does not respond to the original inquiry within a reasonable period of time as requested by the board, a follow-up letter shall be sent to the person by certified mail, return receipt requested.

B. If the person refuses to reply to the board's inquiry or otherwise cooperate with the board, the board shall continue its investigation. The board shall record the circumstances of the person's failure to cooperate and shall inform the person that the lack of cooperation may result in action which could eventually lead to the withholding, denial, revocation or suspension of his license, or application for licensure, or otherwise issue appropriate disciplinary sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1317. Judicial Review of Adjudication

A. Any person whose license, or application for licensure, has been withheld, denied, revoked or suspended or otherwise disciplined by the board shall have the right to have the proceedings of the board reviewed by the state district court for the parish of East Baton Rouge, provided that such petition for judicial review is made within thirty days after the notice of the decision of the board. If judicial review is

granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1319. Appeal

A. A person aggrieved by any final judgment rendered by the state district court may obtain a review of said final judgment by appeal to the appropriate circuit court of appeal. Pursuant to the applicable section of the Louisiana Administrative Procedure Act, LSA R.S. 49:950 et seq., this appeal shall be taken as in any other civil case.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1321. Reinstatement of Suspended or Revoked License

A. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1323. Declaratory Statements

A. The board may issue a declaratory statement in response to a request for clarification of the effect of the provisions contained in the Louisiana Mental Health Counselor Licensing Act, LSA R.S. 37:1101 et seq., the rules and regulations promulgated by the board and/or the Code of Ethics of the American Counseling Association.

1. A request for declaratory statement is made in the form of a petition to the board. The petition should include at least:

- a. the name and address of the petitioner;
- b. specific reference to the statute, rule and regulation, or provision of the Code of Ethics to which the petitioner relates; and

c. a concise statement of the manner in which the petitioner is aggrieved by the statute, rules and regulations, or provision of the Code of Ethics by its potential application to him in which he is uncertain of its effect.

2. The petition shall be considered by the board within a reasonable period of time taking into consideration the nature of the matter and the circumstances involved.

3. The declaratory statement of the board in response to the petition shall be in writing and mailed to the petitioner at the last address furnished to the board.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

§1325. Injunction

A. The board may, through the attorney general of the state of Louisiana, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by Chapter 13.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by Chapter 13, the court, or any judge thereof, shall enter a decree enjoining said defendant from further committing such act.

C. In case of violation of any injunction issued under the provision of §1325, this court, or any judges thereof, may summarily try and punish the offender for contempt of court.

D. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in Chapter 13.

AUTHORITY NOTE: Promulgation in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgation by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 25:

Interested person may submit comments to Gary G. Grand, Board Chair, 8631 Summa Avenue, Suite A, Baton Rouge, LA 70809. Comments will be accepted through December 15, 1998. A public hearing will be held on December 29, 1998, p.m., at Central State Hospital, West Shamrock, Building 14, Room 127, Pineville, LA.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disciplinary Proceedings**

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

There will be a one-time implementation cost of \$490.00, which includes the cost of promulgating the rule and printing forms (\$400) and staff time (\$90). The cost will be absorbed within the budget of the LPC Board. There will be no impact on the general treasury.

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

There is no anticipated effect on revenue collections of state or local governmental units as a result of these rules.

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

These rules are to clearly and succinctly define "disciplinary procedures" in accordance with the Administrative Procedure Act.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since this is a clarification of the rules. There is no foreseeable effect on competition and employment.

Gary S. Grand
Board Chair
9811#048

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Adult Denture Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing (BHSF) previously allowed reimbursement for cast partial dentures and new dentures provided to recipient over the age of twenty-one once every five years prior to July 13, 1995. The Bureau subsequently revised the service coverage for adult dentures to require a minimum period of seven years before new dentures provided to adult Medicaid recipient may be reimbursed and to eliminate coverage of cast partial denture, *Louisiana Register* 22:104 (February 1996). The Bureau proposes to amend the rule to clarify the seven-year requirement to include complete and partial dentures.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the February 20, 1996 rule to clarify the seven-year requirement to include both complete and partial dentures in the Adult Denture Program.

1. Only one complete or partial denture per arch is allowed in a seven-year period. The seven-year time period begins from the date the previous complete or partial denture for the same arch was delivered. A combination of two complete or partial denture relines per arch or one complete or partial denture and one reline per arch is allowed in a seven-year period, as prior authorized by BHSF or its designee.

2. For relines, at least one year shall have elapsed since the complete or partial denture was delivered or last relined.

3. Cast partial dentures continue to be a non-covered service in the Adult Denture Program.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P. O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, December 29, 1998 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, 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: Adult Denture Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will not result in state costs other than \$40, which will be incurred in SFY 1998-1999 for the state portion of the administrative expense to promulgate this rule as well as the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The state will collect \$40 SFY 1998-1999 for the federal share of the cost of promulgating this proposed rule as well as the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no known cost and/or economic benefits to directly affected persons and non-governmental groups as this amendment is to clarify an existing rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9811#071

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police**

**Criminal History Background Checks on Licensed
Ambulance Personnel and Nonlicensed Persons
(LAC 55:I.201-209)**

The Department of Public Safety and Corrections, Office of State Police, Louisiana Bureau of Criminal Identification and Information, in compliance with and under authority of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 15:575 et seq., and R.S. 40:1300.51 et seq., hereby gives notice of its intent to promulgate these rules and regulations pertaining to criminal history background checks on licensed ambulance personnel and nonlicensed persons pursuant to R.S. 40:1300.51 et seq. as outlined below.

Title 55

PUBLIC SAFETY

Part I. State Police

**Chapter 2. Criminal History Background Checks on
Licensed Ambulance Personnel and
Nonlicensed Persons**

§201. Statement of Department Policy

The rules contained herein are promulgated by the Louisiana Bureau of Criminal Identification and Information of the Department of Public Safety and Corrections, Office of State Police, in order to set forth the policies and procedures applicable to requesting and receiving criminal history background checks on licensed ambulance personnel and

nonlicensed persons, pursuant to R.S. 40:1300.51 et seq., by employers and authorized agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§203. Definitions

For the purposes of these rules, the following words and phrases shall mean:

Applicant—a person who has submitted a request to the Louisiana Department of Public Safety and Corrections, Office of State Police, Louisiana Bureau of Criminal Identification and Information in accordance with these rules to be approved as an authorized agency.

Authorized Agency—an individual who meets the qualification requirements and has been approved by the Bureau to receive criminal history information to conduct employment screening pursuant to R.S. 40:1300.51 et seq.

Bureau—the Louisiana Bureau of Criminal Identification and Information within the Department of Public Safety and Corrections, Office of State Police as provided for in R.S. 15:576.

Criminal History Record—shall have the same meaning as provided for in R.S. 15:576.

Employer—shall have the same meaning as provided for in R.S. 40:1300.51(6).

Licensed Ambulance Personnel—shall have the same meaning as provided for in R.S. 40:1300.51(5).

Nonlicensed Person—shall have the same meaning as provided for in R.S. 40:1300.51(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§205. Application to be Approved as an Authorized Agency

A. An individual wishing to be approved as an authorized agency must submit an application to the Bureau along with the following documents to prove the individual's qualifications.

1. The applicant must be currently licensed in the state of Louisiana as a private investigator or detective by the Louisiana State Board of Private Investigator Examiners as evidenced by current and valid licensure issued by the Board.

2. The applicant must not currently be charged by bill of information or under indictment for, or have been convicted of, any felony offense in this state or any other jurisdiction, and submit to a background investigation to determine such.

3. Proof of qualification to do business within the state of Louisiana as evidenced by a valid certificate of authority issued by the Secretary of State, and designation of an agent for service of process as required by law. If the applicant is operating as a sole proprietorship, a current valid occupational license will be accepted.

4. The applicant must execute a written agreement whereby she/he agrees to maintain the confidentiality of any and all information provided to it by the Bureau pursuant to R.S. 40:1300.51 et seq., abide by all applicable laws, rules and regulations pertaining to receipt and use of criminal history

information, cooperate in any auditing procedure conducted by the Bureau, and inform the Bureau in writing of any known violations regarding the use of criminal history information she/he receives.

B. Upon receipt of a completed application for approval as an authorized agency, the Bureau shall review the application and conduct whatever investigation it deems necessary to verify the information. Upon completion of this review, the Bureau shall inform the applicant in writing of its approval or denial of the application.

C. Each authorized agency must maintain the eligibility requirements to be approved as an authorized agency. Each authorized agency shall notify the Bureau in writing of a change in its qualification requirements within fifteen days of the change. Failure to continue to maintain the eligibility requirements shall result in cancellation of approval as an authorized agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§207. Request for Criminal History Information

A. A request for the Bureau to conduct a criminal history check authorized by R.S. 40:1300.52 shall be made on a form provided by the Bureau and submitted to it by an employer or authorized agency.

B. Each request for a criminal history check authorized by R.S. 40:1300.52 submitted to the Bureau shall be accompanied by the fee of \$10.00 as established by R.S. 40:1300.52(B)(2) and LAC 55:I:101.A.

C. Each request for a criminal history check submitted to the Bureau by an authorized agency shall be accompanied by a letter of engagement or contract with the employer as proof that the authorized agency may request and receive criminal history information on behalf of the employer. The results of each criminal history check submitted by an authorized agency on behalf of an employer will be reported to the authorized agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

§209. Receipt and Use of Criminal History Information

A. Any authorized agency or employer which receives criminal history information pursuant to R.S. 40:1300.52 shall maintain the confidentiality of the records obtained.

B. The criminal history information received by an employer or authorized agency shall be used for the sole purpose of determining the applicant's eligibility for employment with the stated employer.

C. Any authorized agency who fails to maintain the confidentiality of criminal history information obtained pursuant to R.S. 40:1300.52, or who uses such information for any purpose other than determining the applicant's eligibility for employment with the stated employer, shall have its approval as an authorized agency canceled and be ineligible to receive criminal history information pursuant to R.S. 40:1300.52.

D. Any authorized agency or employer who fails to maintain the confidentiality of criminal history information

obtained pursuant to R.S. 40:1300.51 et seq., or uses such information for any purpose other than determining the applicant's eligibility for employment with the stated employer shall be subject to all other penalties provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq. and R.S. 40:1300.51 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:

A public hearing will be held on the proposed rules and regulations on December 28, 1998, to commence at 9:00 a.m., at the Louisiana State Police Training Academy Auditorium, 7901 Independence Boulevard, Baton Rouge, LA.

Interested persons may submit written comments to the following address: Office of State Police, P.O. Box 66614, Mailstop 18, Baton Rouge, LA, 70896. Captain Randy Johnson is the person responsible for responding to the inquiries regarding the proposed rules and regulations. Written comments will be accepted through the close of business, 4:30 p.m., on December 28, 1998.

Colonel W.R. "Rut" Whittington
Superintendent

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Criminal History Background Checks on Licensed Ambulance Personnel and Nonlicensed Persons

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

There will be no implementation cost associated with these proposed rules. These rules will not result in costs or savings to the Louisiana Department of Public Safety and Corrections, Office of State Police, Bureau of Criminal Identification and Information.

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

The maximum estimated revenue loss to the state will be \$339,540. This is based on the assumption that the Authorized Agencies will conduct all background checks for Licensed Ambulance Personnel and Nonlicensed Persons.

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

The estimated revenue to non-governmental groups will be \$339,540. This is based on the assumption that the Authorized Agencies will conduct all background checks for Licensed Ambulance Personnel and Nonlicensed Persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Colonel W.R. "Rut" Whittington H. Gordon Monk
Superintendent Staff Director
9811#054 Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

High Alcoholic Content Beverages—Stocking, Pricing, and Rotating (LAC 55:VII.319)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the authority of R.S. 26:287 and R.S. 26:150(A), notice is hereby given that the Department of Revenue, Office of Alcohol and Tobacco Control intends to amend LAC 55:VII.319, which governs stocking, pricing, and rotating of alcoholic beverages. The Title of §319 has also been changed to limit the Section's application to alcoholic beverages of more than 6 percent alcohol by volume and to remove the reference to Regulation X.

The purpose of the amendment is to clarify how and under what circumstances a supplier or wholesaler may move, reset, or stock high alcoholic content beverages. This proposed rule governs the type of activities that may be conducted between licensed manufacturers, wholesale dealers, and retail dealers, or any other legal entity engaged in the handling of alcoholic beverages in order to maintain the industry's integrity to conform with federal, state, and local laws and to provide for the freedom of choice for the consumer to purchase alcoholic beverages in a free, open competitive market.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart I. Beer and Liquor Regulations

Chapter 3. Liquor Credit Regulations

§319. High Alcoholic Content Beverages—Stocking, Pricing, and Rotating

A. Persons holding valid Louisiana wholesale alcoholic beverage permits, their agents, servants or employees, manufacturers' agents, importers and brokers may price, stock and rotate merchandise at retail premises only to the following extent.

1. Dealers in beverages of more than six percent alcohol by volume and in wine coolers containing more than six percent alcohol by volume and pre-mixed beverages of any alcoholic content may build and stock displays of their product on the premises of retail dealers. Displays can in no way be part of the dealer's regular shelving. They may restock displays for a maximum period of one month after the initial display has been installed. They may not price the displays. They are prohibited from pricing and stocking shelves on the premises of retail dealers and from affixing security tags. Industry members are granted authority to maintain the quality of their product on retail shelves, provided, that products purchased from other industry members are not altered or disturbed. The act of picking up alcoholic beverages in excess of six percent alcohol by volume for credit or exchange from a retail dealer by a wholesale dealer is considered a consignment sale and is therefore specifically prohibited.

2. No wholesale dealer of beverage that are more than six percent alcohol by volume shall handle or move any alcoholic beverages delivered to the premises of a retail dealer by a competing wholesale dealer, nor shall a wholesale dealer reset all or any part of the alcoholic beverages situated on the premises of a retail dealer, nor shall a wholesale dealer engage in the initial setting of products into a new store, unless the retail dealer sends notice, by certified mail to the Commissioner of Alcohol and Tobacco Control, stating the date, time, and location permit number of the contemplated movement, reset, or initial setting of alcoholic beverages. The addition of new products into the alcoholic beverage section shall not constitute a reset under the provisions of §319. Not less than one week prior to the approved date of such activity, the retail dealer shall mail copies both of the notice and Commissioner's written approval, to all wholesale dealers whose products are situated on their premises. The retail dealer shall maintain a list of the names and addresses of the wholesale dealers receiving such notice, and a copy of that list shall be filed with the Commissioner of Alcohol and Tobacco Control.

3. A wholesale dealer whose products are situated on the premises of a retail dealer must be given the opportunity to participate in any movement or reset of those products, and no retail dealer shall, under any circumstances, exclude a wholesale dealer from such participation. The reset of all or any part of the beverage alcohol situated on the premises of a retail dealer may not occur more than twice during any calendar year. The stocking of cold boxes by a wholesale dealer in a retail dealer's premises is permitted.

4. The spotting of shelves by a wholesale dealer in a retail dealer's premises is prohibited. The act of manually entering delivery or invoice information into the retail dealer's computer system at the time of delivery is prohibited.

5. Except as authorized under §319, employees of a wholesale dealer shall not, in connection with the sale or delivery of alcoholic beverages to a retail dealer, provide any services whatsoever to a retail dealer.

B. The Commissioner of the Office of Alcohol and Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies as are prescribed by law for violators of the Alcoholic Beverage Control Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:287 and R.S. 26:150(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 6:734 (December 1980), amended LR 17:609 (June 1991), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR

Interested persons may submit data, views, or arguments, in writing to Murphy J. Painter, Commissioner, Office of Alcohol and Tobacco Control, 1885 Wooddale Boulevard, Baton Rouge, LA 70806 or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m., Monday, December 28, 1998. A public hearing will be held on Tuesday, December 29, 1998, at 1:00 p.m. in the sixth floor conference room, 1885 Wooddale Boulevard, Baton Rouge, LA 70806.

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

**RULE TITLE: High Alcoholic Content Beverages—Stocking,
Pricing and Rotating**

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

There should be no additional costs to state or local government to implement these proposed amendments.

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

There should be no effect on revenue collections of state or local governmental units as a result of these proposed amendments.

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

There should be no costs and/or economic benefits to alcoholic beverage dealers as a result of these proposed amendments.

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

These proposed amendments should have no effect on competition or employment.

Murphy J. Painter
Commissioner
9811#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Tax Commission**

Ad Valorem Tax

(LAC 61:V.303, 703, 907, 1103, 1305, 1307, 1503, 2301,
2303, 2503, 2703-2707, 3101-3105, 3501, and 3503)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 1999 (2000 Orleans Parish) tax year.

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rules until 4 p.m., December 7, 1998, at the following address: E. W. "Ed" Leffel, Property Tax Specialist, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896.

Malcolm B. Price, Jr.
Chairman

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

RULE TITLE: Ad Valorem Tax

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

Implementation costs to the agency are the costs of preparation, reproduction and distribution of updated regulations and complete manuals. These costs are estimated at \$8,250.00 for the 1998-99 fiscal year and are being reimbursed through an existing user service fee of \$15.00 per update set and by increasing the fee for a complete manual from \$40 to \$75.

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

LOCAL GOVERNMENTAL UNITS

These revisions will generally increase 1999 certain real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 1998. Composite multiplier tables for assessment of most personal property will decrease by 1.224%. Specific valuation tables for assessment of Oil & Gas properties will generally increase by an estimated 27% on wells and 23.5% on Drilling Rigs. The net effect of these revisions is estimated to increase assessments by 2.01% and tax collections by \$7,292,000 on the basis of existing statewide average millage.

STATE GOVERNMENTAL UNITS

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$312,450 from Public Service companies, and \$92,000 from Financial Institutions and Insurance companies all of which are assessed by the Tax Commission.

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

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 1999 than in 1998. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$404,450 to be paid by public service property owners, financial institutions and insurance companies for 1998/99.

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

The impact on competition and employment cannot be quantified. Inasmuch as the proposed changes in assessments and charges are relatively small, the impact is thought to be minimal.

James D. Peters
Administrator
9811#070

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Support Enforcement—Child Support Distribution
(LAC 67:III.2514)

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.2514 for Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996), Public Law 105-33 (the Balanced Budget Act of 1997) and the Office of Child Support Enforcement Action Transmittal 98-24, SES proposes to change the order in which certain collections of past-due support are distributed. P.L. 105-33 provided states with an option to implement the distribution requirements of P.L. 104-193 beginning October 1, 1998 rather than in the two stages required by P.L. 104-193. Louisiana chose that option and an emergency rule was signed into effect on October 2, 1998.

Former recipients of Aid to Families with Dependent Children and/or Family Independence Temporary Assistance Program (AFDC/FITAP) benefits will now receive arrearages owed to the family before reimbursements to the state are made. These reimbursements are for the cash assistance received by the recipients.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter D. Collection and Distribution of Support Payments

§2514. Distribution of Child Support Collections

A. Effective October 2, 1998 the agency will distribute child support collections in the following manner.

1. ...

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through any means other than IRS intercepts will be distributed as follows:

a. the AR shall receive an amount equal to the court-ordered monthly obligation and any arrears owed to the AR that accrued in a non-assistance period;

b. amounts owed to the state;

c. any arrears that accrued during assistance that exceed the unreimbursed grant will be paid to the AR.

3. - 4. ...

5. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through IRS intercepts will be distributed as follows:

a. amounts owed to the state; and

b. amounts owed to the AR.

B. Any collections received through income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, and OCSE-AT-98-24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:703 (April 1998), LR 25:

All interested persons may submit written comments through December 29, 1998 to Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on December 29, 1998 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9:00 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).

Madlyn B. Bagneris
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Support Enforcement Services—Distribution

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

The proposed rule changes the order of distribution of arrearages with regard to prior recipients of AFDC or FITAP. The only cost of implementation associated with the rule is the minimal cost of publishing the rulemaking. Data processing adjustments were done at no additional costs to the state. There are no anticipated costs or savings to local governmental units.

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

As a result of the rule, the state share of certain child support collections will decrease. This self-generated revenue is expected to decrease by approximately one million dollars in FY 98/99, and \$1.29 million in subsequent years. The current and projected budgets of the agency would not be affected by losses in these amounts. There is no effect on local governmental units.

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

There is no cost to any persons or non-governmental groups. Certain former recipients for whom child support is collected will benefit economically because arrearages will be paid to them before reimbursements to the state are made. Estimated increased payments total \$1.29 million per year, or the same amount lost in self-generated collections.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9811#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of General Counsel

Substance Abuse and Drug-Free Workplace Policy (LAC 70:XXI.101-121)

In accordance with the applicable provisions of the Administrative Procedure Act R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a rule entitled Department of Transportation and Development Substance Abuse and Drug-Free Workplace Policy, in accordance with R.S. 49:1015 and Executive Order MJF 98-38.

Title 70

TRANSPORTATION

Part XXI. Office of Personnel

Chapter 1. Substance Abuse and Drug-Free Workplace Policy

§101. Philosophy

A. The use of illegal and unauthorized drugs and the misuse of alcohol are serious social problems that are even more unacceptable in the workplace. The Department of Transportation and Development has a compelling interest in the welfare and safety of its employees and the traveling public, the maintenance of a high level of productivity, and quality service to the general public. The establishment of a drug-free work environment in compliance with Executive Order Number MJF 98-38 and R.S. 49:1001, et seq., preserves property and equipment, promotes public safety, and reduces absenteeism and job-related accidents and injuries, while enhancing overall job performance, productivity levels, and the image and reputation of the Department.

B. To enhance national highway transportation safety, Congress passed the Omnibus Transportation Employee Testing Act of 1991. This act requires alcohol and drug testing of certain safety-sensitive employees in the aviation, motor carrier, railroad and mass transit industries. The Departmental positions subject to these federal drug and alcohol testing requirements primarily include pilots, drivers who are required by State or Federal law to have a Commercial Driver's License (CDL) and who operate Commercial Motor Vehicles (CMVS), and crew members operating a commercial marine vessel that receives funds from the Federal Transit Administration.

C. This policy applies to all Department of Transportation and Development employees, but those employees who are in safety-sensitive positions or who are being tested under federal authority will receive a separate employee information package which explains the program in greater detail. Following a job offer, all potential employees are subject to a pre-employment drug test. Additionally, all employees are subject to post-accident/incident, reasonable suspicion, return-to-duty, and follow-up drug and alcohol tests. Employees in safety-sensitive positions are further subject to random drug and alcohol tests. A list of the safety-sensitive positions being tested under federal authority is attached as Appendix A.

Additional positions designated by DOTD as safety-sensitive are listed in Appendix B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§103. Employment Requirements

A. To maintain a safe work environment, all Department employees are required to do the following:

1. report for duty in a physical and emotional condition that maximizes his/her ability to perform assigned tasks in a competent and safe manner;

2. submit to the drug/alcohol tests and screens described in this policy when required by supervisor or appointing authority;

3. notify supervisor prior to reporting for duty that he/she believes, or has been advised by a physician or pharmacist, that prescription or over-the-counter drugs/medication may impair the employee's ability to perform usual job duties;

4. maintain prescription drugs in prescribed quantity and be able to produce original prescription containers, when required;

5. notify supervisor at the beginning of the next scheduled work day of any arrest or conviction of a criminal, drug or drug-related offense, which occurs on- or off-duty, including DWI (Driving While Under the Influence) arrests.

B. The Department prohibits the use, abuse and presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances in the bodies of its employees while on duty, on call, or engaged in Departmental business, on- or off Department/State premises. The presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances, in a state vehicle while on- or off-duty, is also prohibited.

C. The presence of alcohol is indicated by a confirmed blood alcohol concentration of 0.02 or greater. Prohibited drugs include any drug which is not legally obtainable; any drug which is legally obtainable, but has been illegally obtained; prescription drugs not being used in accordance with the prescription; or, any substance which affects an employee's ability to safely and competently perform assigned job duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§105. Drug/Alcohol Testing

A. Applicants and employees may be required to submit to drug and alcohol tests as a condition of employment, as a condition of continued employment, or as a condition of promotion or reassignment to a safety-sensitive position. Whether announced or unannounced, tests will be administered under the following circumstances.

1. Pre-Employment Testing. Drug tests are required of all applicants, to include students, restricted and unclassified appointments, as a condition of employment or re-employment with DOTD. Current employees are required to undergo drug testing prior to being reassigned, temporarily detailed, reallocated, promoted, or demoted to a safety-sensitive

position. An offer of employment or promotion, reassignment, detail, reallocation, or demotion will be withdrawn if a positive drug test result is reported, and employees are further subject to disciplinary action as specified in §113, Enforcement.

2. Post-Accident/Incident Testing

a. Any employee who is directly involved in a potentially serious accident or incident in which the employee's action or inaction may have been a causative factor is subject to drug/alcohol tests. Only an appointing authority may require an employee to submit to such tests. Trained supervisors and safety officers may, however, recommend to the appointing authority that drug/alcohol tests be conducted, based on their knowledge of the circumstances resulting in the accident/incident. The appointing authority, using the information available at the time, makes the decision as to whether tests will be required.

b. When certain conditions are present, however, certain federal agencies require that drug/alcohol tests be conducted. (Any post-accident/incident tests conducted that do not meet the below-listed criteria are being conducted under the Department's authority, and the appropriate chain-of-custody and breath alcohol testing forms must be used.) Appointing authorities are therefore required to arrange for post-accident/incident tests as follows:

i. The Federal Highway Administration (governing drivers with Commercial Driver's Licenses) requires that the operator of a commercial motor vehicle which requires a commercial driver's license be drug/alcohol tested when as follows:

(a). a fatality occurs, whether or not the driver caused the accident; or

(b). when the driver is cited for a moving traffic violation arising out of the accident. (Accident is further defined as an incident involving a commercial motor vehicle in which there is either a fatality, injury treated away from the scene, or a vehicle is required to be towed from the scene.)

ii. The United States Coast Guard (governing marine vessels) requires that drug/alcohol tests be conducted when there is as follows:

(a). one or more deaths;

(b). an injury to any person (including passengers) which requires medical treatment beyond first aid, and in the case of an employee, which renders the employee unable to perform routine job duties;

(c). damage to property in excess of \$100,000, or actual or constructive total loss of either an inspected vessel or any vessel of 100 gross tons or more;

(d). a discharge of any reportable quantity of a hazardous substance into navigable waters, whether or not resulting from a marine casualty.

iii. The Federal Transit Administration (governing public transportation provided by the Crescent City Connection, a division of the Department) requires that drug/alcohol tests be conducted when, as a result of an occurrence associated with the operation of a transit vehicle (vessel), there is as follows:

(a). a fatality. Employees to be tested include the following:

(i). each surviving employee on duty on the vessel at the time of accident;

(ii). any other covered employee (i.e., mechanic) whose performance could have contributed to the accident;

(b). bodily injury or property damage. Employees to be tested include:

(i). each covered employee on duty on the vessel unless it is determined by the Department that their performance may be completely discounted as a contributing factor;

(ii). any other covered employee (i.e., mechanic) whose performance could have contributed to the accident.

3. Random Testing. Random alcohol and drug testing is required of employees who hold safety-sensitive positions, as listed in §119 and §121. Random tests are unannounced and spread throughout the calendar year.

4. Testing Based Upon Reasonable Suspicion. Drug and alcohol testing will be conducted when a trained supervisor or a trained safety officer observes behavior or appearance that is characteristic of drug use or alcohol misuse. The decision to test must be based on specific observations concerning the employee's appearance, behavior, speech, or body odor. (The possession of alcohol, although a violation of this policy, does not constitute a need for reasonable suspicion testing.) A written record must be made of the observations leading to either a drug or alcohol test, and signed by the observing supervisor and, when practicable, by two supervisors. Prior to subjecting any employee to reasonable suspicion testing, however, the supervisor(s) must obtain verbal approval from the appropriate appointing authority. Affected supervisors and safety personnel are trained to recognize signs and symptoms of drug use and alcohol misuse, and a written record of the training is made and retained for documentation.

5. Return-to-Duty. Following a violation of this policy's provisions, and in the event the employee retains his/her job, the employee is required (at his/her own expense) to undergo and complete any treatment prescribed by a Substance Abuse Professional (as defined by federal law), and is additionally subject to drug and/or alcohol testing prior to returning to duty. The employee will also be required to certify in writing his/her understanding and acceptance of a rehabilitative (or return-to-work) agreement.

6. Follow-up. Employees who voluntarily, or as a condition of continued employment, participate in an alcohol/substance abuse rehabilitation program are subject to unannounced drug and/or alcohol tests for a minimum of one (1) year but not more than five (5) years, as determined by the treating Substance Abuse Professional. As a condition of continued employment, employees are required to certify in writing their understanding and acceptance of these testing and rehabilitation requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§107. Drug Testing Procedures

A. The Department contracts with neutral, professional medical personnel and certified laboratories for the collection, custody, storage, and analysis of urine specimens. A split

sample collection method is used, with both the primary and split specimens shipped to the laboratory. The primary urine sample is analyzed for the presence of marijuana, opiates, amphetamines/methamphetamines, cocaine, and phencyclidine (PCP), by SAMSHA (Substance Abuse Mental Health Services Administration) certified laboratory, and in strict compliance with SAMSHA guidelines. A dual testing procedure is also used, where each primary sample that tests positive during an initial test is subjected to an additional, more precise confirmatory test. Any urine sample that is confirmed positive (i.e., exceeds federally adopted cutoff levels) is reported to the Department's Medical Review Officer (MRO), a licensed, contracted physician.

B. Upon receipt of a positive report, the MRO reviews the collection procedure, chain of custody, and testing methodology to exclude all possible medical explanations for the positive result. The MRO also contacts the employee/applicant to rule out the possibility that medications, medical history, or any other conditions may have caused the positive result, prior to reporting a positive test result to the Department.

C. If the confirmed test result is reported as positive by the MRO, the employee may, within 72 hours, request in writing to the MRO that the split specimen (initially collected but separated and stored during the collection process) be tested in a different SAMSHA-certified laboratory for the drug for which a positive result was reported. This split sample testing is done at the employee's expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25: §109. **Alcohol Testing Procedures**

A. Evidential Breath Testing Devices (EBTs), approved by the National Highway Traffic Safety Administration (NHTSA), will be used by certified Breath Alcohol Technicians (BATS) on contract with the Department. Testing sites will provide visual and aural privacy, unless prevented by unusual circumstances. The employee must provide a photo identification or be identified by an Employer Representative.

B. A breath screening test will be conducted, and the employee will be told the results. If the results are less than 0.02 alcohol concentration, no further testing is necessary, and the test results are reported as negative. If the screening test indicates an alcohol concentration of 0.02 or greater, a confirmation test will be performed within 20 minutes, but not less than 15 minutes, of completion of the screening test. If the confirmatory test again indicates an alcohol concentration of 0.02 or greater, the results will be reported as positive to the appointing authority or designated representative. Employees occupying safety-sensitive positions will not be allowed to perform safety-sensitive functions and will be subject to disciplinary action specified under §113 of this rule.

C. Positive test results will also be reported to the appointing authority or designee whenever an employee refuses to complete or sign the breath alcohol confirmation testing form, provide breath, provide an adequate amount of breath (excludes medical inability), or fails to cooperate with

the testing procedures in any way that prevents the completion of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25: §111. **Confidentiality**

A. All drug and alcohol testing results and records are maintained under strict confidentiality by the Department, the drug testing laboratory, and the MRO. They cannot be released to others without written consent of the employee. Exceptions to these confidentiality provisions are limited to Federal Department of Transportation agencies, when license or certification actions are required, or to a decision-maker in arbitration, litigation, or administrative proceedings arising from a positive drug test.

B. Employees have the right to access all written information and documentation within seven (7) days, as required by Louisiana Revised Statutes 49:1001.

C. Statistical records and reports are also maintained by the Department, contracted physicians, and drug testing laboratories. This information is aggregated data and is used to monitor compliance with the rules and to assess the effectiveness of the drug testing program.

D. The Department has no interest in informing law enforcement authorities of a positive drug test. However, nothing contained in this rule will be construed to preclude the delivery of any illegal drug, controlled dangerous substance, or other substance prohibited by this policy, discovered on Departmental/State property, or on the person of a Departmental employee to appropriate law enforcement agencies. Likewise, any employee engaged in the sale, attempted sale, distribution, or transfer of illegal drugs or controlled substances while on duty or on Department/State property will be referred to appropriate law enforcement authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25: §113. **Enforcement**

A. The use of illegal drugs and misuse of alcohol and other controlled or unauthorized substances will not be tolerated at the Department. Substance abuse, which endangers the health and well-being of Departmental employees and the traveling public, prevents quality service to the public and is inconsistent with this Department's mission. While the Department's position is firm, it will also resolve any reasonable doubt issues in the employee's favor.

B. Disciplinary actions will be taken after a complete and thorough review of all applicable data, and in accordance with Chapter 12 of the Civil Service Rules and Secretary's Policy and Procedure Memorandum Number 26 (Disciplinary System).

1. Violations for which employee is subject to termination are as follows:

a. refusal to submit to a drug or alcohol test, or failure to cooperate in any way that prevents the completion of a test.;

- b. submission of an adulterated or substitute urine sample for drug testing;
- c. buying, selling, dispensing, distributing, or possessing alcohol or any illegal or unauthorized controlled substance while on duty or on Department/State premises;
- d. unjustifiable possession of drug-related paraphernalia while on duty or on Department/State premises;
- e. unjustifiable possession of prescription drugs or any dangerous, controlled substances;
- f. driving a state vehicle or operating state equipment (or driving personal vehicle while on duty) while under the influence of drugs or alcohol, where tests administered by authorized officials confirm a policy violation;
- g. the presence of alcohol, illegal or unauthorized drugs, and other prohibited controlled substances, in a state vehicle, while on or off-duty;
- h. positive drug test result or confirmed 0.02 blood alcohol concentration;
- i. under all of the above circumstances, the employee will be referred to a Substance Abuse Professional.

2. A violation for which employee is subject to a minimum one (1) week suspension, possible return-to-duty agreement, or more severe disciplinary action, including termination, occurs when the employee fails to notify his/her supervisor of any prescribed drugs/medications when the employee believes, or has been advised by a physician or pharmacist, that the prescribed drugs/medication may impair the employee's ability to perform his/her usual duties and responsibilities.

3. Violations for which employee is subject to a minimum 1-day suspension:

- a. failure to notify supervisor of off-duty arrest or conviction of a driving-while-intoxicated, drug, or drug-related offense at the beginning of the next scheduled work day, when the employee occupies a safety-sensitive position. (See positions listed in §119 and §121.);
- b. failure to maintain prescribed drugs/medication in prescribed quantity and unable to produce original prescription container.

4. Violation for which employee is subject to written reprimand is the failure to notify supervisor of off-duty arrest or conviction of a driving-while-intoxicated, drug, or drug-related offense at the beginning of the next scheduled workday, when the employee occupies a non-safety-sensitive position.

5. For employees whose positions require a Commercial Driver's License (CDL) or for employees who are required to operate departmental vehicles on a regular and recurring basis, the loss of that license may result in employee being placed on leave or in a bonafide vacant position (not requiring a driver's license) for which they qualify. This may be accomplished by the following:

- a. reassignment;
- b. voluntary demotion;
- c. detail or placement on leave (annual, compensatory, or leave without pay), if situation is deemed temporary;
- d. if none of these options are available or reasonable, the employee will be removed in accordance with Civil Service

Rule 12.6(b), and Secretary's Policy and Procedure Memorandum Number 26.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25: §115. **Employee Assistance Program (EAP)**

A. Early recognition and treatment of drug dependency are essential to successful rehabilitation. Those employees recognizing a substance abuse problem should seek assistance from the Department's EAP Coordinator in the Human Resources Section. Referrals are held in strict confidence, but supervisors and appointing authorities who need to know will be kept abreast of the employee's treatment, leave needs, and prognosis on a case-by-case basis.

B. Employees who are referred to the EAP Coordinator by their supervisor, or who, as a condition of continued employment, participate in an alcohol/substance abuse rehabilitation program are subject to the return-to-duty and follow-up tests, as specified in §105.F and G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§117. General Provisions

A. Prior to employing an applicant for a position which requires a Commercial Driver's License (CDL), the Department must obtain the prospective employee's written consent to obtain from the prospective employee's previous employers the results of any drug/alcohol testing administered during the past two (2) years. This regulation also applies to current employees who are being reassigned, promoted, detailed, reallocated or demoted to a position that requires a CDL.

1. Should an applicant fail to provide the release, the offer of employment will be withdrawn. Should an existing employee fail to provide the release, the offer of promotion, reassignment, reallocation, or demotion will also be withdrawn.

2. Upon receipt of information from a previous employer that the prospective applicant or employee (moving to a job that requires a CDL) tested positive on either a drug or alcohol test or refused to submit to testing within the past two (2) years, the offer of employment or promotion will be withdrawn, unless the applicant has completed a drug/alcohol rehabilitation program and provides a written, positive evaluation by a Substance Abuse Professional.

B. The Department reserves the right to have a licensed physician of its own choice determine if use of a prescription drug/medication produces effects which may impair the employee's performance or increase the risk of injury to the employee or others. If such is the case, the Department will suspend the work activity of the employee during the period in which the employee's ability to safely perform his/her job may be adversely affected. The employee may be allowed to use accrued leave; may be placed on leave without pay; or where possible, modification of the employee's job duties may be made.

C. Although substance abuse testing outlined in this rule is restricted to the five previously specified drugs and alcohol

(See §107.A), the Department reserves the right to require employees to submit to additional tests if circumstances warrant. Such tests will only be administered when post-accident and reasonable suspicion drug/alcohol testing produce negative results, and the employee's action/inaction clearly reveals impairment of ability to safely perform job duties. Separate samples will be collected for these additional tests, and the testing process will comply with all SAMSHA regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25: §119. **Appendix A**

A. Positions subject to drug and alcohol tests, including random, as mandated by the United States Department of Transportation. For post-accident/incident test, refer to §105 (C) to determine if federal agency or LA DOTD is requiring test.

B. Jobs Requiring Commercial Driver's License

1. Bridge Maintenance Assistant Supervisor/Statewide
2. Bridge Maintenance Supervisor/Statewide
3. Bridge Repairer
4. Electrician (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement)
5. Electrician Foreman (all signal except Section 45/Gang 761)
6. Electrician Specialist (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement)
7. Electrician Specialist Foreman (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement)
8. Electrician Specialist Leader (all signal except Section 45/Gang 761) (Section 59/Gang 007 w/air brake endorsement)
9. Engineering Technician 1 (Section 22/Gang 041)
10. Engineering Technician 2 (Section 22/Gang 041)
11. Engineering Technician 3 (Section 22/Gang 041)
12. Engineering Technician 4 (Section 22/Gang 041)
13. Engineering Technician Supervisor 1 (Section 22/Gang 041)
14. Equipment Inspector (except Section 09)
15. Equipment Superintendent
16. Geotechnical Exploration Supervisor 2 (Section 22/Gang 041)
17. Highway Foreman 1
18. Highway Foreman 2 (except former District Sign/Traffic Supervisor and Tunnel Maintenance/Operator Supervisor)
19. Marine Welder (Section 51/Bridge)
20. Marine Welder Foreman (Section 51/Bridge)
21. Marine Welder Master (Section 51/Bridge)

22. Mobile Equipment Maintenance Mechanic
23. Mobile Equipment Master Mechanic
24. Mobile Equipment Master Mechanic Leader
25. Mobile Equipment Operator 1/Heavy
26. Mobile Equipment Operator 2/Heavy
27. Mobile Equipment Operator 1 (Section 51)
28. Mobile Equipment Operator 2 (except Section 70)
29. Mobile Equipment Overhaul Mechanic
30. Mobile Equipment Shop Foreman
31. Mobile Equipment Shop Superintendent
32. Painter (bridge)
33. Painter Foreman (bridge)
34. Painter Master (bridge)
35. Roadside Development Herbicide Applicator
36. Trades Apprentice (Section 51/Bridge) (All signal except Section 45/Gang 761) (Section 59 w/air brake endorsement)

C. Aviation Personnel

1. Aircraft Fleet Chief Pilot

D. Crescent City Connection Division (CCCD)—
Safety Sensitive Marine Personnel

1. Maintenance Repairer 1 (Gang 005)
2. Maintenance Repairer 2 (Gang 005) (also requires CDL)
3. Maintenance Foreman (Gang 005)
4. Marine Chief Engineer 1
5. Marine Chief Engineer 2
6. Marine Deckhand
7. Marine Deckhand/Toll Collector
8. Marine Engineer 1
9. Marine Engineer 2
10. Marine Engineer 3
11. Marine Engineering Supervisor
12. Marine Maintenance Superintendent 1 (Gang 005)
13. Marine Master 1
14. Marine Master 2
15. Marine Master 3
16. Marine Oiler
17. Marine Operations Superintendent 1 and 2
18. Marine Trades Helper (Gang 005)
19. Welder

E. CCCD Law Enforcement Personnel

1. Police Captain—Bridge
2. Police Chief—Bridge
3. Police Lieutenant—Bridge
4. Police Officer 1—Bridge
5. Police Sergeant—Bridge

F. Rural Ferries/Fleet Landing

NOTE: U.S. Coast Guard does not mandate random alcohol tests, so random alcohol tests are being conducted under LA DOTD's authority. For post-accident/incident tests, refer to §105.C to determine whether accident/incident meets criteria of U.S. Coast Guard. If not, and test is conducted, it is under LA DOTD authority.

1. Marine Chief Engineer 1
2. Marine Chief Engineer 2
3. Marine Deckhand
4. Marine Deckhand/Toll Collector
5. Marine Engineer 1
6. Marine Engineer 2
7. Marine Engineer 3
8. Marine Maintenance Superintendent 1
9. Marine Maintenance Superintendent 2
10. Marine Mechanic 1
11. Marine Mechanic 2
12. Marine Master 1
13. Marine Master 2
14. Marine Master 3
15. Marine Oiler
16. Marine Operator
17. Marine Operations Superintendent 1
18. Marine Operations Superintendent 2
19. Marine Trades Helper
20. Marine Welder 1
21. Marine Welder 2
22. Marine Welder Foreman

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

§121. Appendix B

A. Additional positions subject to drug and alcohol tests, including random, as determined by LA DOTD.

1. Bridge Inspection Program Manager
2. Bridge Inspection Team Leader
3. Bridge Maintenance and Inspection Supervisor
4. Bridge Operator 1

5. Bridge Operator 2
6. Bridge Operator Foreman
7. DOTD Engineer Program Manager (Section 51)
8. DOTD Staff Engineer Admin. 1 (Section 51)
9. DOTD Staff Engineer Supervisor (Section 51)
10. EIT 1/2/Engr./DOTD Staff Engr. Advanced (Section 51)
11. Engineering Technicians 1 - 4 (Districts, Gang 051 and Section 51 employees performing bridge inspection duties)
12. Maintenance Repairer 1 (Navigational Locks only)
13. Maintenance Repairer 2 (Navigational Locks only)
14. Mobile Equipment Operator 1
15. Navigational Lock Master
16. Navigational Lock Operator 1
17. Navigational Lock Operator 2
18. Staff Engineer Specialist Advanced—Bridge Maintenance (Section 51)

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1015.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this Notice of Intent to Deidre O. Adams, Director, Human Resources Section, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, Phone (225) 379-1259.

John Basilica, Jr.
Acting Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Substance Abuse and Drug-Free Workplace Policy

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

No additional implementation costs are anticipated as a result of this rule. The Department has had in effect a drug testing program for its employees since December, 1989.

The estimated cost to the State for this program for fiscal year 1998-1999 will be \$143,250. The cost for the program is estimated to be \$157,700 in fiscal year 1999-2000 and is estimated to be \$164,000 in fiscal year 2000-2001. It is anticipated that additional funds will be needed each year because the cost of testing increases each year and the number of employees which must be tested each year also increases.

These expenditures are funded with Transportation Trust Fund revenues. These costs include employee testing and screening, contracts with professional medical personnel, including a Medical Review Officer, Breath Alcohol Technicians and certified laboratories for collection, custody, storage, and analyses of specimens.

The establishment of a drug-free work environment preserves property and equipment, promotes public safety, and reduces absenteeism and job-related accidents and injuries while enhancing overall job performance, productivity levels, and the image and reputation of the Department. These elements should constitute a savings to the State which cannot be estimated at this time.

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

There will 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 Department annually tests approximately 1,800 persons (random pool) in "safety sensitive" positions. Approximately 900 persons, not in "safety sensitive" positions, are randomly tested per year; and all new employees are tested.

Drug and alcohol testing will help to provide a safer workplace in this Department, thereby rendering savings to the traveling public, reflected in reduced accidents, reduced worker's compensation claims and fewer tort liability cases. The amount of such savings cannot be estimated at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

John Basilica, Jr.
Acting Secretary
9811#055

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Housing Finance Agency**

**Substandard Housing Assistance for Rural Economies
(SHARE) Program (LAC 16:II.501)**

In accordance with R.S. 49:950 et seq., the Louisiana Housing Finance Agency is proposing to adopt the following rule establishing the regulations governing the criteria used to award HOME Funds to the Substandard Housing Assistance for Rural Economies Grant Program in connection with the Cranston-Gonzalez National Affordable Housing Act of 1990.

The purpose of this grant is to provide safe, decent, and sanitary housing for owner-occupied homeowners throughout the State of Louisiana.

Title 16

COMMUNITY AFFAIRS

Part II. Housing Finance Agency

Chapter 5. Substandard Housing Assistance for Rural Economies (SHARE) Program

§501. Background

A. The Louisiana Housing Finance Agency (the "Agency"), as administrator of the HOME Investment Partnership Program for non-entitlement areas throughout the state, has

established a Substandard Housing Assistance for Rural Economies Grant Program. The Agency is making available \$3,000,000.00 for the SHARE Grant Program. Each local governmental unit selected to participate will receive up to \$150,000.00 to make grants up to \$15,000.00 to qualified homeowners to rehabilitate their homes. Qualified residences must be substandard single unit residences owned and occupied by very, very low income homeowners.

1. Local Government Unit Eligibility. Local Governmental Units must not be a part of a consortium or entitlement area currently receiving HOME Funds and must complete an application in accordance with the Selection Criteria to qualify for the Substandard Housing Assistance for Rural Economies Grant Program. Local Governmental Units accepted into the program must execute an appropriate agreement with the Agency to comply with federal laws and regulations.

2. Eligible Homeowners. Eligible homeowners must
a. have income that is at or below 60 percent of the median income for the area within which the municipality is located; and

b. own the single unit residence as his principal residence.

3. Qualified Residences

a. Each residence to be rehabilitated under the SHARE Grant Program must be:

i. a one unit residence, i.e., no multi-unit buildings and no mobile homes;

ii. deficient with respect to one or more conditions which are required to be addressed in order to satisfy the Section 8 Housing Quality Standards (following completion of the rehab, the residence must satisfy the Section 8 Housing Quality Standards) and;

iii. subject to an appraisal which demonstrates that the post-rehab value of the residence does not exceed HUD's 203(b)limits for the area.

b. The cost of rehabilitation of any residence may not exceed 75 percent of the replacement value of the residence.

4. Grant Awards to Eligible Homeowners. The amount of grants to homeowners under the Substandard Housing Assistance for Rural Economies Grant Program may be at least \$1,000, but not in excess of \$15,000.

5. Selection Criteria Points

a. Jurisdiction proposes to implement a Community Involvement Program 25

b. Jurisdiction proposes to provide Homeowner Training to the residents it serves under the Substandard Housing Assistance for Rural Economies Grant Program. 25

c. Jurisdiction proposes to have material participation by CHDO or local non-profit organization. (e.g. homeowner training, identification of applicants, etc.) 10

d. Previous Participation under LHFA's Health and Safety Rehabilitation Grant Programs with no outstanding findings. 10

e. Project is located in an area targeted for rehabilitation by local jurisdiction. Briefly describe the neighborhood(s) targeted to receive the HOME program assistance.	15		
f. Jurisdiction proposes to serve at least three homes with dual income families.	15		
g. Jurisdiction proposes to serve at least five (5) families at 50 percent or below of area median income.	20		
h. Jurisdiction proposes to rehabilitate at least five Housing Units Serving one or more of the following Special Needs Groups (Check one or more):	20		
i. Elderly/Handicapped			
ii. Disabled			
Physically			
Mentally			
iii. HIV/AIDS			
iv. Single Parent Households			
v. Large Families (5 or more)			
i. Jurisdiction proposes to rehabilitate Housing Units in areas within which minorities (i.e., Black, Native American, or Women) constitute a majority of the households.	15		
j. Leverage Ratio for each HOME Dollar (Monies from other sources other than the homeowner to be used in conjunction with HOME funds for rehabilitation)			
Minimum Other Dollars			
\$.50	5		
\$1.00	10		
\$1.50	15		
\$2.00	20		
Over \$2.00	25		
			Total
			Points
			30
			25
			20
			15
			10
			5
			15

k. Projects to be located in parishes listed below qualify for selection criteria points as shown based on the per capita income (poverty level):

- i. West Feliciana-East Carroll-West Carroll-Allen; 30
- ii. St. Martin-Grant-Franklin-St. Helena-Avoylles-Catahoula-Madison-Vernon-Tensas-Evangeline-Jefferson Davis-Bienville; 25
- iii. Winn-Concordia-Richland-Claiborne-LaSalle-Caldwell-Natchitoches-River-Cameron-Assumption-Acadia-Sabine; 20
- iv. Morehouse-Washington-Jackson-Tangipahoa-Pointe Coupee-Webster-Vermillion-Beauregard-East Feliciana-St. Landry-St. Mary-Terrebonne; 15
- v. Lafourche-St. James-Lincoln-Iberia-Iberville-DeSoto-Union St. John the Baptist-Plaquemines-Livingston-St. Bernard-Ouachita; 10
- vi. Bossier-Ascension-Orleans-West Baton Rouge-St. Charles-Jefferson-Calcasieu-Lafayette-St. Tammany-Rapides-Caddo-East Baton Rouge. 5

l. Jurisdiction proposes to rehabilitate housing units listed below in the following parishes in Affected/Disaster Areas due to Tropical Storm Frances/Hurricane Georges in accordance with FEMA 1246DR-LA:

- i. Acadia/Ascension/Assumption/Cameron/Evangeline/Iberville/Jefferson Davis/LaFourche/Livingston/Plaquemines/St. Bernard/St. Helena/St. James/St. John/St. Martin/St. Mary/St. Tammany/Vermillion/Washington. 15

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 25:

Any interested person may submit written comments regarding the contents of the proposed Rule to V. Jean Butler, President, Louisiana Housing Finance Agency, 200 Lafayette Street, Third Floor, Baton Rouge, LA 70801. All comments must be received no later than 4:30 p.m., Wednesday, December 30, 1998.

Mike Cross
Vice President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Substandard Housing Assistance for Rural
Economies (SHARE) Grant Program**

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

This proposed rule will have no measurable impact on state agency fiscal operations. It is anticipated that approximately twenty (20) local governmental rural entities will be awarded a SHARE grant. Each local entity is expected to expend approximately \$5,000 in administrative costs. The total administrative cost will be \$100,000.

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

Each local governmental entity can receive up to \$150,000 from the federally funded SHARE Program to be allocated for home rehabilitation projects and \$5,000 to defray administrative costs. The total funds available to local governmental entities is \$3,100,000. Additionally, it is anticipated that the SHARE Program will affect revenue collections by generating sales tax revenues through the purchase of construction materials.

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

Very low income homeowners occupying substandard housing will benefit from rehabilitation of their residence which will eliminate those conditions which pose a danger to the health or safety of the occupants.

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

Availability of SHARE grant funds will increase employment in the construction field by providing for the moderate rehabilitation of owner-occupied housing.

V. Jean Butler
President
9811#086

G. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Sharks and Sawfishes—Daily Take and Possession Limits
(LAC 76:VII.357)

The Wildlife and Fisheries Commission does hereby give

notice of its intent to promulgate rules and regulations for the taking of sharks from Louisiana waters.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

**§357. Sharks and Sawfishes Daily Take and Possession
Limits, Quotas and Special Permit Requirements**

A. The Wildlife and Fisheries Commission does hereby adopt the following rules and regulations for the taking of sharks (including sawfishes) (Class *Elasmobranchiomorphi*: Orders *Hexanchiformes*, *Lamniformes*, *Squaliformes*, and *Rajiformes*) from Louisiana waters. The provisions of §357 shall not apply to shrimp or menhaden harvest, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing, *except for provisions*:

1. outlawing finning of shark;
2. requiring a Shark Permit for sale, barter or exchange;
3. limiting sale, barter, or exchange of sharks during closed seasons;
4. limiting shark retained by non-permit holders to be only as a mixed part of the total harvest, and only retained, held, or sold, purchased, bartered, traded, or exchanged as such; and
5. outlawing transfer of sharks between vessels at sea.

B. For management purposes, sharks are divided into the following categories.

1. Small Coastal Sharks—Atlantic Angel Shark, Bonnethead Shark, Atlantic Sharpnose Shark, Blacknose Shark, Caribbean Sharpnose Shark, Finetooth Shark, Smalltail Shark.

2. Large Coastal Sharks—Great Hammerhead, Scalloped Hammerhead, Smooth Hammerhead, Nurse Shark, Bignose Shark, Blacktip Shark, Bull Shark, Caribbean Reef Shark, Dusky Shark, Galapagos Shark, Lemon Shark, Narrowtooth Shark, Night Shark, Sandbar Shark, Silky Shark, Spinner Shark, Tiger Shark.

3. Pelagic Sharks—Bigeye Sixgill Shark, Sevengill Shark, Sixgill Shark, Longfin Mako, Porbeagle Shark, Shortfin Mako, Blue Shark, Oceanic Whitetip Shark, Bigeye Thresher Shark, Thresher Shark.

4. Prohibited Species—Basking Shark, White Shark, Bigeye Sand Tiger, Sand Tiger, Whale Shark, Smalltooth Sawfish, Largetooth Sawfish.

C. In addition to all other licenses and permits required by law, a valid original Shark Permit shall be annually required for persons commercially taking shark from Louisiana waters and for persons selling, exchanging, or bartering sharks to Louisiana Wholesale/Retail dealers; the valid original permit shall be in immediate possession of the permittee while engaged in fishing for or possessing shark. Each Shark Permit holder shall on or before the tenth of each month submit an information return to the Department on forms provided or approved for this purpose, including the number and weight of each species of shark taken commercially from Louisiana waters during each trip of the preceding month, and the commercial dealers to whom these were sold. Monthly reports shall be filed, even if catch or effort is zero.

D. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any sharks in excess of any possession limit for which a commercial permit was issued.

E.1. All persons who do not possess a Shark Permit issued by the Department of Wildlife and Fisheries, and, if applicable, a Federal Shark Permit issued by the National Marine Fisheries Service, are limited to a possession limit. All persons who do not possess a Louisiana Shark Permit and, if applicable, a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks, shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any sharks, or possess any sharks in excess of a possession limit. Sharks taken incidental to menhaden fishing, that are retained on the vessel as part of the harvest, shall be retained and sold only as a mixed part of the total harvest, and shall not be retained, held, or sold, purchased, bartered, traded, or exchanged separately. Sharks retained as a result of menhaden fishing shall not exceed legal by-catch allowances for menhaden fishing as provided for in R.S. 56:324.

2. Legally licensed Louisiana wholesale/retail seafood dealers, retail seafood dealers, restaurants, and retail grocers are not required to hold a "Shark Permit" in order to purchase, possess, exchange, barter and sell any quantities of sharks, so long as they maintain records as required by R.S. 56:306.4 and 56:306.5.

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, bartered, or attempted to be sold, purchased, exchanged or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the bag limits as follows.

1. The aggregate daily take and possession limit for Atlantic Sharpnose Sharks caught recreationally within or without Louisiana waters shall be two fish per person per day and in possession.

2. The aggregate daily take and possession limit for all other Small Coastal, Large Coastal and Pelagic sharks combined, caught recreationally within or without Louisiana waters, shall be two fish per vessel per trip and in possession.

G. Those persons possessing a Federal Shark Permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that Federal Permit. A person aboard a vessel for which a Federal Shark Permit has been issued shall not retain shark of any species group for which the commercial quota has been reached and the season closed in Federal waters.

H.1. A vessel that has been issued or possesses a federal shark permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds, dressed weight.

2. Persons possessing a Louisiana Shark Permit shall not possess on any trip, or land from any trip, or sell, Large Coastal Species in excess of 4,000 pounds, dressed weight.

I. A person aboard a vessel for which a federal shark permit has been issued, or persons aboard a vessel fishing for or possessing shark in the EEZ shall comply with all applicable federal regulations.

J. Fins

1. The practice of *finning*, that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited within and without Louisiana waters.

2. Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed five percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on dealer records in compliance with R.S. 56:306.5. Fins from shark harvested by a vessel that are disproportionate to the weight of the carcasses landed shall not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

3. Shark fins shall not be possessed aboard a fishing vessel after the vessel's first point of landing.

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof.

- a. Basking Shark—*Cetorhinus maximus*
- b. White Shark—*Carcharodon carcharias*
- c. Bigeye Sand Tiger—*Odontaspis noronhai*
- d. Sand Tiger—*Odontaspis taurus*
- e. Whale Shark—*Rhincodon typus*
- f. Smalltooth Sawfish—*Pristis pectinata*
- g. Largetooth Sawfish—*Pristis pristis*

2. Notwithstanding other provisions of Part VII, a person may fish for, but not retain, white sharks (*Carcharodon carcharias*) with rod and reel only under a catch and release program, provided the person releases and returns such fish to the sea immediately with a minimum of injury.

3. Notwithstanding other provisions of Part VII, smalltooth sawfish or largetooth sawfish may be possessed as authorized by a special Scientific and Educational Collecting Permit issued by the department under R.S. 56:318, including whatever conditions that the department may deem necessary to ensure the maintenance and protection of the species. Nothing herein shall prohibit the possession of smalltooth sawfish or largetooth sawfish, or parts thereof, that were possessed prior to the effective date of this rule.

L. No person aboard any vessel shall transfer or cause the transfer of sharks between vessels on state or federal waters. Standard menhaden harvesting activities do not constitute transfer of sharks between vessels at sea.

M. Seasonal Closures

1. All Louisiana State waters out to the seaward boundary of the Louisiana Territorial Sea shall be closed to the recreational and commercial harvest of all sharks between April 1 and June 30 of each year. A holder of a Federal Shark Permit may legally harvest sharks from Federal waters beyond the Louisiana Territorial Sea and bring those sharks into Louisiana waters for sale within the provisions of that Federal Shark Permit. Effective with this closure, no person shall

commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell sharks from the closed area. Effective with the closure, no person shall retain or possess any sharks in the closed area. Sharks taken incidental to shrimp or menhaden fishing in the closed area, that are retained on the vessel as part of the harvest, may be retained only as a mixed part of the total harvest, and shall not be retained, held, purchased, bartered, traded, exchanged, sold or attempted to be purchased, bartered, traded, exchanged or sold.

2. The Secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for sharks, within and without Louisiana's territorial waters, when the Secretary is notified by the National Marine Fisheries Service that the seasonal quota for that species group and fishery has been met. The closure order shall close the fishery until the date projected for the re-opening of that fishery in the adjacent Federal waters. The Secretary is also hereby authorized to modify any such closure order to maintain consistency with re-opening dates in the adjacent Federal waters, should the Federal closure dates be modified.

N. The fishing year for shark shall begin on January 1, 1998 and every January 1 thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule including, but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may comment on the proposed rule in writing to Mr. Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 until 4:30 p.m., Wednesday, January 6, 1999.

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sharks and Sawfishes, Daily Take and Possession Limits

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

There will be no state or local governmental implementation costs. These rules will be administered and enforced with existing personnel in the course of their regular duties. Parts of the proposed rule reflect regulations established by the National Marine Fishery Service (NMFS) for Federal waters of the Gulf of Mexico. Some of the effects of this rule would be due to better enforcement of existing rules in Federal waters.

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

There should be no significant effect on revenues to any state or local governmental units from the proposed rule.

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

The proposed rule is estimated to reduce commercial revenue from shark landings from \$200,000 to in excess of \$1 million annually. The actual loss of revenue will depend upon: the value of shark fins that are included within the reported average dockside value of shark harvests for which information is available, the degree to which commercial fishermen can target alternative species during anticipated closure periods for shark harvesting in Louisiana waters, and the value of the particular species of sharks which will be prohibited to be harvested under this rule.

It is unclear from the data if the value of the shark fins is completely represented in the landings data. If the value of the fins is under-reported, then the negative impacts of this rule would be toward the upper range of the estimate, or closer to \$1 million annually. If the preponderance of the fin value is included in the reported average dockside value of shark landings, the negative impact of this rule should be closer to the lower range of the estimate, or several hundred thousand dollars annually.

Negative and positive impacts occur when restrictions are imposed on a fishery or fishery user group(s). Eliminating harvest of prohibited species should have relatively little impact on commercial harvesters since these species are presently rarely landed in Louisiana. Potentially up to 0.5% of the annual value of shark landings could be lost due to prohibited harvest restrictions, amounting to \$3,308 annually. If persons are unsure of identification and release sandbar sharks unnecessarily, losses could be higher.

Imposed trip limits in state waters for large coastal species may increase the number of fishing trips, reduce trip duration and increase the amount of travel time for commercial fishers resulting in reduced harvest efficiency and higher harvest costs.

Closed seasons will result in losses of opportunity to harvest sharks. During the five-year period of 1993-97, the average annual reported dockside value of sharks harvested during the months of April-June (which is to be a permanent three-month closure period in Louisiana waters) was \$178,803. Federal waters, generally 3 miles offshore of the state, are also often closed for the months of August-December, after the semi-annual quota for large coastal sharks has been reached. Louisiana will mirror Federal closures to shark harvesting outside of the permanently established April-June closure of state waters. During the five-year period of 1993-97, the average reported dockside value of sharks harvested during the months of August-December was \$187,094.

Recreational fishermen may see some reduction in harvest rates as a result of the bag limits imposed by this rule, as well as by the April-June closed season. There is no available measure of the reduction in benefits due to this measure.

Long-term benefits of an undetermined magnitude may accrue to fishermen in both recreational and commercial sectors as a result of increases in the size of stocks protected by the proposed regulations. Provisions of the rule that allow Secretarial action to close seasons that are closed in adjacent Federal waters may have a protective effect, as enforcement of those Federal closures would be enhanced.

Overall benefit changes are not estimable at this time. No better estimate is available of the change in receipts or income as a result of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment in the public sector, however, it is not possible to completely

estimate the effect on competition or employment in the private sector. Approximately 60 commercial shark harvesters consistently report activities taking sharks in Louisiana waters or landing in Louisiana ports. Each of these harvesters probably work with one to three deck hands for trips targeting shark and associated species. Closed seasons, trip limits, and other factors may impact the seasonality and/or number of

persons involved in these activities. Some harvesters may redirect their fishing efforts to other species, geographic areas, or into non-fishing activities.

James L. Patton
Undersecretary
9811#056

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given January 25-29, 1999 at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is December 11, 1998. No applications will be accepted after December 11, 1998.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to December 11, 1998. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

9811#036

POTPOURRI

Department of Agriculture and Forestry Louisiana Forestry Commission and Department of Revenue Louisiana Tax Commission

Timber Stumpage Values

The Louisiana Department of Agriculture and Forestry, Office of Forestry is hereby giving notice of a joint meeting of the Forestry Commission and Tax Commission to be held on December 14, 1998, 10:00 a.m. at 5825 Florida Blvd., Baton Rouge, LA 70806. Interested persons may submit written or oral comments to the address above prior to the hearing. The Office of Forestry shall send a copy of its recommendations and the data used as the basis for the recommendations to all interested parties who have requested a copy of the recommendation.

The staff of the Louisiana Department of Agriculture and Forestry, Office of Forestry recommends that the following stumpage values be adopted for the purpose of determining timber severance tax for calendar year 1999.

Trees and Timber	Price/Sale	Price/Ton
Pine Sawtimber	\$421.26/MBF	\$52.66/Ton
Hardwood Sawtimber	\$246.07/MBF	\$25.90/Ton
Pine Chip and Saw	\$104.82/CD	\$38.82/Ton

Pulpwood		
Pine Pulpwood	\$28.60/CD	\$10.59/Ton
Hardwood Pulpwood	\$19.84/CD	\$6.96/Ton

Data used to determine these recommendations are from the *Quarterly Report of Forest Products* as follows:

Third Quarter 1997 (July-September)			
Product	Stump Vol (Tons)	Stump Val (\$)	Stump Avg (\$/Ton)
Pine Sawtimber	1,066,372.03	\$52,568,889.26	\$49.30
Hardwood Sawtimber	321,854.59	7,898,271.06	24.54
Pine Pulpwood	684,411.04	6,725,779.03	9.83
Hardwood Pulpwood	564,874.45	4,184,767.83	7.41
Chip-N-Saw	105,282.48	3,736,832.23	35.49
Fourth Quarter 1997 (October - December)			
Product	Stump Vol (Tons)	Stump Val (\$)	Stump Avg (\$/Ton)
Pine Sawtimber	869,201.59	\$45,093,111.79	\$51.88
Hardwood Sawtimber	209,325.09	5,238,748.46	25.03
Pine Pulpwood	408,073.44	3,892,436.62	9.54
Hardwood Pulpwood	368,067.30	2,316,619.51	6.29
Chip-N-Saw	85,110.91	3,742,496.85	43.97
First Quarter 1998 (January - March)			
Product	Stump Vol (Tons)	Stump Val (\$)	Stump Avg (\$/Ton)
Pine Sawtimber	1,209,033.50	\$69,395,254.37	\$57.40
Hardwood Sawtimber	132,732.39	3,392,433.95	25.56
Pine Pulpwood	560,551.05	6,349,230.27	11.33
Hardwood Pulpwood	342,108.15	2,503,886.81	7.32
Chip-N-Saw	30,035.26	1,158,574.58	38.57
Second Quarter 1998 (April - June)			
Product	Stump Vol (Tons)	Stump Val (\$)	Stump Avg (\$/Ton)
Pine Sawtimber	1,023,668.28	\$52,431,963.49	\$51.22
Hardwood Sawtimber	258,537.94	7,364,015.83	28.48
Pine Pulpwood	657,603.96	7,506,771.27	11.42
Hardwood Pulpwood	391,020.17	2,598,568.18	6.65
Chip-N-Saw	42,531.18	1,571,222.00	36.94

State Totals			
Product	Stump Vol (Tons)	Stump Val (\$)	Stump Avg (\$/Ton)
Pine Sawtimber	4,168,275.40	\$219,489,218.91	\$52.66
Hardwood Sawtimber	922,450.01	23,893,469.30	25.90
Pine Pulpwood	2,310,639.49	24,474,217.19	10.59
Hardwood Pulpwood	1,666,070.07	11,603,842.33	6.96
Chip-N-Saw	262,959.83	10,209,125.66	38.82

Conversion Factors		
MBF Pine Doyle Scales	= 16,000 lbs.	= 8.00 Tons
MBF Hardwood Doyle Scale	= 19,000 lbs.	= 9.50 Tons
Cord Pine	= 5,400 lbs.	= 2.70 Tons
Cord Hardwood	= 5,700 lbs.	= 2.85 Tons
Chip-N-Saw	= 5,400 lbs.	= 2.70 Tons

Bob Odom
Commissioner

9811#037

POTPOURRI

**Department of Economic Development
Office of Financial Institutions**

Correction of 1998 Judicial Interest Rate

Based on an error contained in information supplied to the Commissioner of Financial Institutions by the Federal Reserve Bank of Atlanta, he caused to be published in the December 20, 1997 issue of the *Louisiana Register* a notice stating that the rate of judicial interest for the calendar year 1998 would be 7.30 percent. If correct information had been furnished the notice would have stated the rate for 1998 to be 7.60 percent.

Larry L. Murray
Commissioner

9811#041

POTPOURRI

**Department of Environmental Quality
Office of the Secretary**

Relocating Groundwater Fees (LAC 33:XIII.Chapter 13)

The Department of Environmental Quality, Office of the Secretary, hereby gives notice that all information presently located in LAC 33:XIII.Chapter 13, Groundwater Fees, will be renumbered and moved to LAC 33:I.Chapter 14 of the Office of the Secretary regulations. No changes to the text of

the regulations are involved in this renumbering. The Chapter is also available on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Tim B. Knight
Administrator

9811#084

POTPOURRI

**Department of Health and Hospitals
Board of Embalmers and Funeral Directors**

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, Dec. 12, 1998, at Delgado Community College, 615 City Park Ave., New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

9811#001

POTPOURRI

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

1999 Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the national and state examination for licensure to practice veterinary medicine on the following dates:

Examination	Date	Deadline to Apply
National Board	Second Tuesday of April, April 13, 1999	Friday, February 26, 1999
Clinical Competency Test	Second Wednesday of April, April 14, 1999	Friday, February 26, 1999
State Board	First Tuesday of Every Month	No less than two weeks prior to desired exam date

Applications for all examinations must be received on or before the deadline. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 or by calling (225) 342-2176.

Charles B. Mann
Executive Director

9811#004

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, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
C. F. Braun and Company	Frog Lake	E B Schwing	006	165556
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	002	054243
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	003	056444
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	009	056445
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	011	059240
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	013	062278
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	010	062532
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	006	066994
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	005	066995
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	008	077668
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	012	077670
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	014	082408
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	015	082409

Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	018	147297
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	017	147311
Double Eagle Minerals, Inc.	Caddo Pine Island	C W Lane Co Inc	019	147349
Double Eagle Minerals, Inc.	Caddo Pine Island	E R Dorian	001	023399
Double Eagle Minerals, Inc.	Caddo Pine Island	E R Dorian	003	024741
D U W Properties	North Cankton	Emile C Cormier et al	001	189834
Fairway Minerals Corporation	Caddo Pine Island	Sam Sklar A	001	025750
Fairway Minerals Corporation	Caddo Pine Island	Land	001	049974
Fairway Minerals Corporation	Caddo Pine Island	Land	003	050145
Fairway Minerals Corporation	Caddo Pine Island	Land	002	050147
Fairway Minerals Corporation	Caddo Pine Island	Parks-Finnigan	001	051819
Fairway Minerals Corporation	Caddo Pine Island	Parks-Finnigan	003	054318
Fairway Minerals Corporation	Caddo Pine Island	Parks-Finnigan	004	054319
Fairway Minerals Corporation	Caddo Pine Island	Parks-Finnigan	002	054320
Fairway Minerals Corporation	Caddo Pine Island	Land	006	054456
Fairway Minerals Corporation	Caddo Pine Island	Land	010	054673
Fairway Minerals Corporation	Caddo Pine Island	Land	008	054674
Fairway Minerals Corporation	Caddo Pine Island	Land	009	054675
Fairway Minerals Corporation	Caddo Pine Island	Parks-Finnigan	A-5	059341
Fairway Minerals Corporation	Caddo Pine Island	Parks-Finnigan	A-6	059342

Fairway Minerals Corporation	Caddo Pine Island	Sam Sklar A	002	068344
Fairway Minerals Corporation	Caddo Pine Island	Sam Sklar A	003	068954
Fairway Minerals Corporation	Caddo Pine Island	K M Spell	002	026014
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est	001	097232
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est	002	097785
Fairway Minerals Corporation	Caddo Pine Island	R N Switzer	001	098425
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est "A"	010	099041
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est	008	099422
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est "A"	011	099423
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est "A"	012	099989
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est	009	100467
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est "A"	013	100468
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est "A"	014	100469
Fairway Minerals Corporation	Caddo Pine Island	E A Connell Est	003	101622
Fairway Minerals Corporation	Caddo Pine Island	K M Spell	001	146888
Fairway Minerals Corporation	Caddo Pine Island	K M Spell	003	149747
Fairway Minerals Corporation	Caddo Pine Island	K M Spell	004	151935
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	015	058724
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	022	059340
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	017	061230
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	016	061231

Fairway Minerals Corporation	Caddo Pine Island	Muslow C	021	061232
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	023	062336
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	033	062337
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	026	062338
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	031	063384
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	029	063385
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	030	063386
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	032	079708
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	037	091565
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	036	092980
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	004	049445
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	003	049535
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	002	052861
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	001	052862
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	011	052938
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	010	053226
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	008	053685
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	009	053686
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	012	057277
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	014	057278
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	024	057969

Fairway Minerals Corporation	Caddo Pine Island	Muslow C	025	057970
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	034	057971
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	035	058221
Fairway Minerals Corporation	Caddo Pine Island	Muslow C	013	058722
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	010	037895
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	020	037896
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	021	042232
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	022	042233
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	024	043212
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	025	047980
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	026	050588
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	027	050589
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	023	051152
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	029	072439
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	030	085260
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	031	090614
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	032	106386
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	013	990393
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	019	051916
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	020	052066
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	021	052210

Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	022	052211
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	023	052212
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	024	052726
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	025	052727
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	026	052728
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	028	053093
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	029	054521
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	030	054874
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	001	021930
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	002	021992
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	003	022043
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	004	022082
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	005	022136
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	006	035672
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	007	035797
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	015	035915
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	018	035964
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	017	036171
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	009	036307
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	012	036470
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	011	036534

Fairway Minerals Corporation	Caddo Pine Island	Lawhon SWD	014	037094
Fairway Minerals Corporation	Caddo Pine Island	Lawhon	019	037295
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	001	035963
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	002	036015
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	003	036094
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	012	036151
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	011	036204
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	010	036260
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	008	036325
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	009	036326
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	007	036463

Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	004	036522
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	005	036523
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	013	036553
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	014	036554
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	015	036570
Fairway Minerals Corporation	Caddo Pine Island	Muslow 40	016	036615
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Carl W. Jones	Sentell	Ferguson	001	132024
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J. Paul Ratliff, Jr.	Rosedale	D D Angelloz	001	052143
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P. R. Rutherford	Wildcat	Baist Cooperge and Lumber Co	001	112619
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US Oil Corporation	South Thornwell	Lacassane Co SWD	001	972572
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Philip N. Asprodites
Commissioner

9811#085

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