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Executive Orders

EXECUTIVE ORDER NO. MJF 98-33

Justice System Funding Commission

WHEREAS, the funding of state offices and entities within the justice system of the state of Louisiana, set forth in Article V of the Louisiana Constitution of 1974, as amended, (hereafter "justice system") comes from a combination of sources including state appropriations, local government funding, federal grants, and self-generated funds;

WHEREAS, components of Louisiana's justice system may not be receiving adequate funding to perform the functions and provide the services which the public might consider necessary;

WHEREAS, local governments have voiced concern over the rising costs of funding the justice system's offices and the fiscal burden that such funding places on local governments; and

WHEREAS, the best interests of the citizens of Louisiana would be served by the creation of a commission that is charged with the duty of evaluating the adequacy of the funding of Louisiana's justice system and determining whether certain components of that system may require supplemental financial assistance from other sources in order to provide the services considered necessary by Louisiana citizens;

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 Justice System Funding Commission (hereafter "Commission") is established within the executive department, Office of the Governor.

SECTION 2: The duties of the Commission shall include, but are not limited to, the following:

A. Evaluating the manner in which the offices and entities of Article V of the Louisiana Constitution of 1974, as amended, (hereafter "justice system") are funded; and

B. Analyzing the need for and means to provide adequate supplemental funding for any component of the justice system that is receiving inadequate funding.

SECTION 3: The Commission shall submit a comprehensive written report to the governor, the speaker of the Louisiana House of Representatives, and the president of the Louisiana Senate by January 1, 2000.

SECTION 4:

A. The Commission shall consist of the following voting members:

1. The president of the Senate, or the president's designee selected from the membership of the Senate;

2. The speaker of the House of Representatives, or the speaker's designee selected from the membership of the House of Representatives;

3. The chief justice of the Louisiana Supreme Court, or the chief justice's designee;

4. The attorney general, or the attorney general's designee;

5. The executive counsel to the governor;

6. The chair of the Senate Finance Committee, or the chair's designee selected from the membership of the committee;

7. The chair of the House Appropriations Committee, or the chair's designee selected from the membership of the committee;

8. The commissioner of administration, or the commissioner's designee;

9. The secretary of the Department of Corrections, or the secretary's designee;

10. The executive director of the Louisiana Children's Cabinet, or the executive director's designee; and

11. The judicial administrator of the Louisiana Supreme Court, or the judicial administrator's designee.

B. The Commission shall also consist of the following voting members who shall serve at the pleasure of, and be appointed by, the Governor:

1. A representative of the Louisiana Municipal Association;

2. A representative of the Louisiana Conference of Mayors;

3. A representative of the Police Jury Association of Louisiana;

4. A representative of the Louisiana Sheriffs' Association;

5. A representative of the Louisiana District Attorneys Association;

6. A representative of the Louisiana Juvenile Judges' Association;

7. A representative of the Louisiana District Court Judges' Association;

8. A representative of the Louisiana Appellate Judges' Association;

9. A representative of the Louisiana Clerks of Court Association;

10. A representative of the Louisiana Justices of the Peace Association;

11. A representative of the Louisiana State Coroners Association; and

12. Five (5) members who represent the businesses and professions of Louisiana.

C. The Commission shall also consist of the following non-voting members who shall serve at the pleasure of, and be appointed by, the Governor:

1. A representative of the Council for a Better Louisiana;

2. A representative of the Bureau of Governmental Research;

3. A representative of the Public Affairs Research Council of Louisiana; and

4. A representative of Metrovision.

SECTION 5: The governor shall select the chair of the

Commission from its membership. The membership of the Commission shall elect all other officers.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair. A majority of the voting members shall constitute a quorum.

SECTION 7: Facilities for the meetings of the Commission shall be provided by the Office of the Governor.

SECTION 8: The members of the Commission shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members who are not an employee of the state of Louisiana or one of its political subdivisions, or an elected official, may receive reimbursement from the Office of the Governor for actual travel expenses incurred in accordance with state guidelines and procedures, with the prior approval of the commissioner of administration.

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

SECTION 10: 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 14th day of July, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9808#010

EXECUTIVE ORDER NO. MJF 98-34

Interstate 49 South Project Task Force

WHEREAS, Executive Order No. MJF 97-38, signed on September 18, 1997, created and established the Interstate 49 South Project Task Force (hereafter "Task Force");

WHEREAS, Executive Order Nos. MJF 98-10, signed on March 11, 1998, and MJF 98-29, signed on May 26, 1998, added an additional member to the Task Force and extended the time period for the Task Force to submit its report to the governor; and

WHEREAS, it is necessary to amend Executive Order No. MJF 97-38, as amended, in order to add an additional member to the Task Force;

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: Subsection 4 of Executive Order No. MJF 97-38, as amended by Executive Order No. MJF 98-29 is amended to provide as follows:

The Task Force shall be composed of at least twenty-two (22) members appointed by, and serving at the pleasure of, the governor. The membership of the Task Force shall be selected as follows:

A. The governor, or the governor's designee;

B. The secretary of the Department of Transportation and Development, or the secretary's designee;

C. The chair of the House Transportation, Highways, and Public Works Committee, or the chair's designee;

D. The chair of the Senate Transportation, Highways, and Public Works Committee, or the chair's designee;

E. The Federal Highway Administrator for the state of Louisiana, or the Federal Highway Administrator's designee;

F. Representatives from communities located along the span of U.S. 90 between the Westbank Expressway in New Orleans and I-10 in Lafayette;

G. Representatives of businesses in South Louisiana;

H. Representatives of the Lafayette, Houma, and New Orleans Metropolitan Planning Organizations;

I. A representative of farmers, by a person whose principal business is farming; and

J. Two (2) at-large members.

SECTION 2: All other sections and subsections of Executive Order No. MJF 97-38, as amended by Executive Order Nos. MJF 98-10, and MJF 98-29 shall remain in full force and effect.

SECTION 3: The provisions of this Order are 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 14th day of July, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9808#009

EXECUTIVE ORDER MJF 98-35

Latin American Business Development Commission

WHEREAS, Executive Order No. MJF 97-54, signed on December 3, 1997, established the Louisiana Latin American Business Development Commission (hereafter "Commission");

WHEREAS, Executive Order No. MJF 98-7, signed on February 16, 1998, amended several provisions of Executive

Order No. MJF 97-54, while Executive Order Nos. MJF 98-9, signed on March 3, 1998; MJF 98-18, signed on April 29, 1998; and MJF 98-30, signed on May 26, 1998, amended only the provision on the Commission's membership; and

WHEREAS, it is necessary to amend Executive Order No. MJF 97-54, as amended, in order to add four (4) additional members to the Commission;

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

SECTION 1: Section 5 of Executive Order No. MJF 97-54, as amended by Section 3 of Executive Order No. MJF 98-7, and Section 1 of Executive Order Nos. MJF 98-9, MJF 98-18, and MJF 98-30, is amended to provide as follows:

The Commission shall be composed of a maximum of twenty-one (21) members who shall be appointed by, and serve at the pleasure of, the governor. The membership of the Commission shall be selected as follows:

- A. The governor, or the governor's designee;
- B. The secretary of the Department of Economic Development, or the secretary's designee;
- C. The commissioner of Financial Institutions, or the commissioner's designee;
- D. One (1) member of the Louisiana International Trade Development Board;
- E. One (1) member of the Louisiana Economic Development Council;
- F. Twelve (12) citizens of the state of Louisiana with at least five (5) years of experience in one or more of the following fields: international trade, finance, economics, oil and gas services, maritime activities, agriculture, world health, governmental relations, and/or environmental protection; and
- G. Four (4) at-large members.

SECTION 2: All other sections and subsections of Executive Order No. MJF 97-54, as amended by Executive Order Nos. MJF 98-7, MJF 98-9, MJF 98-18, and MJF 98-30, shall remain in full force and effect.

SECTION 3: The provisions of this Order are 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 14th day of July, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9808#012

EXECUTIVE ORDER MJF 98 - 36

Meetings of State Mineral Board

WHEREAS, the State Mineral Board, created and established by Act No. 93 of the 1936 Regular Legislative Session, R.S. 30:121, *et seq.*, meets at the call of the governor pursuant to the provisions of R.S. 30:123; and

WHEREAS, the customary meeting schedule of the State Mineral Board, one (1) meeting a month on the second Wednesday, is impracticable at times due to holidays, special events, and special circumstances;

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: Upon obtaining the approval of the State Mineral Board, the chair of the State Mineral Board is authorized to issue for the governor the call of a meeting of the State Mineral Board scheduled for a date other than the second Wednesday of a month, when a meeting on the second Wednesday is impracticable because a holiday or other special event falls on that date.

SECTION 2: Upon obtaining the approval of the State Mineral Board, the chair of the State Mineral Board is authorized to issue for the governor the call of a meeting of the State Mineral Board that is in addition to the board's monthly meeting, when special circumstances necessitate that an additional meeting be held.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the State Mineral Board in implementing the provisions of this Order.

SECTION 4: 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 and officially caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of July, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9808#013

EXECUTIVE ORDER MJF 98-37

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 expansion, renovation, construction and equipping of a galvanizing facility and the acquisition, expansion and renovation of an existing metal acid facility for Westside Coating Services, Inc. (the "Project"), located on U.S. Hwy. 90 West, parish of West Baton Rouge, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

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

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$2,000,000	Louisiana Public Facilities Authority	Westside Coating Services, Inc.

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 November 4, 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 6th day of August, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9808#047

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Boll Weevil Eradication Commission**

**Boll Weevil Eradication Zone
(LAC 7:XV.314 and 321)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:1609 and R.S. 3:1613, the Louisiana Boll Weevil Eradication Commission declares an emergency to exist and adopts by emergency process the following rules creating the Louisiana Eradication Zone and fee payment in the Boll Weevil Eradication Program. This emergency adoption is necessary in order to prevent imminent peril to the health, safety or welfare of the citizens of Louisiana for the reasons set forth below.

The boll weevil is a pest which is destructive to the commercial crop of cotton and such destruction has persisted over decades despite use of control measures. The cost of destruction to the crop and the cost of efforts to control the boll weevil currently exceed \$30 per acre of cotton which is a cost sufficiently high to eliminate profit for some producers. Both the cost of destruction to the crop and cost of control efforts have risen and continue to do so. It is federal policy as well as the policy of the state of Louisiana to eradicate the boll weevil. The federal government has an eradication program which provides cost subsidies to participating states. The federal eradication program sets time lines for states to participate in the program. Failure of Louisiana to meet the federal time line jeopardizes the much needed subsidy which could put at risk Louisiana's eradication program. Most cotton producing states are participating in the federal eradication program, in their own state eradication program, or in both eradication programs. Failure of Louisiana to achieve eradication of the boll weevil concurrently with other cotton producing states which do achieve eradication creates an imminent threat that Louisiana may be quarantined thus restricting the movement of cotton, equipment, and other regulated articles from the state.

Louisiana's eradication program is essential to the health, safety and welfare of the citizens of this state. Failure to adopt and amend these rules on an emergency basis jeopardizes Louisiana's ability to meet the federal time line and could result in a loss to Louisiana of the federal subsidy thereby threatening the ability of Louisiana to eradicate the boll weevil. Failure to adopt these rules on an emergency basis places Louisiana producers in imminent peril of economic disadvantage when dealing with other cotton producing states which are participating in eradication programs and thus threaten Louisiana's economy by reducing

the ability of Louisiana cotton producers to compete with cotton producers from other states.

The effective date of this rule is September 1, 1998, and it shall be in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever is first.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 3. Boll Weevil

§314. Boll Weevil Eradication Zone: Creation

A. There is hereby created an eradication zone which shall hereafter be known as the Red River Eradication Zone.

1. The Red River Eradication Zone shall consist of all those territories within the boundaries of the following parishes: Acadia, Avoyelles, Bienville, Bossier, Caddo, Claiborne, DeSoto, East Baton Rouge, Evangeline, Grant, Natchitoches, Pointe Coupee, Rapides, Red River, St. Landry, St. Tammany, Webster, West Baton Rouge, West Feliciana.

2. The effective date of the establishment of the Red River Eradication Zone shall be October 18, 1996.

B. There is hereby created an eradication zone which shall hereafter be known as the Louisiana Eradication Zone.

1. The Louisiana Eradication Zone shall consist of all those territories within the boundaries of all parishes in the state of Louisiana which are not within the Red River Eradication Zone.

2. The effective date of the establishment of the Louisiana Eradication Zone shall be July 15, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:195 (February 1997), amended LR 24:

§321. Program Participation, Fee Payment and Penalties

A. Upon passage of the referendum, all cotton producers growing cotton in an eradication zone shall be required to participate in the eradication program.

B. Assessments on cotton producers in the eradication zones shall be levied as follows.

1. In the Red River Eradication Zone cotton producers shall each year, during the first five years of the program, submit to the ASCS office the annual assessment as set by the commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed \$10 per acre the first year and \$35 per acre for each remaining year, for each acre of certified cotton acreage on file with ASCS.

2. In the Louisiana Eradication Zone cotton producers shall each year, during the first five years of the program, submit to the ASCS office the annual assessment as set by the commission following the adjudicatory procedure of the

Administrative Procedure Act which assessment shall not exceed \$15 per acre for each year or a total of \$75 per acre.

C. Any cotton producer planting a fraction of an acre shall be assessed at a prorated assessment rate for that fractional acre.

D. Any cotton producer failing to file a completed Cotton Acreage Reporting Form by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of \$2 per acre.

E. Any cotton producer failing to pay all assessments by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of \$3 per acre.

F. Beginning with the second year of the program and continuing for subsequent years, any cotton producer whose ASCS certified acreage exceeds his reported acreage by more than 10 percent shall, for each ASCS certified acre in excess of that reported, be subject to a penalty fee of \$5 per acre in addition to the assessment fee, payable on or before September 1 of the current growing season.

G. Failure to pay all program costs, including assessments and penalty fees shall be a violation of these regulations. Any cotton growing on a cotton producer's acreage which is subject to the assessment shall be subject to destruction by the commissioner should said cotton producer fail to pay all program costs, including assessments and penalty fees, within 30 days of notification of the default.

H. The commission shall have the right to collect some or all of the program costs, including assessments and penalty fees, by contracting with another entity, public or private, for assessment collection. All cotton producers in an eradication zone shall be notified of such a decision by the commission.

I. Cotton producers shall destroy cotton stalks in every field location planted to cotton, on or before December 31 of each year. Cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks. Failure to destroy stalks by December 31 of each year shall be a violation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, and 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:

Bob Odom
Commissioner

9808#002

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS) ACT
Deadline (LAC 28:IV.301, 703, and 803)

The Louisiana Student Financial Assistance Commission (LASFAQ) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to revise the Tuition Opportunity Program for Students [R.S. 17:3048.11] program rules.

The emergency rules are necessary to provide a one-time extension of the deadline for completing the ACT test to the national test date scheduled in October 1998 for those students who failed to take the test prior to their high school graduation date. Failure to provide this exception would have an adverse impact on the financial welfare of the affected students and on the financial condition of their families by denying the students a reasonable opportunity to establish their program eligibility. Such students may not have been aware of the requirement to take the ACT test by the date of their high school graduation in order to qualify for the TOPS program. 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 July 23, 1998, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. 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 ("ACT") taken on only one national test date (or a special test date specifically authorized by ACT for a disabled student or exceptional child) prior to the date of high school graduation or an equivalent score, as determined by the comparison tables used by LASFA, on the Scholastic Aptitude Test (SAT) taken prior to the date of high school graduation. ACT test scores which are unofficial, including "residual" test scores, or composites of scores from more than one test date, 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.

* * *

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

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

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

* * *

6. Have achieved an ACT score, as defined in §301 of at least:

* * *

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

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. - 6. ...

7. have achieved an ACT score, as defined in §301, of at least:

* * *

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

Jack L. Guinn
Executive Director

9808#001

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)(AQ179E)**

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 July 13, 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 24:

For more information concerning AQ179E, contact Department of Environmental Quality, Investigations and Regulation Development Division (504) 765-0399.

J. Dale Givens
Secretary

9808#004

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Massage Therapists

Declaratory Order and Rulings (LAC 46:XLIV.103)

In accordance with R.S. 37:3551 et seq., which authorizes the Board of Massage Therapy to promulgate rules and regulations and R.S. 49:953(B), the emergency rule provision of the Administrative Procedure Act, the board hereby declares an emergency rule pertaining to the issuance of declaratory rulings.

The board finds it necessary to adopt this emergency rule in order to establish authority to issue declaratory rulings on the scope of massage therapy licensings and practice and general board operations. Currently, without this provision formally adopted and promulgated as part of its rules, the board lacks regulatory authority to clarify the definition and scope of practice to differentiate certain areas of massage therapy services from those of physical therapy. Further, the board currently lacks regulatory authority to make this necessary distinction in order that the Office of Workers' Compensation has a clear definition of the scope of practice of massage

therapy so that it may properly make reimbursements for services rendered by massage therapists.

This emergency rule is effective August 3, 1998 and shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIV. Massage Therapists

Chapter 1. General Provisions

§103. Declaratory Order and Rulings

A. The board, on its own motion, may move for a declaratory order or ruling as to the applicability of any statutory provision or of any rule or order of the board. Any interested party may petition the board for a declaratory order or ruling as stated above.

B. Said petition shall contain the following information:

- 1. the full name, address, telephone number of the petitioner;
- 2. the interest asserted by the petitioner;
- 3. specific reference to the statute, rule, or order with respect to which the declaratory order or ruling is sought;
- 4. a concise statement of the purpose, reasons and nature of the declaratory order or ruling sought.

C. Said petition shall be considered by the board at its next regularly scheduled meeting provided that the petition has been filed at least 30 days prior to said meeting.

D. The order or ruling rendered by the board on said petition shall be in writing and mailed to petitioner at last address furnished to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3551 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Massage Therapists, LR 24:

Kayla Aymond
Executive Director

9808#021

DECLARATION OF EMERGENCY

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

Private Hospitals—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the

Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1994 which established the prospective reimbursement methodology for private hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The Department has determined that it is necessary to amend the reimbursement methodology for private hospitals contained in the June 20, 1994 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of the inflationary adjustment to the reimbursement rates for private hospitals shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the Department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private hospital care and services under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private hospitals in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998. It is anticipated that the discontinuance of the application of inflationary adjustment to the reimbursement rates will reduce expenditures by approximately \$8,482,610 for state fiscal year 1998-1999.

Emergency Rule

Effective for dates of service on or after July 1, 1998, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for private hospitals contained in the June 20, 1994 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of the inflationary adjustment to the reimbursement rates for private hospitals shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

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 responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9808#053

DECLARATION OF EMERGENCY

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

Private Intermediate Care Facilities for Mentally Retarded—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The department has determined that it is necessary to amend the reimbursement methodology contained in the October 20, 1989 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the inflation adjustment for fiscal year 1999, the department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private intermediate care facility care and services for the mentally retarded under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998. It is anticipated that the discontinuance of the application of inflationary adjustment to the reimbursement rates will reduce expenditures by approximately \$2,744,512 for state fiscal year 1998-1999.

Emergency Rule

Effective for dates of service on or after July 1, 1998, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology contained in the October 20, 1989 rule for private intermediate care facilities for the mentally retarded to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. Subsequent application of an inflationary adjustment to the reimbursement rates for private intermediate facilities for the mentally retarded shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

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 responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9808#052

DECLARATION OF EMERGENCY

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

Private Nursing Facilities—Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medical Assistance Program as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). The reimbursement methodology provides for the application of an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The department has determined that it is necessary to amend the reimbursement methodology for private nursing facilities contained in the June 20, 1984 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private nursing facilities shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill. Notwithstanding the elimination of the

inflation adjustment for fiscal year 1999, the department has carefully reviewed the current rates and is satisfied that they are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that private nursing facility care and services under the state plan are available at least to the extent that they are available to the general population in the state. This action is necessary to avoid a budget deficit because the Louisiana Legislature did not include a budget allocation for an inflationary adjustment to the reimbursement rates for private nursing facilities in the 1998-99 Appropriation Bill. Public notice of this action was provided by statewide newspaper publication prior to July 1, 1998. It is anticipated that the discontinuance of the application of inflationary adjustment to the reimbursement rates will reduce expenditures by approximately \$14,057,887 for state fiscal year 1998-1999.

Emergency Rule

Effective for dates of service on or after July 1, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for private nursing facilities contained in the June 20, 1984 rule to discontinue the practice of automatically applying an inflationary adjustment to the current reimbursement rates for non-fixed costs in those years when the rates are not rebased. The subsequent application of an inflationary adjustment to the reimbursement rates for private nursing facilities shall be contingent on the allocation of funds by the Legislature in the Appropriation Bill.

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 responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

9808#051

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Managed Care Contracting Requirements (LAC 37:XIII.Chapter 43)

In accordance with the provisions of La. R.S. 49:953(B) of the Administrative Procedure Act, the Department of Insurance has adopted this emergency regulation in order that it might be implemented without delay and allow the statutory provisions of Acts 897 and 1485 of the 1997 Regular Session of the Louisiana Legislature and protect the general health and safety of residents of the state from imminent peril resulting from inappropriate medical care and lack of access to health insurance coverage.

Emergency rulemaking is necessary to establish reasonable requirements for inclusion of rural hospitals and their

practicing physicians in managed care networks. The regulations are being adopted to assure compliance with Acts 897 and 1485 of the 1997 Regular Session of the Louisiana Legislature. This rule is necessary to provide for the required participation of qualified rural hospitals and their practicing physicians, through the establishment of reasonable contracting requirements for medical services, that do not jeopardize the health of enrollees or plan members. This emergency regulation is effective July 15, 1998 and shall remain in effect for the maximum period of time allowed by state law.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 43. Managed Care

§4301. Contracting Requirements

A. Purpose. The purpose of this regulation is to establish the reasonable authority and obligation of managed care organizations related to provider contracts under Acts 1485 and 897 of the 1997 Regular Session of the Louisiana Legislature. The provisions of La. R.S. 40:1300.115 establish the legislative intent for qualifying rural hospitals, and their practicing physicians, to be allowed to participate in the health care delivery systems of managed care organizations. These statutes also establish the intent of the legislature that managed care organizations provide reasonable reimbursement for the services provided by qualifying rural hospitals and the physicians who practice at these hospitals. Act 897 of the 1997 Regular Session of the Louisiana Legislature amends Titles 40 and 22 of the Louisiana Revised Statutes to prohibit managed care organizations from using incentive arrangements that impede, impair, or otherwise diminish the ability of a plan member or enrollee to receive appropriate and necessary medical care and treatment. These statutes also establish the legislative intent that any prohibitions on the authority of an insurer to contract for delivery of health benefits through capitation or shared risk arrangements be limited to noncompliant incentive arrangements. To carry out the intent of the legislation and assure full compliance with the provisions of these acts, this regulation establishes reasonable contracting requirements that are applicable to managed care organizations and assures uniformity in application of terms and conditions for participation.

B. Definitions

Accreditation/Certification—a hospital that is accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) or Medicare certified for provision of acute care hospital services.

Community—the parish in which a qualifying rural hospital is located.

Discriminate—to apply a payment methodology that relies upon terms and conditions that are more restrictive than those terms and conditions applicable to nonrural hospitals or their practicing physicians in a region which result unreasonable payment to a qualifying rural hospital or physician practicing in such hospitals. A payment methodology that results in reimbursement to a qualifying rural hospital or practicing

physician that is equal to or greater than the reimbursement to non-rural participating hospitals or physicians in the region shall be considered nondiscriminating.

Employee—a person employed directly by a managed care organization and does not include any contract, temporary, or other type of employment arrangement.

Geographic Area—a parish.

Health Benefit Plan—any health insurance policy, plan, or health maintenance organization subscriber agreement, issued for delivery in this state under a valid certificate of authority by an entity authorized by law to bear risk for the payment of health care services.

Health Care Provider—a physician duly licensed to practice medicine by the Louisiana State Board of Medical Examiners, or other health care professional duly licensed in Louisiana, or an acute care hospital licensed to provide medical care in this state. The term shall also mean any legal entity or organization formed for the primary purpose of providing medical or health care services and provides such services directly or through its participants.

Incentive Arrangement—any payment or contractual obligation included in a general payment plan, capitation contract, shared risk arrangement, or other agreement between a managed care organization and a health care provider that is tied to utilization of covered benefits.

Managed Care Organization—a health maintenance organization or other entity authorized by law to bear risk for the payment of health care services that holds a valid certificate of authority to issue for delivery in this state a health benefit plan.

Pass Through Payments—any funds or payments received by a managed care organization for the purpose of reimbursing the cost of services provided by a health care provider, that are not covered by the health care provider's contract, including but not limited to research grants, and federal payments for indigent care.

Payment Differential—a difference in the amount paid to a health care provider resulting from negotiations to establish a capitation, risk sharing, or other payment arrangement that is based on financial incentives necessary to establish medical services within a geographic area of the state.

Practicing—a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners who has established his/her practice in the geographic area where the rural hospital is located, maintains active hospital staff privileges, and provides medical treatment in said hospital on a weekly basis. The term shall also include any physician whose participation is essential to provision of services covered under a rural hospital's contract with a managed care organization or treatment of enrollees admitted to the hospital, provided such services are appropriate and within the scope of the hospital's accreditation/certification. The term does not include physicians who are merely affiliated, or associated with a rural hospital or any physician whose participation is essential to treatment of enrollees admitted to the hospital based on the unreasonable refusal of a hospital to utilize another physician available through the managed care organization who is qualified to provide the needed medical services to the patient.

Region—a group of parishes designated by a managed care organization for establishing reimbursement amounts for payment of practicing health care providers. A managed care organization may follow congressional districts or such other reasonable grouping of contiguous parishes in establishing regions. In establishing regions, a managed care organization shall include all parishes of the state and limit the total number of regions to seven. In no event shall any regional configuration be established that acts to discriminate unfairly against qualifying rural hospitals or their practicing physicians.

Rural Hospital—a hospital qualifying to participate in a Health Maintenance Organization under the requirements of Part L of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of La. R.S. 40:1300.115.

C. *Applicability and Scope.* Except as otherwise specifically provided, the requirements of this regulation apply to all managed care organizations holding valid certificates of authority to issue for delivery in this state, an insurance policy, plan, or health maintenance organization subscriber agreement. This regulation addresses the requirements of La. R.S. 40:1300.115 regarding contracts with rural hospitals and their practicing physicians and establishes standards for participation in a managed care organization. The provisions of this regulation require managed care organizations to provide covered medical benefits either directly, or through contractual agreements with health care providers. A contractual agreement between a managed care organization and a health care provider shall require the health care provider to either:

1. provide covered medical services directly; or
2. in conjunction with other health care providers who are required, under contract or other arrangement, to meet the same statutory and regulatory requirements applicable to health maintenance organization contracts with health care providers.

D. *Provider Contracting Requirements*

1. La. R.S. 40:1300.115 requires managed care organizations to accept qualifying rural hospitals, and their practicing physicians who meet specific statutory criteria, as providers of health care subject to the terms and conditions that are no more restrictive than applicable to other hospitals. This requirement applies in every parish where a managed care organization holding a valid certificate of authority issued by the Louisiana Department of Insurance, has policies, subscriber agreements, or contracts for delivery of benefits in effect. La. R.S. 22:2016(E) requires all hospitals and health care providers utilized by health maintenance organizations to be licensed under applicable state law. La. R.S. 22:2021 prohibits health maintenance organizations from adopting or utilizing administrative treatment guidelines that fall below the appropriate standard of care. Additionally, La. R.S. 22:2019 prohibits the utilization of a certificate of authority by any person other than the organization or entity issued said certificate.

2. All contracts for delivery of covered medical services shall be between the managed care organization and a health care provider, except contracts with other insurers for provision of health coverage. A managed care organization is

only authorized to contract for delivery of health care services with one or more health care providers. Contracts with brokers, agents, or any entity other than a health care provider for the provision of covered medical services are prohibited. A managed care organization may allow health care providers to utilize other health care providers under contract with the managed care organization.

a. A managed care organization shall limit the medical services included under a health care provider contract to those for which the health care provider is qualified and reasonably capable of providing.

b. A managed care organization shall not adopt or utilize payment standards for health care providers that:

- i. require or induce by incentive or payment, the delivery of inappropriate medical care or treatment services;
- ii. allow the provision of inappropriate or unnecessary medical procedures or treatment services;
- iii. allow health care providers to perform, for payment, medical or treatment services for which they are not qualified;

iv. in any review of the terms and conditions of a health care provider's contract conducted by the Department of Insurance, the contract shall not be subject to disclosure to any other health care provider without the expressed written consent of the parties to such contract, except as otherwise allowed by law.

3. In any review of the terms and conditions of a health care provider's contract conducted by the Department of Insurance, the contract shall not be subject to disclosure to any other health care provider without the expressed written consent of the parties to such contract, except as otherwise allowed by law.

E. *Requirements for Inclusion of Rural Hospitals*

1. *Managed Care Organizations Utilizing a Staff Model Approach.* Any managed care organization that directly provides health care services to insureds exclusively through its employees and wholly owned facilities that are duly licensed to provide such health care services, are not required to contract with qualifying rural hospitals except:

a. in any geographic area where the managed care organization has insufficient staff and/or facilities to provide the plan of benefits to insureds;

b. for health care services available in the insureds community that are not readily accessible through the managed care organization within a reasonable distance of the community;

c. for other covered services available in the insureds community that are not readily accessible through the managed care organization within a reasonable distance of the community;

d. in a geographic area where the managed care organization utilizes public or private staff or hospitals to furnish health care services.

2. *General Managed Care Organization Requirements.* A qualifying rural hospital shall be allowed to contract for provision of medical services to insureds or enrollees of a managed care organization who reside in the community where the hospital is located, and can reasonably be expected to utilize the hospital for provision of one or more medical

services included in the contract. A qualifying rural hospital shall also be allowed to contract for provision of medical services to other insureds or enrollees of a managed care organization, if the qualifying hospital is located in a parish that is serviced by such managed care organization. The terms and conditions for participation by a qualifying rural hospital shall be no more restrictive than those normally applied to other participating hospitals in the region of the state where the rural hospital is located. Where the managed care organization offers the majority of participating hospitals a choice in contracting on a capitated or non-capitated basis, the same choice shall be available to qualifying rural hospital. In no event shall a managed care organization be required to make any special, enhanced, or extraordinary payment to a qualifying rural hospital based on its rural designation other than pass through payments. Additionally, a managed care organization is expressly prohibited from applying any factor, weight, or other adjustment that acts to reduce payment for medical services provided by a qualifying rural hospital based on its designation as a rural hospital.

3. Capitation Contracting Requirements

a. In establishment of capitation based pricing mechanisms or risk sharing arrangements, a managed care organization is authorized to use reasonable criteria that includes the scope of services available at the hospital and patient volume. A managed care organization may consider the amount and scope of services being included under such contractual arrangements in negotiating reimbursement amounts. However, in no instance shall a managed care organization base reimbursement on the exclusion of one or more qualifying rural hospitals or otherwise limiting enrollee access to appropriate medical care from such hospitals that are located in the community where the enrollee or plan member resides.

b. A managed care organization shall be authorized to use payment differentials to establish a network of providers in a geographic area. A managed care organization shall be authorized to exclude application of such payment differentials to a qualifying rural hospital unless such payment differentials are being offered to other hospitals in the same geographic area. In no instance shall a managed care organization be prohibited from offering payment differentials to a qualifying rural hospital to gain access to health care providers in a geographic area.

4. Other Contracting Requirements. Managed care organizations shall not discriminate against qualifying rural hospitals in establishing or utilizing pricing mechanisms. In no event shall a managed care organization establish payment rates or reimbursement systems that discriminate on the basis of a hospital's designation as a qualifying rural hospital. Modifiers, outliers, or weighting factors applicable to payments made to such qualifying rural hospitals on the basis of diagnosis, diagnosis for related groups (DRGs), procedure, procedure code, per diem, length of stay, or services rendered, shall not discriminate against qualifying rural hospitals, or be used to prevent participation by such hospitals or have this effect.

F. Inclusion of Physicians Practicing in Qualifying Rural Hospitals

1. General Managed Care Organization Requirements. A physician licensed to practice medicine by the Louisiana Board of State Medical Examiners, practicing in a qualifying rural hospital that has a health care provider contract with a managed care organization for provision of hospital services included under its accreditation/certification, shall be allowed to enter into a health care provider contract for provision of medical services to insureds or enrollees of the plan, policy, or subscriber agreement. The terms of the health care provider contract shall be no more restrictive than the terms and conditions offered to other health care providers who deliver the same services or benefits to insureds or enrollees of the managed care organization in the state, or applicable region of the state where the physician participates in a qualifying rural hospital. Where the managed care organization offers the majority of participating physicians a choice in contracting on a capitated or non-capitated basis, the same choice shall be available to a physician practicing in qualifying rural hospital. In no event shall a managed care organization be required to make any special, enhanced, or extraordinary payment to a physician practicing in a qualifying rural hospital based on the rural designation of the physician's practice. Additionally, a managed care organization is expressly prohibited from applying any factor, weight, or other adjustment that acts to reduce payment for medical services provided by a physician practicing in a qualifying rural hospital based on the rural designation of the physician's practice.

2. Capitation Contracting Requirements

a. In establishment of capitation based pricing mechanisms or risk sharing arrangements, a managed care organization is authorized to use reasonable criteria that includes the scope of services available from the physician and patient volume. A managed care organization may consider the amount and scope of services being included under such contractual arrangements in negotiating reimbursement amounts.

b. A managed care organization shall be authorized to use payment differentials to gain access to physicians in a geographic area. A managed care organization shall not be required to include in a health care provider contract, any amount that can be reasonably documented as resulting from application of a payment differential that is not applicable to the majority of participating physicians within a geographic area of the state who provide the same services to plan members.

3. Other Contracting Requirements. Managed care organizations shall not discriminate against physicians practicing in qualifying rural hospitals in establishing or utilizing pricing mechanisms. In no event shall a managed care organization establish payment rates or reimbursement systems that discriminate on the basis of a physician's designation as a practicing physician in a qualifying rural hospital or have that effect.

G. General Provisions

1. No health care provider contract entered into by a managed care organization shall include any provision or requirement that directly, or indirectly acts to transfer the organization's certificate of authority. A managed care

organization shall not be relieved from performance of all required obligations under Title 22 of the Louisiana Revised Statutes of 1950 by any contract or agreement with a health care provider.

2. Managed care organizations shall assure that all contracts issued on or after July 15, 1998 are in full compliance with the requirements of this regulation. All other contracts shall be brought into compliance upon renewal, amendment, or revision, but in no event later than December 31, 1999.

3. Qualifying rural hospitals and their practicing physicians shall be subject to the same administrative procedures and remedies as any other complainant who files a valid complaint with the Department of Insurance. Managed care organizations found to be violating the requirements of this regulation shall be considered to be engaging in unfair trade practices as defined under La. R.S. 1214 (12). All administrative remedies for any aggrieved party shall be governed by the provisions of Part XXIX of Chapter 1, of Title 22 of the Louisiana Revised Statutes of 1950 comprised of §§1351 - 1367.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:10, 22:2006, 22:2014, 22:2019, and 22:2021.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 24:

James H. "Jim" Brown
Commissioner

9808#003

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of Motor Vehicles

Driver's License—Issuance without Social Security Number (LAC 55:III.147)

In accordance with R.S. 32:409.1 as amended by Acts 1998, No. 8, §2, of the First Extraordinary Session, and in particular R.S. 32:409.1(A)(8), the Department of Public Safety and Corrections, Office of Motor Vehicles, is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to the implementation of the requirement that an applicant for a new or renewed driver's license must provide the department with his or her Social Security Number. This emergency rule provides an exception for alien individuals as defined in the rule who do not have or are ineligible to obtain a Social Security Number. This emergency rule is to become effective upon the signature of the acting undersecretary, and shall remain in effect for 120 days.

Currently, the Social Security Administration does not issue Social Security Numbers to certain alien individuals who have come to reside in Louisiana. As these alien individuals are now residents of Louisiana, state law requires that these alien individuals apply for a Louisiana driver's license. R.S. 32:409.1 currently requires that all applicants for new or renewed driver's licenses must provide the department with

their Social Security Number. Many of these alien individuals who have become residents have been unable to obtain a Louisiana driver's license because of the Social Security Administration policy and the amendment to R.S. 32:409.1. The department finds that it is a matter of public welfare that all residents of this state, whether resident aliens or citizens of the United States, are able to travel freely in this state and between the many states in a reasonably convenient manner subject to the reasonable laws and regulations governing the operation of motor vehicles on the public highways. Further, the department finds that it was not the intent of Acts 1998, No. 8, §2, to prevent alien individuals from obtaining driver's licenses as the intent of the amendment was to assist to enforcement of child support orders. As a result, the Department declares an emergency pursuant to R.S. 49:953.

As a result of the above finding, the Department of Public Safety and Corrections, Office of Motor Vehicles, hereby adopts the following emergency rule.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§147. Issuance of Driver's License without Providing a Social Security Number

A. Except as provided in this Section, every applicant for a new or renewed Louisiana driver's license shall submit his or her Social Security Number to the department. Except as provided in this Section, the department shall not issue a driver's license to any applicant for a new or renewed driver's license who fails to submit his or her Social Security Number to the department.

B. Before issuing a class "E" driver's license to an alien individual who does not possess and is ineligible to obtain a Social Security Number, the department shall:

1. require the alien individual to present, in addition to the documents required in R.S. 32:409.1(A)(2)(d)(x), a document demonstrating lawful presence in the United States in a status in which the alien individual may be ineligible to obtain a Social Security Number. The following is a list of lawful presence documents.

a.i. Arrival-Departure Record (I-94) (Class A-1, A-2, A-3, B-1, B-2, C-1, C-2, C-3, E-1, E-2, F-1, F-2, G-1, G-2, G-3, G-4, G-5, H-4, I, J-2, K-2, L-2, M-1, M-2, NATO 1-7, O-3, P-4, R-2, S-5, S-6, S-7, TC, TD, Cuban/Haitian Entrant, Parolee.

ii. The form I-94 cannot state "Employment Authorized."

iii. If a foreign passport and Form I-94 have been presented as primary or secondary document, that Form I-94 is also an acceptable §147.B document, but only if it fits the §147.B description.

b. Visa Waiver Arrival-Departure Record (I-94W) (Class WB, WT).

c. Crewman's Landing Permit (I-95A).

d. Alien Crewman Landing Permit and Identification Card (I-184).

e. Nonresident Alien Canadian Border Crossing Card (I-185).

- f. Nonresident Alien Mexican Border Crossing Card (I-186).
- g. Nonresident Alien Border Crossing Card (I-586).
- h. B-1/B-2 Visa/BCC (DSP-150).

C. The department shall verify the validity of each applicant's "proof of lawful presence" document by confirming the document reasonably appears on its face to be genuine as it relates to the applicant.

D. Each alien individual who in his or her application claims neither to hold a Social Security Number nor to be eligible to obtain a Social Security Number shall sign a certifying statement to that effect.

E. Definitions. As used in §147, the following terms have the meanings described below.

Alien Individual—a foreign born person who has not qualified as a citizen of the United States.

Genuine—as applied to lawful presence documents, this means the documents are truly what they purport to be, and that they are not false, forged, fictitious, simulated, spurious, or counterfeit.

Proof of Lawful Presence Document—a verifiable document used to establish the identity and lawful presence of an individual who does not have and is ineligible to obtain a Social Security Number.

Social Security Number—a valid and unique number issued by the Social Security Administration to every individual who meets the agency's requirements to receive a number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:409.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:

Lt. Col. Ronnie Jones
Acting Undersecretary

9808#031

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Family Independence Temporary Assistance
Program—Food Stamp Program—Disqualifications
(LAC 67:III.1118 and 1988)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the following rule effective September 5, 1998 in the Family Independence Temporary Assistance and Food Stamp Programs. It is necessary to extend the original emergency rule of May 7, 1998 since it is effective for a maximum of 120 days and will expire before the final rule takes effect. The agency expects to publish the final rules for each program in the September issue of the *Louisiana Register*.

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, a change in the eligibility of a recipient convicted of a drug-related felony offense is required, since the governing

date of the federal statute now applies to the date of the offense rather than the date of conviction. The agency received clarification of the change in April 1998. Therefore, this emergency rule is necessary in order to avoid federal sanctions or penalties which could be imposed by further delaying implementation.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1118. Individuals Convicted of a Felony Involving a Controlled Substance

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C.802[6]) shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:233.1. and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997), amended LR 23:1708 (December 1997), LR 24:

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter J. Determining Household Eligibility and Benefit Levels

§1988. Eligibility Disqualification of Certain Recipients

* * *

B. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving food stamp benefits for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and 105 - 33 and R.S. 46:233.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:

Madlyn B. Bagneris
Secretary

9808#034

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.

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.

This emergency rule is effective July 20, 1998 and shall remain in effect for a period of 120 days.

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 24:

Madlyn B. Bagneris
Secretary

9808#011

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Fall Shrimp Season—1998

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S.

56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, the Wildlife and Fisheries Commission does hereby set the 1998 Fall Inshore Shrimp Season to open as follows:

Zone 1—that portion of Louisiana's inshore waters from the Mississippi state line westward to the eastern shore of South Pass of the Mississippi River; and

Zone 2—that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermilion Bay and Southwest Pass at Marsh Island; and

Zone 3—that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island westward to the Texas state line, all to open at official sunrise August 17, 1998.

The commission also hereby sets the closing date for the 1998 Fall Inshore Shrimp Season at official sunset Monday, December 21, 1998 except in Breton and Chandeleur Sounds in Zone 1, as described in R.S. 56:495.1 A.(2), which shall remain open until 6 a.m. March 31, 1999. The commission also grants authority to the secretary of the Department of Wildlife and Fisheries to change the closing date if biological and technical data indicate the need to do so or if enforcement problems develop.

Thomas M. Gattle, Jr.
Chairman

9808#057

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Migratory Bird Season—1998-99

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

A declaration of emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The hunting seasons for early migratory birds during the 1998-99 hunting season shall be as follows:

Migratory Birds Other than Waterfowl

DOVE: Split Season, Statewide, 60 days

September 5 - September 13

October 17 - November 6

December 12 - January 10

Daily bag limit 15, possession limit 30

TEAL: September 12 - September 27

Daily bag limit 4, possession limit 8, Blue-winged, Green-winged and Cinnamon teal only. Federal and state waterfowl stamps required.

RAILS: Split Season
September 12 - September 27
November 7 - December 30

KING AND CLAPPER: Daily bag limit 15 in the aggregate,
possession 30.

SORA AND VIRGINIA: Daily bag and possession 25 in the aggregate.

GALLINULES: Split Season
September 12 - September 27
November 7 - December 30
Daily bag limit 15, possession limit 30

SNIPE: November 7 - February 21
Daily bag limit 8, possession limit 16

WOODCOCK: December 18 - January 31
Daily bag limit 3, possession 6

SHOOTING HOURS

Teal, Rail, Snipe, Woodcock and Gallinule: one-half hour before sunrise to sunset.

Dove: one-half hour before sunrise to sunset except on September 5-6, October 17-18, and December 12-13 when shooting hours will be 12 noon to sunset.

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 1998 and extend through sunset on February 28, 1999.

Thomas M. Gattle, Jr.
Chairman

9808#058

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season—1998-99

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and 967, and under the authority of R.S. 56:433 and R.S. 56:435.1 notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declares:

1. The Public Oyster Seed Grounds not currently under lease, Bay Junop, Bay Gardene Oyster and Hackberry Bay Oyster Seed Reservations will open one-half hour before sunrise September 9, 1998.

2. The Sister Lake Oyster Seed Reservation will be open for 12 days only from October 5 to October 16, 1998.

3. A designated sacking only area east of the Mississippi River will open one-half hour before sunrise on September 9, 1998. The sacking only area of the public grounds is generally Lake Fortuna and Lake Machias to a line from Mozambique Pt. to Pt. Gardner to Grace Pt. at the Mississippi River Gulf Outlet.

4. The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action if necessary, to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads.

5. The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource subsides.

6. The Calcasieu and Sabine Lake tonging areas will open one-half hour before sunrise on October 16, 1998 and remain open until one-half hour after sunset on April 30, 1999.

7. Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action.

Thomas M. Gattle, Jr.
Chairman

9808#056

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure—Zone 1

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters; and pursuant to a resolution adopted by the Wildlife and Fisheries Commission on May 7, 1998 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1998 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary of the Department of Wildlife and Fisheries hereby closes the 1998 Spring Inshore Shrimp Season in most of Zone 1 at 6 a.m., Monday, July 27, 1998. Small white shrimp have begun to show up in department samples in portions of Zone 1 and the secretary has determined that a large portion of Zone 1 should be closed to protect these immigrating white shrimp. Zone 1 is that portion of Louisiana's inshore waters from the Mississippi State line to the eastern shore of South Pass of the Mississippi River.

The open waters of Breton and Chandeleur Sounds as described in the menhaden rule (LAC 76:VII.307.D) shall remain open to shrimping until further notice.

James H. Jenkins, Jr.
Secretary

9808#014

Rules

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services Weights and Measures Commission

Commercial Weights and Measuring Devices
(LAC 7:XXXV.101 and 129)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Commission is substituting the National Institute of Standards for National Bureau of Standards in LAC 7:XXXV.101 and 129 to reflect the new name of that federal agency. These rules comply with and are enabled by R.S. 3:4606 and R.S. 3:4608.

No preamble concerning the rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§101. Specifications, Tolerances and Regulation for Commercial Weighing and Measuring Devices

The commissioner of Agriculture and Forestry, under authority conferred by the Louisiana Revised Statutes of 1950, Title 3, Section 4608, and for the enforcement of requirements applicable to the equipment therein referred to, hereby adopts by reference all rules, regulations, standards, specifications and tolerances as contained in the National Institute of Standards and Technology Handbook H-44, and amendments thereto, entitled *Specifications, Tolerances, and Regulations for Commercial Weighing and Measuring Devices*, and as contained in the National Conference on Weights and Measures Publication 19 entitled *Examination Procedure for Price Verification*, but only insofar as the Louisiana Revised Statutes of 1950, as amended, may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4606 and R.S. 3:4608 (formerly R.S. 55:4 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended and promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), amended LR 23:857 (July 1997), amended by the Weights and Measures Commission, LR 24:1495 (August 1998).

§129. Standards

A. - B.1. ...

2. has been tested by the National Institute of Standards and shown to comply with Handbook 44 criteria by the issuance of a Report of Test (Prior to 1985) or a Certificate of Conformance (1985, Forward); or

3. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended by the Division of Weights and Measures, LR 19:1535 (December 1993), amended by the Weights and Measures Commission, LR 24:1495 (August 1998).

Bob Odom
Commissioner

9808#075

RULE

Board of Elementary and Secondary Education

Bulletin 741—GED Requirements

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, Standard 1.124.02. Bulletin 741 is referenced in LAC 28:I.901.A. The amendment allows local superintendents to issue age waivers for 16 year olds to take the GED in certain instances without approval from BESE and provides due process for adults to appeal to BESE if their request for a waiver is denied at the local level.

1.124.02 A student shall be 17 years of age or older in order to be authorized to be administered the General Educational Development (GED) test. A married or emancipated individual may be permitted to take the GED test at 16 years of age and above. A student who has attained the age of 16 and qualified to take the GED test may request an age waiver from the local school superintendent if one or more of the following hardships exist and appropriate documentation is on file at the local school board office:

- pregnant or actively parenting;
- incarcerated;
- institutionalized or living in a residential facility;
- chronic physical or mental illness.

The local school superintendent or his/her designee may approve the request without requesting action from the Board of Elementary and Secondary Education (BESE). Such local action must occur prior to a qualified 16 year old student taking the GED test. If the request for an age waiver is denied at the local level, a student may request the waiver from the Department of Education for approval by BESE with documentation of reason for denial at the local level. All other requests for age waivers due to hardships not listed above, must be approved by BESE prior to taking the GED test. Individuals 15 years of age and below shall not be permitted to take the GED test under any circumstances.

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:1495 (August 1998).

Weegie Peabody
Executive Director

9808#071

RULE

Board of Elementary and Secondary Education

Restructure of Board Committees (LAC 28:I.103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved the following revision to the structure of the standing committees of the board. The amendment reduces the standing committees from 14 to 10.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 1. Organization

§103. Board Committees

A. As a means of assisting the board in the exercise of its powers and responsibilities as defined in the Constitution and by law, standing and special committees are created.

B. Standing committees composed of not less than three members of the board and appointed by the president are:

1. Board Relations/Strategic Planning/Administration Committee;
2. 8(g) Committee;
3. Finance/Audit Review Committee;
4. Legal/Due Process Committee;
5. Legislative/Policy Oversight Committee;
6. School and Community Support Committee;
7. School Standards/Accountability Committee;
8. Student Standards/Assessment Committee;
9. Quality Educators Committee;
10. Vocational-Technical Committee;
11. - 14. Repealed.

B. Becomes Subsection C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(D) and R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 16:297 (April 1990), amended LR 24:1496 (August 1998).

Weegie Peabody
Executive Director

9808#078

RULE

**Department of Environmental Quality
Office of Waste Services
Hazardous Waste Division**

Small Quantity Generator Emissions
(LAC 33:V.3801 and 3915)(HW065)

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 Hazardous Waste Division regulations, LAC 33:V.3801 and 3915 (HW065).

This rule seeks to make Louisiana's Hazardous Waste regulations on universal wastes, small quantity generators, equivalent to federal regulations for Conditionally Exempt Small Quantity Generators. A review of state regulations concerning universal wastes, small quantity generators, added for the RCRA V authorization package showed an inconsistency with the equivalent federal regulations for universal wastes (Conditionally Exempt Small Quantity Generators). The basis and rationale for this rule are to mirror the federal regulations despite the fact that we have only two categories of hazardous waste generators.

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 V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental
Quality—Hazardous Waste
Chapter 38. Universal Wastes
Subchapter A. General
§3801. Scope and Applicability**

[See Prior Text in A - C]

D. Small quantity generator wastes that are regulated under LAC 33:V.Chapter 39 and are also of the same type as the universal wastes defined in LAC 33:V.3813 may, at their option, manage these wastes under the requirements of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998).

Chapter 39. Small Quantity Generators

§3915. Requirements

The small quantity generator must:

* * *

[See Prior Text in A - C]

1. the date on which each accumulation period began shall be clearly marked and visible for inspection, as specified in LAC 33:V.1109.E.1.e;

* * *

[See Prior Text in C.2 - C.7.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 16:220 (March 1990), repromulgated LR 18:1256 (November 1992), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1497 (August 1998).

H.M. "Mike" Strong
Assistant Secretary

9808#039

RULE

Department of Health and Hospitals Board of Dentistry

Mobile Dental Clinics (LAC 46:XXXIII.312)

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), the Department of Health and Hospitals, Board of Dentistry hereby enacts LAC 46:XXXIII.312, Mobile Dental Clinics. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§312. Mobile Dental Clinics

A. Definition. *Mobile Dental Clinic* or *Mobile Dental Unit* means any self-contained facility in which dentistry will be practiced which may be moved, towed, or transported from one location to another.

B. Application for Permit. A licensed dentist who wishes to operate a mobile dental clinic shall apply to the board for a permit on an application form to be provided by the board and by providing evidence of compliance with the requirements of this section and paying all appropriate fees.

C. Exempt from the requirements of this rule are all federal, state, or local governmental agencies.

D. Requirements

1. The applicant shall certify that:

a. there is a written agreement for emergency follow-up care for patients treated in the mobile dental clinic and that such agreement includes identification of and arrangements for treatment in a dental facility which is permanently established

in the immediate area. Such agreement shall be filed with the initial application and all subsequent renewals thereof;

b. the mobile dental clinic has communication facilities which will enable the operator thereof to contact necessary parties in the event of a medical or dental emergency;

c. the mobile dental clinic conforms to all applicable federal, state, and local laws, regulations, and ordinances dealing with radiographic equipment, flammability, construction, sanitation, zoning, and Federal Centers for Disease Control Guidelines and the applicant possesses all applicable parish and city licenses or permits to operate the unit.

2. The applicant shall maintain an official business or mailing address of record which shall not be a post office box and which shall be filed with the board. The board shall be notified within 30 days of any change in the address of record. All written or printed documents available from or issued by the mobile dental clinic shall contain the official address of record for the mobile dental clinic. When not in transit, all dental and official records shall be maintained at the official office address of record.

3. Each mobile dental clinic shall:

a. have ready access to a ramp or lift;

b. have a properly functioning sterilization system;

c. have ready access to an adequate supply of potable water, including hot water;

d. have ready access to toilet facilities;

e. have a covered galvanized, stainless steel, or other non-corrosive metal container for deposit of refuse and waste materials;

f. prominently display all applicable licenses and permits in compliance with LAC 46:XXXIII.104.

4. The applicant shall identify and advise the board within 30 days of any personnel change relative to all licensed dentists, dental hygienists, laboratory technicians, and auxiliary personnel associated with the mobile dental clinic by providing their full name, address, telephone numbers, and license numbers where applicable.

5. The applicant shall provide the exact street address or location of each and every place within this state where the mobile or movable dental office will provide dental services, and the dates and times such services will be provided at each location. This notification shall be updated within 10 days of any addition or deletion of a location and shall be sent to the board in writing.

E. Transferability. A permit to operate a mobile dental clinic is not transferable.

F. Renewal. A permit to operate a mobile dental clinic expires at the same time as the permit holder's dental license. The permit holder may apply for renewal.

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 24:1497 (August 1998).

C. Barry Ogden
Executive Director

9808#015

RULE

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

Clinical Exercise Physiologists—Licensure
(LAC 46:XLV.3741, 3743, and 3763)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board) pursuant to the authority vested in the Board by the Louisiana Clinical Exercise Physiologists Licensing Act, R.S. 37:3421-3433, the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), and in accordance with applicable provisions of the Administrative Procedure Act, has amended its rules governing the licensure of clinical exercise physiologists, LAC 46:XLV.3741, 3743 and 3763, to implement and provide for the annual renewal of licensure on or before the first day of month in which the licensee was born. The rule amendments are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 37. Clinical Exercise Physiologists

**Subchapter E. Licensure Issuance, Expiration, Renewal
and Termination**

§3741. Expiration of License

A. ...

B. Notwithstanding the provisions of §3741.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of month in which the licensee was born.

C. The timely submission of an application for renewal of license shall operate to continue the expiring license in full force and effect pending the board's issuance or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997), amended LR 24:1498 (August 1998).

§3743. Renewal of License

A. ...

B. Notwithstanding the provisions of §3743.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license shall be mailed by the board to each person holding a license at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997), amended LR 24:1498 (August 1998).

**Subchapter G. Continuing Professional Education
§3763. Failure to Satisfy Continuing Professional
Education Requirements**

A. ...

1. - 3. ...

B. The license of a clinical exercise physiologist which has expired by nonrenewal or has been revoked for failure to satisfy continuing professional education requirements of these rules may be reinstated by the board upon written application to the Board, accompanied by payment of the reinstatement fee prescribed by §3745.B hereof, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license lapsed, expired or was revoked, completed an aggregate of 10 contact hours (1.0 CEU) of qualifying continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997), amended LR 24:1498 (August 1998).

Delmar Rorison
Executive Director

9808#025

RULE

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

Licensing and Certification of Physician Assistants
(LAC 46:XLV.1517)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), the Physician Assistants Practice Act, R.S. 37:1360.23(B) and (F), and in accordance with applicable provisions of the Administrative Procedure Act, has amended its rules governing the licensure of physician assistants, LAC 46:XLV, Subpart 2, Chapter 15, §1517, to implement and provide for the annual renewal of licensure on or before the first day of the month in which the licensee was born. The rule amendments are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 15. Physician Assistants

**§1517. Expiration of Licensure; Renewals; Modification;
Notification of Intent to Practice**

A. ...

B. Notwithstanding the provisions of §1517.A, every license issued under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born. Every license issued under this Chapter shall be renewed on or before December 31, 1998 for the year 1999, as well as through the first day of the month in which the licensee was born in the year 2000, and each year thereafter, by submitting to the board an application for renewal upon forms supplied by the board, together with satisfactory documentation of current certification or recertification by the National Commission on Certification of Physicians' Assistants. Each application for renewal shall be accompanied by a fee of \$100. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1360.23(B), (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:201 (March 1996), LR 24:1498 (August 1998).

Delmar Rorison
Executive Director

9808#028

RULE

Department of Health and Hospitals Board of Medical Examiners

Occupational Therapists and Occupational
Therapy Assistants—Licensure
(LAC 46:XLV.1945, 1947, and 1975)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Occupational Therapy Practice Act and the Medical Practice Act, R.S. 37:3012(A), (B) and 37:1270(B)(6), and the provisions of the Administrative Procedure Act, has amended its rules governing the licensure of occupational therapists and occupational therapy assistants, LAC 46:XLV, Subpart 2, Chapter 19, §§1945, 1947 and 1975, to implement and provide for the annual renewal of licensure on or before the first day of the month in which the licensee was born. The rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1945. Expiration of License

A. ...

B. Notwithstanding the provisions of §1945.A, every

license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

C. The timely submission of an application for renewal of a license shall operate to continue the expiring license in full force and effect pending issuance of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998).

§1947. Renewal of License

A. ...

B. Notwithstanding the provisions of §1947.A, every license issued by the board under this Subchapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license form shall be mailed by the board to each person holding a license at least thirty days prior to the expiration date of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

D. The renewal of a license which has expired for 60 days or less may be renewed by submitting to the board an application for renewal upon forms supplied by the board together with the late renewal fee prescribed in Chapter 81 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998).

Subchapter H. Continuing Professional Education

§1975. Failure to Satisfy Continuing Professional Education Requirements

A. ...

1. - 3. ...

B. The license of an occupational therapist or occupational therapy assistant whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of Fifty Dollars (\$50.00), together with documentation and certification that:

1. the applicant has, during each year since the date on which the applicant's license lapsed, expired, or was revoked, completed 12 contact hours (1.2 CEUs) of qualifying continuing professional education and the following additional continuing professional education, as applicable:

B.1.a. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1006 (September 1994), amended LR 24:1499 (August 1998).

Delmar Rorison
Executive Director

9808#027

RULE

Department of Health and Hospitals Board of Medical Examiners

Physicians and Surgeons—Licensure (LAC 46:XLV.415 and 417)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), and the provisions of the Administrative Procedure Act, has amended its rules governing the licensure of physicians and surgeons, LAC 46:XLV, Subpart 2, Chapter 3, §§415 and 417, to implement and provide for the annual renewal of licensure on or before the first day of the month in which the licensee was born. The rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians and Surgeons

Subchapter I. License Issuance, Termination, Renewal and Reinstatement

§415. Expiration of Licenses and Permits

A. ...

B. Notwithstanding the provisions of §415.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

C. The timely submission of a properly completed application for renewal of a license, but not a permit, as provided by §417 of this Chapter, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

D. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 22:212 (March 1996 [withdrawn LR 22:280 April 1996]), LR 24:1500 (August 1998).

§417. Renewal of License

A. ...

B. Notwithstanding the provisions of §417.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998).

Delmar Rorison
Executive Director

9808#030

RULE

Department of Health and Hospitals Board of Medical Examiners

Podiatrists—Licensure (LAC 46:XLV.1359 and 1361)

Notice is hereby given, in accordance with R.S. 49:950 et seq., the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, the Louisiana Podiatry Practice Act, R.S. 37:621, and the provisions of the Administrative Procedure Act, has adopted rules governing the licensure and certification of podiatrists, LAC 46:XLV, Subpart 2, Chapter 13, §§1359 and 1361, to implement and provide for the annual renewal of licensure on or before the first day of the month in which the licensee was born. The rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 13. Podiatrists

Subchapter A. General Provisions

§1301. Scope of Chapter [Reserved]

§1303. Definitions [Reserved]

Subchapter B. Requirements and Qualifications for Licensure

§1305. Scope of Subchapter [Reserved]

§1307. Qualifications for Licensure [Reserved]

§1309. Procedural Requirements [Reserved]

§1311. Waiver of Examination Requirements [Reserved]

Subchapter C. Board Approval of Podiatry Schools and Colleges

§1313. Scope of Subchapter [Reserved]

§1315. Applicability of Approval [Reserved]

§1317. List of Approved Schools [Reserved]

Subchapter H. Licensure Issuance, Termination, Renewal, Reinstatement

§1357. Issuance of License [Reserved]

§1359. Expiration of License or Permit

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and thereby become null, void and to no effect, on the last day of the year in which such license or permit was issued.

B. Notwithstanding the provisions of §1359.A, every license, but not a permit, issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year, on the first day of the month in which the licensee was born.

C. The timely submission of a properly completed application for renewal of a license, as provided in §1361, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

D. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

§1361. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed by the Board.

B. Notwithstanding the provisions of §1361.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

Delmar Rorison
Executive Director

9808#029

RULE

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

Registered Dispensing Physicians—Registration
Renewal/Expiration (LAC 46:XLV.6523 and 6525)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and R.S. 37:1204, and the provisions of the Administrative Procedure Act, has amended its existing rules governing the licensure of registered dispensing physicians, LAC 46:XLV, Subpart 3, Chapter 65, §§6523 and 6525, to implement and provide for the annual renewal of registration on or before the first day of the month in which the registrant was born. The rule amendments are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter C. Registration

§6523. Expiration of Registration

A. ...

B. Notwithstanding the provisions of §6523.A, every registration issued by the board under this Chapter, to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the registrant was born.

C. The timely submission of an application for renewal of registration as a dispensing physician, as provided by §6525 of this Chapter, shall operate to continue the expiring registration in effect pending certification of renewal registration or other final action by the board on such application for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

§6525. Renewal of Registration

A. ...

B. Notwithstanding the provisions of §6525.A, every registration issued by the board under this Chapter to be effective on or after January 1, 1999 shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the registrant was born. Renewal fees shall be prorated if the registration is to be effective for more than one year.

C. An application for registration renewal form shall be mailed by the board to each registrant at least 30 days prior to the expiration of the registration each year. Such form shall be mailed to the most recent address of each registrant as reflected in the official records of the board.

D. Registration as a dispensing physician which has expired by virtue of nonrenewal shall not be reinstated by the board except upon the applicant's satisfaction of the qualifications, requirements and procedures prescribed by this Chapter for original application for registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

Delmar Rorison
Executive Director

9808#024

RULE

Department of Health and Hospitals Board of Medical Examiners

Respiratory Therapists and Respiratory
Therapy Technicians—Licensure
(LAC 46:XLV.2541, 2543 and 2565)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Respiratory Act, R.S. 37:3351-3361, and particularly 37:3355(3) and 37:3357, the Louisiana Medical Practice Act, R.S. 37:1270(B)(6), and the provisions of the Louisiana Administrative Procedure Act, has amended its rules governing the licensure of respiratory therapists and respiratory therapy technicians, LAC 46:XLV, Subpart 2, Chapter 25, §§2541, 2543 and 2565, to implement and provide for the annual renewal of licensure on the first day of the month in which the licensee was born. The rule amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 25. Respiratory Therapists and Respiratory Therapy Technicians

Subchapter E. Licensure, Issuance, Termination, Renewal, Temporary Issuance and Reinstatement

§2541. Expiration of License

A. ...

B. Notwithstanding the provisions of §2541.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

C. The timely submission of an application for renewal of a license, as provided by §2543 hereof, shall operate to continue the expiring license in force and effect pending the

board's issuance, or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998).

§2543. Renewal of License

A. ...

B. Notwithstanding the provisions of §2543.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year. An application for renewal of license shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensed respiratory therapist or licensed respiratory therapy technician as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998).

Subchapter G. Continuing Professional Education

§2565. Failure to Satisfy Continuing Professional Education Requirements

A. ...

1. - 3. ...

B. The license of a respiratory therapist or respiratory therapy technician whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, made not more than two years from the date of expiration or revocation, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of fifty dollars (\$50.00), together with documentation and certification that:

1. the applicant has, for each year since the date on which the applicant's license lapsed, expired or was revoked, completed eight (8) hours (0.8 CEU) of qualifying continuing professional education, and if the application for reinstatement is made more than one year following the date on which such license lapsed, expired or was revoked, the applicant shall evidence completion of an additional four (4) hours of qualifying continuing professional education since the date on which the applicant's license lapsed, expired or was revoked; or

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health

Delmar Rorison
Executive Director

9808#026

RULE

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

Medicaid—Electric Wheelchair Repairs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule as authorized by LA R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing replaces previous criteria governing repairs of electric wheelchairs with the following:

(1) repairs for electric wheelchairs may be considered if the recipient is in an educational or training program or is employed; or

(2) repairs of electric wheelchairs may also be considered for recipients who already own an electric wheelchair, even if they are not currently enrolled in an educational or training program, or not employed, if the following conditions are met:

(a) the electric wheelchair is the recipient's only wheelchair;

(b) the only alternative to the repairs is replacement by a new manual type wheelchair;

(c) the repairs do not cost more than the estimated replacement cost of a new appropriate, manual type chair; and

(d) only basic repairs, not major modifications or reconstruction, of the chair is being requested.

David W. Hood
Secretary

9808#079

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

**Riverboat Gaming—Internal Controls;
Tips or Gratuities (LAC 42:XIII.2721)**

The Gaming Control Board hereby amends LAC 42:XIII.2721 in accordance with R.S. 27:1 et seq. and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 27. Accounting Regulations

§2721. Internal Controls; Tips or Gratuities

A. - B. ...

C. All tips and gratuities given to gaming employees other than slot machine gaming employees shall be:

1. - 3. ...

4. the licensee may elect to handle tips generated in its poker room separately from the pro rata distribution pool. Tips or gratuities may be assigned to the dealer generating the tip or gratuity, and the following procedures shall be used.

a. Each dealer shall have a locked transparent box marked with the dealer's name or otherwise coded for identification. Keys to these boxes shall be maintained by the cage department. When not in use, these boxes shall be stored in a locked storage cabinet or other approved lockable storage medium in the poker room itself. Keys to the storage cabinet shall be maintained by someone other than a dealer, hereinafter referred to as the keyholder.

b. When a poker dealer arrives at his assigned poker table, the dealer and the keyholder shall obtain the dealer's marked transparent locked box from the locked storage cabinet. The box shall be placed at the poker table in the same manner as any other dealer token box. If the dealer leaves the poker table for any reason, the dealer's marked box shall be removed from the table by the dealer and the keyholder and returned to the storage cabinet.

c. At the end of the dealer's shift, the dealer along with an independent verifier (an employee independent of the table games and cage departments), shall take that dealer's marked transparent locked box to the cage for counting. The cage employee shall unlock, empty, and relock the box. The cage employee shall count the contents of the box in the presence of the dealer and the independent verifier. The amount shall be recorded on a three-part voucher, and signed by the cage employee, the dealer, and the independent verifier. The three parts of the voucher shall be distributed as follows:

i. one part shall be given to the dealer;

ii. one part shall be maintained by the cage; and

iii. one part shall be forwarded to the payroll department.

d. Tips or gratuities counted above shall be deposited into the licensee's payroll account. Distribution to the dealer for the tips or gratuities earned by the dealer at poker tables shall be made in accordance with the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No distributions shall be made to the dealer in any other manner.

e. A poker room dealer may tip any cashier working as the poker room cashier during the poker room dealer's shift. Any such tip shall be handled when the poker room dealer's tips are counted as defined above. A section of the dealer's tip voucher shall be marked to allow the dealer to

indicate which cashier the dealer wishes to tip and the amount of the tip. The tip shall be deducted from the dealer's total tips at the time of the count. Tips given to a cashier in this manner shall be distributed to the cashier in accordance with the licensee's payroll accounting practices and shall be subject to all applicable state and federal withholding taxes and regulations. No tips from a poker room dealer shall be made to a cashier in any other manner.

f. The licensee shall maintain a minimum level of supervision, as approved by the Division, over the poker room tables. Surveillance shall be required to continuously monitor and record open poker tables.

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended by the Gaming Control Board, LR 24:1315 (July 1998), LR 24:1503 (August 1998).

Hillary J. Crain
Chairman

9808#007

RULE

Department of Public Safety and Corrections Gaming Control Board

Video Draw Poker—Gaming
Establishments (LAC 42:XI.2415)

The Gaming Control Board hereby adopts LAC 42:XI.2415.C.3 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2415. Gaming Establishments

A. - C.1. - 2. ...

3. No video draw poker devices which a qualified truck stop facility is licensed to operate on the premises shall be located or operated in the convenience store, trucker lounges, laundry rooms, shower rooms, and/or hallway areas of the truck stop facility. Video draw poker devices shall be located and operated in areas designated primarily for gaming, as defined in R.S. 27:301 et seq., and/or in lounges/bars and restaurants that meet the criteria of R.S. 27:301 et seq., and Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950. In areas legally accessible to minors the device areas shall comply with the provisions of R.S. 27:302(D)(2) and LAC 42:XI.2415.D.2.

D. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of

Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998).

Hillary J. Crain
Chairman

9808#006

RULE

Department of Transportation and Development Division of Aviation

Aviation Project Needs and Project
Priority Process (LAC 70:IX.Chapter 9)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby amends LAC 70:IX.Chapter 9 in accordance with R.S. 2:6 and Senate Concurrent Resolution No. 67 of the 1997 Session of the Legislature.

Title 70

TRANSPORTATION

Part IX. Aviation and Public Transportation

Chapter 9. Aviation Program Needs and Project Priority Process

§901. Introduction

The Louisiana Department of Transportation, Aviation Division is responsible for the development of public aviation facilities in the state. Assistance with the planning, design, and construction of facilities is provided to local governments which own the public airports. In addition, state funding is used in many cases to provide all or a portion of the local match requirement if the improvement is federally funded or if most or all of the total funding is previously approved by the Legislature. The aviation portion of the Louisiana Transportation Trust Fund is the only source of state funds for airport capital improvements or matching funds for federal airport improvement grants.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1504 (August 1998).

§903. Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants

Federal funding for projects is received through grants from the Federal Aviation Administration directly to the recipient airport. Under the current program, 90 percent of project funds are federal and 10 percent are provided by the local sponsor. Occasionally, the FAA or other federal agencies may offer a grant requiring a local match of more than 10 percent. For example, terminal building projects are offered as 75 percent federal, 25 percent local match. When the local sponsor requests state funding assistance for the local share, the project is evaluated through the priority system because of the use of state dollars. The local sponsor must coordinate the development of the required documents with the Aviation Division for submittal to the FAA in order to receive the 10 percent matching funds through the priority system. When

the local match is greater than 10 percent, the state will participate in no more than 10 percent of the project cost and the local sponsor must provide the additional matching funds. The FAA provides the AIP grants directly to the airport sponsor who is responsible for administering the grant.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1504 (August 1998).

§905. Project Identification and Development

A. The primary objective of the priority system is to prioritize facility improvement projects. Planning projects, navigational aid projects, and engineering design are not included in the priority system. Differences in the criteria for assessing these types of projects and the relatively small amount of state funding available make them impractical to include in the same process with facility improvement projects. Specific funds are provided for planning and navigation aid projects, but engineering design is included as a necessary part of a construction project.

B. Potential projects for inclusion in the priority system are initiated by the local community that the airport serves (through the airport owner) or by the State Aviation Division. The need for the project may be identified in a master plan, action plan, system planning document, or as a result of a change in conditions or facilities at the airport. Generally, projects initiated by the local community address a specific need from the local perspective. Projects initiated by the Aviation Division address a need from a statewide or system perspective.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1505 (August 1998).

§907. Project Prioritization Process

A. The prioritization of a project is a two-step process. The first step is to determine whether the project should be included in the priority process. The second step is to determine whether the information necessary for prioritization is available. Support documentation includes a project resolution from the local airport owner (received prior to November 1) requesting state assistance for that project, a request for FAA/AIP funding (if eligible), planning data including scope and estimated cost, justification of the immediate need, any environmental clearance documentation (if necessary), and information from the local sponsor necessary for prioritization of the project. Height limitation and land use zoning ordinances, operations manual, documentation that Part 139 and 5010 inspection discrepancies have been corrected, pavement maintenance plan, and a certified copy of the legal document creating the airport district or authority must also be received before the process can continue. If any pertinent documentation is missing, the review process will cease and not continue until all information is made available to the Aviation Division. If all of the necessary documents are not received by the Aviation Division by November 1, the proposed project cannot compete for funding for that fiscal year being prioritized but will be

considered for the following fiscal year.

B. Those projects which qualify for prioritization are then assigned point values to determine their relative priority. Those determined to be ineligible and those with insufficient information are returned to the airport owner with an explanation as to why their proposed project did not qualify for inclusion in the airport needs and priority program or with a request for additional information.

C. The project components are also reviewed to determine if the project can be prioritized as one project or requires restructuring into more than one project. The project will be restructured into usable units if necessary. An example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway so these would be considered as two projects in the priority system. On the other hand, the extension of the runway's lighting system would be included with the runway extension as one project because the additional runway length cannot be used at night without the extended lighting.

D. The structure of the priority rating system is based on an evaluation of the type of project, the aviation activity at the airport where the project is located, the management of the airport by the owner, and consideration for special types of projects.

E. There are four categories of evaluation, each addressing one of the general areas outlined above. The categories are as follows:

1. Category I—Project Type:
 - a. Safety;
 - b. Preservation of Existing System;
 - c. Upgrade to Standards;
 - d. Capacity Increases;
2. Category II—Facility Usage;
3. Category III—Sponsor Compliance;
4. Category IV—Special Considerations.

F. Points are awarded to a project based on evaluation criteria in each category and the total evaluation score for the project is the sum of points in each category. Based on priority ratings of projects, a program of projects is developed by the Aviation Division and submitted to the Joint Legislative Committee for Transportation, Highways and Public Works. This committee approves a program of projects which become the capital improvement projects that will be implemented by the Aviation Division in the next fiscal year. A project submitted after this approval with a ranking high enough to place the project on the program of projects cannot be added until a new program of projects is submitted to the committee the following year.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1505 (August 1998).

§909. Nonprioritized Programs

A. The nonprioritized programs projects developed by the Aviation Division vary by type and origin of development. There are three nonprioritized programs:

1. Planning;

2. Navigational Aids; and
3. Discretionary Projects.

B. Planning, navigational aids, and discretionary projects are an integral element of the state's aviation program. Projects cannot reach the facility improvement stage without going through the planning phase. Navigational aid projects enhance use of the overall state system. Discretionary projects provide the Aviation Division with the latitude to fund emergency or safety related projects on a real-time basis and to undertake projects which are too small to be eligible for funding through the priority program. The state's airport system would be stagnated without these types of projects.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1505 (August 1998).

§911. Planning Projects

A. Although the priority system addresses facility improvements, the development of the state's aviation program requires planning projects. The majority of facility projects originate with the development of a master plan or an action plan for an airport. The master plan or action plan identifies the local need for the project and identifies and describes facilities required to meet the need. System-wide planning studies such as the Louisiana Airport System Plan also play a role in identification of needs and development of projects for the entire state. One of the most important aspects of the planning program is that it directly supports the prioritization process. To ensure timely development of airport facility improvement projects which meet objectives of the state's aviation program, it is essential that the Aviation Division allocate a set-aside amount of funding to support various types of planning efforts.

B. Because of the 90 percent federal, 10 percent local match requirement for the current FAA airports grant program, a relatively large amount of planning can be done by the state with a modest expenditure. Utilized judiciously, the annual set-aside for aviation planning efforts supports a planning program that maintains the state's priority and planning processes on a continuing basis. A funding set-aside is established each budget year to support projected planning projects and these funds are used exclusively for planning efforts. One hundred thousand dollars are allocated for planning projects each year.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1506 (August 1998).

§913. Navigational Aid Projects

Navigational aids are essential to the state's airport system. An airport system without navigational aids would be analogous to a four-lane highway without traffic signals at major intersections. The development of navigational aids makes the system more usable by providing visual or electronic clues for visual and instrument flights and by increasing use of the system during instrument flight

conditions. This is accomplished by providing basic instrument approaches to smaller airports and by lowering the minimum approach standards at larger airports having multiple approaches so that the airport is usable more days of the year. Navigational aids needs in the state are not documented to the extent that facility requirements are documented by master plans, action plans, and the state system plan. This is an area in which the state develops a system-wide plan to identify and evaluate needs for navigational aids in the state. Without a system-wide assessment, it is difficult to develop and prioritize navigational aids projects on a consistent basis. If an objective assessment of navigational needs were available, it would still be difficult to prioritize these projects in the same process as facility improvement projects because of differences in criteria for assessing the need for the projects. Also, costs of a navigational aid development program are usually smaller than facility development because the construction required for a navigational aid is significantly less than that required for a runway or apron project. For these reasons, the navigational aid development program does not compete with the facility development type projects in the prioritization process. To meet navigational aid requirements, a yearly fund of \$500,000 is set aside.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1506 (August 1998).

§915. Discretionary Projects

The aviation director has the discretion to fund nonfederal aid projects requiring \$25,000 or less in state funds without these projects being prioritized. This amount may be increased to \$50,000 when safety may be compromised or an emergency is deemed to exist. This enables the Aviation Division to assist airports with minor projects, emergencies, and safety needs in an expeditious manner. For a project to be eligible to receive discretionary funds, it must meet the same eligibility requirements as any other project. To meet these needs, an annual fund of \$250,000 is set aside as a discretionary fund.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1506 (August 1998).

§917. Project Prioritization Process

A. The Transportation Trust Fund legislation requires a priority system to prioritize projects in some logical order for addressing documented needs in the state's public airport system. The priority system is a process that has been developed to allocate state aviation funding to address these needs. The system reflects the state's development policy for the airport system, assigning higher values to projects which are consistent with the policy.

B. As discussed in §915, only facility development projects are subject to prioritization. Airport administration, operations, upkeep, and maintenance are not included since they are the responsibility of the airport owner and are not

within the purview of this program. Potential projects for prioritization undergo a two-step evaluation:

1. are they eligible to be included in the process?
2. has the required supporting documentation been provided?

C. Once it has been determined that the project is eligible and all documentation has been provided, the next step is the assignment of point values. When point values are finalized, the project is placed in the automated priority system where it is ranked in relation to all other projects in the system.

D. The only projects that should appear on the prioritization list are those that have a chance of being implemented in the foreseeable future. Ideally, this would be within a three-year period from the time the project appears on the priority list. Prioritized projects which have been approved for state funding but which, for lack of federal matching funds or other reasons, do not have a signed construction contract within three fiscal years may be deleted from the program. Funds which had been approved for a deleted project will be reallocated to any other prioritized project. Normally such funds will be used to cover project overruns, "up front" engineering costs (FAA reimbursable engineering costs incurred by the airport owner prior to the issuance of a federal grant in aid), or "up front" land purchase costs (FAA reimbursable costs associated with survey, real estate and title fees, and purchase of land by the airport owner prior to the issuance of a federal grant-in-aid).

E. These funds may also be used to fund the next-in-line project on the four-year unfunded portion of the priority list. As a general rule, funds originally allocated to commercial service airports will, whenever practical, be used to fund projects on the commercial service airport four-year unfunded list. Funds allocated to general aviation airports will likewise be used to fund projects on the general aviation airport four-year unfunded list. In the event there are insufficient projects on either four-year unfunded list, funds originally allocated to one class of airport may be reallocated to the other class of airport.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1506 (August 1998).

§919. Commercial Service Versus General Aviation Airports

A. One of the basic objectives of a priority process is to identify projects that benefit the highest number of aviation system users. When airports are compared on the basis of persons served, airports offering scheduled or unscheduled commercial air service to the public serve more persons than airports that support general aviation activity. Differences in the size, revenue generation capability, and usage of commercial service airports (those airports which enplane 2,500 or more passengers annually) as compared to general aviation airports make it difficult to compare the need for projects between the commercial service and general aviation airports.

B. Because of aircraft size, weight, speed, operational characteristics, and FAA design standards, facilities at commercial service airports have more demanding standards

and thus more costly engineering and construction. Because of the significant differences between commercial service and general aviation airports project standards, each group's projects are prioritized separately.

C. The commercial service airports priority projects must have an established funding level, just as the general aviation priority projects must have an established funding level. To accomplish this, the total funds available for facility improvement projects in a given year are allocated between air carrier and general aviation airport projects in a ratio of 65 percent for commercial service airports and 35 percent for general aviation airports. This balance is adjusted, however, if there are insufficient projects in either category to fully utilize available funding. This 65 percent/35 percent allocation is based on past experience in the state's aviation program and the levels of state funding allocated to each type of airport. It also reflects the fact that commercial service airports have a far greater capability of generating revenue through means unavailable to general aviation airports such as: vendor leases, landing fees, airline contracts, passenger facility charges, and rental car lease agreements.

D. The division of projects by commercial service or general aviation airport categories results in two project priority lists, one for each of the two types of airports. Each step of the prioritization process is identical for both commercial service and general aviation airport projects.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1507 (August 1998).

§921. Preliminary Evaluation

A. The preliminary evaluation is used to screen potential projects and determine those which can realistically be implemented, assuming available funding.

1. The first step is to determine whether the project should be included in the priority process.

2. The second step is to determine whether the information necessary for prioritization is available.

B. In determining whether a project should have a priority evaluation, there are three basic criteria:

1. project type;
2. project size;
3. eligibility for federal matching funds.

C. A review committee consisting of, at a minimum, the aviation director, grants manager, and aviation program manager for the airport concerned will make an initial determination of whether there is sufficient information to prioritize a project when a project request is received. Some of the information considered by the committee is required by either Title 2 of the Louisiana Revised Statutes, the Louisiana Aviation Needs and Project Priority System, or DOTD and Aviation Division policy.

D. The DOTD Aviation Division is responsible for assigning priority values to projects and determining if they are consistent with development plans in the master plan or action plan for the airport. If insufficient data is sent to the Aviation Division, correct prioritization of the project will not be possible. When insufficient data is provided, the entire document package will be returned to the initiator of the

project with a request for the additional information needed. Therefore, resolutions and project requests should be sent to the Aviation Division well in advance of the mandatory November 1 cut off date to allow time for processing and possible return for additional information. Any document package not meeting all requirements or not in Aviation Division hands by November 1 will not be prioritized or included in the upcoming fiscal year's program.

E. Project Type. Generally, only facility improvement or preservation projects are included in the priority program. Some exceptions are:

1. land acquisition for obstruction removal or airport expansion;
2. Aircraft Rescue and Firefighting (ARFF) vehicles and equipment;
3. airport noise studies; and
4. FAA AID eligible projects when FAA is providing funding.

F. Some projects may be of a type in which the Aviation Division might not participate. For example, construction of roads and utilities for an air industrial park development and revenue-generating projects such as fuel systems, hangars, buildings for lease, and portions of terminal buildings are not undertaken by the priority system and will not be funded by the Aviation Trust Fund.

G. Project Size. To be included in the priority system, a project must require the use of \$25,000 or more in state funding. The \$25,000 requirement only applies to projects which receive no federal funding. Some projects may be too costly to be funded from a single year's budget without denying funding to other needed projects at other airports. Therefore, no more than \$1,000,000 in state funding may be programmed to a single commercial service airport and no more than \$250,000 in state funding may be programmed to a single general aviation airport through the aviation priority program per fiscal year. Projects in excess of these amounts may be funded more than two or more funding years. For example, a project for a commercial service airport may have a total cost of \$2,500,000. The project may be prioritized in the upcoming budget cycle for no more than \$1,000,000 but the remaining \$1,500,000 will receive top priority in the following two yearly budgets to insure project completion. The same is true for a general aviation airport project except that the project maximum cost is \$250,000 per budget year. This does not include projects that are prioritized as 90 percent FAA-funded and 10 percent state-funded unless it is known that the FAA will use a multi year funding approach. Regardless of project size, if the FAA uses multi year funding, the state will also use a multi year approach.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1507 (August 1998).

§923. Project Support Documentation

A. Once it has been determined that a project is of the type and size to be considered in the priority system, an evaluation of required supporting documentation will be made. The project support documentation is a combination of a documents and information necessary for the Aviation Division

to determine if the project is developed sufficiently for inclusion in the priority listing. Documentation includes the following items:

1. Project Resolution. The initials document the Aviation Division needs for consideration of any project is a resolution from the public body operating the airport requesting assistance in the development of the project. Generally, the assistance requested would be for both funding and technical assistance. Any commitment from the local owner to participate in the cost of the project is also documented in the resolution. The resolution from the owner of the airport initiates an agreement between the two parties for joint sponsorship of the project and authorizes state participation in a local project pursuant to applicable provisions of state law. It is also a written commitment of support for the project by the owner. The Aviation Division requires a resolution (except from state-owned airports) from the airport owner before a project can receive further consideration in the evaluation process. This eliminates the needless evaluation of a project which cannot be implemented because of local opposition or nonsupport.

2. Since available state funding historically falls far short of the requested airport needs, it is especially important to use every opportunity to take advantage of the FAA/AIP program which provides funding grants of up to 90 percent for eligible projects at eligible airports. Therefore, if the project is eligible to compete for federal AIP funds through the FAA, the document requesting federal AIP funds must accompany the resolution requesting state funding assistance if state funding through the priority program is anticipated. The aviation director will, if the state will participate in the project, endorse the airport owner's request for federal assistance and forward the document package to the appropriate FAA office. A request for 100 percent state funding will not be processed for a project that is eligible for AIP funding until it has been approved and prioritized in the state system as an FAA/state matching funds project and competed unsuccessfully in the federal system for at least three fiscal years. The three years in the federal priority system may be waived if the FAA verifies in writing that the proposed project will not receive AIP funding. On the other hand, if the FAA indicates that the project will be funded at some reasonable time beyond the initial three years, the project will remain in the system awaiting FAA matching funds rather than receiving 100 percent state funding which could deprive other airports of receiving funding assistance.

B. Project Components. In the priority system, projects are prioritized on a generic basis. For example, projects that affect the primary runway are all considered under the heading "primary runway." This could include lengthening, widening, lighting, grooving, etc., of the primary runway. Projects are defined on a usable basis or unit. This means that, if a runway is widened, the relocation of runway lighting and striping are all included in the project. Another example is a request to lengthen a runway and to extend the corresponding taxiway. The runway can be lengthened and is usable without the extension of the taxiway, so these are considered as two projects in the priority system.

C. Development of projects as a usable unit prevents

projects of a lower priority being tagged onto a high priority project so they will be ranked higher. This focuses the priority system on those projects with the highest priority ranking, maximizing the effectiveness of aviation program funds. However, it is sometimes advantageous in terms of safety, operational effectiveness, and fiscal responsibility to include lower ranking projects along with otherwise unrelated higher projects. For instance, if there is a high priority project to overlay a runway, it may be appropriate to include a stub taxiway leading from the runway to a parking apron, or the apron itself if it is in especially poor condition. This can prevent damage to aircraft, provide a safe operational area for the necessary movement of aircraft, and take advantage of significant cost reductions for the lesser priority projects. This blending of otherwise nonrelated projects is an exception which will be authorized only in exceptional cases. The aviation director is responsible for the organization of projects into usable units when projects are developed and for determining if special circumstances exist which would warrant combining unrelated projects.

D. Planning Data. The priority process depends heavily on planning data to evaluate the relative merits of a project. Usually the justification for a project is found in the master plan or action plan for the airport, but there are exceptions. Engineering inspections may identify the need for reconstruction of a runway, or a 5010 inspection may reveal a safety problem. Regardless of the means by which a project is identified, written documentation describing the need for the project and the justification for the action to be taken must be provided. The justification for the project should be brief and to the point.

E. Submitting a master plan or action plan document as sole justification is unacceptable. The pertinent section of the master plan or action plan should be submitted with narrative to explain the project and demonstrate that it is consistent with the master plan or action plan recommendations.

F. The planning data for a project, at a minimum, must:

1. document the need for the project;
2. explain how the project meets the need;
3. give the estimated cost; and
4. include a sketch of the project on the airport's approved layout plan.

G. The documentation need not be lengthy but should focus on what is generating the need. For example, if an aircraft parking apron is to be expanded, the number of existing parking spaces versus the number of aircraft that need to be parked on the apron would be adequate documentation. A description of how large an apron expansion is proposed and how many additional parking spaces the expansion would create should be submitted. The expansion should also be shown on the airport's approved layout plan to illustrate how it fits in the overall master plan or action plan development recommended for the airport. If the expansion of the apron is not consistent with that shown in the master plan or action plan, an explanation for the proposed deviation is necessary.

H. Environmental Requirements. Some proposed projects, because of their potential environmental impact, may require environmental clearance before they can be constructed. During the preliminary evaluation of a project, a determination

should be made whether or not environmental clearance is required. If the FAA Airports District Office or DOTD Aviation Division indicates environmental clearance is required, any documents that are available to show that environmental requirements have been met should be provided. If some type of environmental document needs to be developed for the project, this should be done before the project is placed in the priority system. Environmental clearance of projects can be a lengthy process and allowing a project to be dormant in the priority system while waiting for clearance could preclude another project or projects from being implemented.

I. Local Sponsor Requirements. The priority system recognizes the responsibility of the local government owners of the airport to operate the airport in a safe, professional manner. A category is included in the rating system that assigns a value for sponsor responsibility. To be able to assign this value, certain information is required from the owner of the airport.

J. Two of the evaluation criteria in the "sponsor responsibility" category are whether the airport has height limitation zoning and land use zoning in effect at the airport. If the Aviation Division does not have a copy of the airport's zoning ordinances on file, the local owner is required to provide this. The lack of zoning at the airport will cause a lower ranking of the proposed project. A third area of local sponsor responsibility is utilization of the airport's operations manual. All publicly-owned airports in the state should have an operations manual to guide in the management of the airport. Documentation of compliance with key provisions in the manual will be requested if it is unknown whether airport management is complying with provisions of the manual described later in this Section. Items which are particularly critical and especially looked for are:

1. published traffic patterns;
2. lease agreements with tenants;
3. uniform fuel flowage fees;
4. Notice to Airmen (NOTAM) filing procedures; and
5. maintenance inspections.

K. The most important and costly physical asset of any airport is the paved aircraft movement surfaces (runways, taxiways, and aprons). Regular inspection and maintenance of these surfaces are critical to insuring aviation and public safety and reducing the frequency and cost of pavement rehabilitation. To this end, FAA regulations and Aviation Division policy require that all airports have a written Pavement Maintenance Plan which, at a minimum, includes regularly scheduled inspections, written procedures for carrying out maintenance, appropriate equipment and material, and documentation verifying that appropriate maintenance has been conducted.

L. Compliance with FAA and Aviation Division safety, maintenance, and operational requirements is required. For the purposes of the priority program, an error free 5010 Safety and Compliance inspection or Part 139 inspection, or the satisfactory correction of all deficiencies from the most recent 5010 or 139 inspection will insure that full points are awarded.

M. No airport may receive state funding from the DOTD,

Aviation Division if officially declared in noncompliance with federal or state laws, regulations, rules, or policies by the FAA or DOTD, Aviation Division.

N. The presence of zoning ordinances, an implemented pavement maintenance plan, compliance with the airport operations manual, and adequate airport maintenance are evaluated in the preliminary evaluation of a project because if they are not being done at an airport, the local sponsor should be given an opportunity to rectify the situation before his project is prioritized. The airport owner will be advised of the corrective actions that can be taken to improve his project score. If the owner does not initiate and document corrective action that clearly shows that action is being taken to address these items and correct deficiencies in these areas, the project will not receive points in this category.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1508 (August 1998).

§925. Project Priority Rating System

A. The structure of the priority rating system is based on:

1. an evaluation of the type of project;
2. the aviation activity at the airport where the project is located;
3. the management of the airport by the owner; and
4. consideration for special types of projects.

B. The point values are designed to award points in a weighted manner. Each area of evaluation receives points in proportion to the relative importance as determined by Aviation Division policy.

C. There are four categories of evaluation, each addressing one of the general areas in §925.A.1-4. The categories are as follows:

1. Category I—Project Type:
 - a. Safety;
 - b. Preservation of Existing System;
 - c. Upgrade to Standards;
 - d. Capacity Increases;
2. Category II—Facility Usage;
3. Category III—Sponsor Compliance;
4. Category IV—Special Considerations.

D. Points are awarded to a project based on evaluation criteria in each category, and the total evaluation score for the project is the sum of the points in each category. The relative percentage of each category in determining the total evaluation score is 50 percent for Category I, Type of Project; 20 percent for Category II, Facility Usage; and 30 percent for Category III, Sponsor Compliance. Category IV, Bonus Points, awards additional points above those in the other categories for special types of projects.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1510 (August 1998).

§927. Category I—Project Type

A. This category is designed to segregate projects by type defined by the primary purpose of the project. To accomplish this, four subcategories have been designated for project type.

These subcategories are:

1. Safety;
2. Preservation of Existing System;
3. Upgrade to Standards;
4. Capacity Increases.

B. The subcategories are listed in order of descending importance and point values have been assigned accordingly. Development of projects directly related to safety of aircraft operations is considered the highest priority because of the potential for loss of life and property should safety needs not be addressed. Preserving the existing airport system is next in importance because the existing facilities represent an investment of public dollars and there is a commitment to maintain those facilities that are in use. The upgrade to standards type of project is the next project priority and reflects a policy by the Aviation Division to develop facilities to the design standards established by DOTD and FAA to accommodate existing aviation activity at an airport. Projects for capacity increases at an airport are last in the project type priority because they represent a need in the future and not one presently existing.

C. Except for the "safety" subcategory, the general approach to assigning points to projects within these subcategories is to give highest priority to addressing needs of the primary runway first and then decreasing priorities the farther the project is removed from the primary airside facilities. As an example, a project on a primary runway has a higher priority than an apron project, but the apron project has a higher priority than a vehicle parking lot project. Safety projects, because of their importance, are addressed equally regardless of what area of the airport they impact.

D. It should be noted that project types listed are generic. For example, any project dealing with the primary runway that is designed to preserve its integrity falls under the "preservation of existing system" subcategory. This means that overlaying of the primary runway receives the same number of points as reconstructing the primary runway because both are designed to preserve the integrity of the runway. The subcategories in the "project type" category are shown in Exhibit 1. The type of project within each subcategory and its corresponding point value are displayed.

E. The Aviation Division does not participate in revenue-generating projects such as fueling systems and hangars. As a general rule, the program does not support terminal or other landside buildings except in a limited way (e.g., maximum \$25,000 for a terminal) and then usually to support or protect state-installed electronic equipment such as electronic weather or flight planning equipment. If, however, the FAA declares a terminal building or other landside project eligible for AIP funding, the Aviation Division will participate up to a maximum of 10 percent of project cost after legislative approval.

F. Safety. Projects in this subcategory are limited to those that only affect aircraft operational safety. These are projects such as obstruction removal, runway grooving, Aircraft Rescue and Firefighting (ARFF) equipment, and lighting. It can be argued that most aviation improvement projects increase safety at an airport, but caution is used to place only those projects in this subcategory that specifically affect the safety of aircraft

using the airport. For example, lengthening of a runway improves safety, but its primary purpose is to allow utilization by larger or faster aircraft. Projects in the "safety" category are those developed specifically to address an unsafe condition and thus receive the highest evaluation points possible.

G. Preservation of Existing System. Projects that are required to maintain the functional integrity of existing facilities are evaluated in this subcategory. Projects such as reconstruction of a runway or taxiway or rehabilitation of an existing lighting system are the types of projects included under this subcategory. The point values are assigned with the highest value to projects that maintain the integrity of the primary runway and decrease in value as the facility being maintained moves from the primary airside facilities toward the landside support facilities. The program does not fund preservation projects which are covered by routine maintenance. Preservation of most landside items and routine maintenance are the responsibility of the airport owner.

H. Upgrade to Standards. Projects evaluated in this category are those the purpose of which is to upgrade a facility to a design standard based on current needs. The required design standards for facilities are determined by the role the airport plays in the state airport system and the Aviation Division facility development standards. The airport role and standards are found in the Louisiana Airport System Plan and in appropriate FAA and state airport design manuals and advisories. In the prioritization of projects, it is important to note that projects receiving points in the "upgrade to standards" subcategory are based on a current need. Projects designed to accommodate future (forecast) needs do not receive points in this subcategory.

I. Capacity Increases. Projects in this subcategory are those that are designed to facilitate the handling of more operations or aircraft, improve operations, and/or handle new critical aircraft using the airport regularly. Most of these will be projects to address a future need versus an immediate need. An example of this type of project is the lengthening of a runway that currently meets existing design standards but needs to be lengthened based on forecast of operations or aircraft types. An apron expansion, when adequate apron space is available for current based aircraft, is another example of this type of project. If a project does not qualify for evaluation in the first three subcategories, it is evaluated using the point values in the "capacity increase" subcategory. It is important to note, however, that forecast needs are not simply a wish list. Forecasts must be professionally studied and prepared, founded on supportable factual data, and well documented.

J. The construction of new airports ranks low in this category for three reasons.

1. First, it is difficult to justify the high cost of a new airport. To construct a new general aviation airport using 100 percent state aviation program money would require the entire general aviation budget for five to eight years.

2. Second, almost without exception, Louisiana's existing airports are underutilized.

3. Third, many existing airports are in need of extensive rehabilitation to be brought up to federal and state safety and

operational standards. It is hard to justify prioritizing the construction of a new airport when we do not have sufficient funds to adequately care for the ones we already have.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1510 (August 1998).

§929. Facility Usage

A. This category weighs the use of an airport relative to the use of other airports in the system. The basic objective is to support projects that serve the most aviation users. This objective has to be balanced, however, with the Aviation Division's goal of maintaining a viable statewide system of public use airports and maintaining aviation and public safety.

B. In terms of total number of persons served by an airport, it is generally the case that commercial service airports serve more individuals than general aviation airports with no commercial service. If points in this category were assigned relative to the number of passengers flying into and out of an airport, the commercial service airports would far outdistance the smaller general aviation airports in points and project priority ranking. As previously discussed, for this reason commercial service and general aviation airports are prioritized separately.

C. Points are awarded based on the number of aircraft based at the airport and/or the number of commercial enplanements. The point values have been developed to attempt to recognize higher use of an airport while not eliminating a low use airport from consideration for projects. Exhibit 2 shows the point rating structure for this category.

D. The number of based aircraft at an airport, as indicated in the latest 5010 inspection report, is used to determine the relative level of use at an airport by general aviation interests. There are some drawbacks to this approach. The number of operations for each based aircraft is not accounted for by using only the based aircraft numbers. Itinerant operations, which are very important to an airport, are not recognized by counting based aircraft. Other operations by aircraft not based on the field, such as agricultural and military aircraft, are also missed. All of these factors affect the overall number of operations at an airport which is a much more accurate measure of airport use than based aircraft, but reliable operations counts at all nontowered airports are not available for general aviation airports. Should the Aviation Division develop a systematic program for counting operations at nontowered airports, the relative number of operations at an airport may replace based aircraft as the indicator of facility use. Until such a system is developed, counts of based aircraft are the only consistent way to measure general aviation use at the airports.

E. For commercial service airports, points are also awarded in this category for the number of commercial service enplanements. The number of enplanements is taken from the FAA's annual enplanement data.

F. Airports that do not have enplanements, but are designated as reliever airports, receive points in this category also. Reliever airports are important in the system for diverting general aviation operations from commercial service airports with operational capacity problems and thus receive points in

the category. The sum of points awarded for general aviation-based aircraft, air carrier passenger enplanements (commercial service airports), and reliever airports status constitutes an airport's score for the "facility usage" category of the priority rating system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1511 (August 1998).

§931. Category III—Sponsor Compliance

A. The "sponsor compliance" category evaluates how effectively the airport owners are operating the airport with respect to established standards and good management practices. Several areas are evaluated in this category that are critical to providing safe and efficient public services. Exhibit 3 shows the evaluation criteria and point values for this category.

B. Airports are affected by the use of the land surrounding them. Certain land uses in the vicinity of an airport can result in restrictions on use of the airport and, in extreme cases, in the total closure of the airport. Restrictions to prevent the penetration of tall objects into the approach surfaces for aircraft at an airport are very important. Generally referred to as "height hazard zoning," this type of zoning prevents tall objects that affect the safety of aircraft operations from being built around the airport. Tall objects can cause the displacement of thresholds and the raising of "minimums" for instrument approaches at an airport, thus decreasing the utilization of the airport. The airport represents a substantial public investment and implementation of height hazard zoning by the appropriate local governing body protects the investment by allowing the airport to be used to its full capacity. Points are awarded in this category for having height hazard zoning ordinances in effect at an airport.

C. A related area evaluated in this category is compatible land use zoning. Height hazard zoning controls the height of objects but has no impact on the actual use of the land. Certain land uses around an airport are incompatible with airport operations because of safety considerations or impacts on landside activities. Noncompatible uses can create conflicts between the community and the airport which may create pressures to restrict use of the airport. Compatible land use zoning is necessary to protect the airport from restrictions placed on it when aviation uses conflict with surrounding land uses. For this reason, the presence of land use zoning is evaluated in this category.

D. Another evaluation area in the "sponsor responsibility" category is the use of the airport's operations manual by the local management. Each airport should have an operations manual which establishes the objectives, policies, standards, rules, regulations, and procedures necessary for the proper management and operation of the airport. Adherence to the manual insures compliance with the legal and regulatory requirements of the State of Louisiana and the Federal Aviation Administration. The manual covers a number of areas of management and operations, but for purposes of the priority evaluation there are five items of focus.

1. Establishment and Publication of a Traffic Pattern for Each Runway. A set traffic pattern adhered to by all pilots

using an airport is absolutely essential for the safe operation of an airport. Publication of traffic patterns notifies users of the airport of the proper procedures for approaching and departing the airport.

2. Written Lease Agreements with All Tenants. A written lease agreement with tenants is necessary to document the fees and charges; the rights, privileges and obligations; and other relevant covenants for the respective parties. The airport is a resource to the community and the owner must insure that tenant operations are conducted in a manner that enhances the airport and that the airport is fairly compensated for the use of its facilities. Revenues from tenant leases are an important source of development, maintenance, and operating funds for the airport. Lease agreements must conform to FAA and state requirements and be approved by the Aviation Division.

3. Establishment of Uniform Fuel Flowage Fees. Generally, the funds required to support the maintenance and operation of a publicly-owned airport have to be generated by the airport. One source of funding is the rental fee charged to airport tenants, and another is the use of a fuel flowage fee.

4. Establishment of NOTAM Filing Procedure. Issuance of a Notice to Airmen (NOTAM) is essential when there is any change in the facilities, services, or operations at an airport or when hazardous conditions exist. Nonissuance of a NOTAM can exacerbate a safety hazard at the airport for which the owners could be held liable. The establishment of a procedure and the identification of the individual responsible for filing a NOTAM with the FAA is an essential safety procedure at all airports.

5. Evidence of Pavement, Drainage, and Lighting Equipment Regular Inspections. Regular inspections to identify potential or existing problem areas at the airport are essential to an effective maintenance program. The facilities at the airport represent a public investment; and regular inspection and maintenance are necessary to maintain the facilities in good condition. Poor maintenance is expensive to correct and may cause a safety problem if not addressed in a timely manner.

E. It is the local airport owner's responsibility to provide the Aviation Division with documentation of compliance with these provisions of the manual. Lack of documentation is reason for the airport to lose points in this area of evaluation.

F. The final evaluation area in the "sponsor responsibility" category is maintenance. The local owners of the airport are responsible for routine maintenance such as cutting the grass, changing light bulbs, maintaining proper drainage, sealing or filling pavement cracks, and refurbishing marking and painting stripes. If regular maintenance is not done, the airport will not receive full points in this category. If maintenance is cited as a problem, the airport will be notified by letter of the problem and the corrective action to be taken. Until the airport corrects the problem, all projects evaluated in the priority system for the airport will lose points.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1512 (August 1998).

§933. Category IV—Special Considerations

A. The first three evaluation categories cover those evaluation areas (project type, facility use, and sponsor compliance) for which all projects prioritized will receive an evaluation score. The "special considerations" category allows projects of special significance to receive additional evaluation points when being prioritized. The items evaluated in this category bear no relationship to one another and thus each project is evaluated with respect to each item to determine if it should receive bonus points in its prioritization score. Exhibit 4 shows the criteria and point values for bonus point evaluation.

B. The first area of evaluation is "special programs". At times, certain improvements at an airport may be mandated by federal or state law and thus require a higher prioritization. Also, as a matter of policy, the Aviation Division may determine that special emphasis should be placed on a certain type of project. All projects of the designated type will receive additional bonus points under these evaluation criteria.

C. Economic development potential is another evaluation area under the "special considerations" category. While it is acknowledged that any construction project generates economic development, there are some projects that are designed to address a specific economic need at the airport or in the community. To receive points in this area, the economic development aspects of the project must be well documented and clearly demonstrate the potential economic impact of the project. Facilities developed to accommodate the aviation needs of a business moving to the community is an example of an economic development type of project. The facilities would have to constitute a major factor in the business' decision to locate in the community. To receive bonus points in this area may require an economic impact study, the cost of which is the responsibility of the airport owner.

D. Commercial air service to a community is an important element in the community's overall economic development. Under the "special considerations" category, projects are evaluated to determine if their primary justification is to maintain or attract commercial air service to the airport. For a project to receive points under this category, it must be directly responsible for affecting commercial air service at the airport. Documentation of the project justification is essential for prioritization rating points to be awarded under this evaluation criteria.

E. The last evaluation criterion under the "special considerations" category is the provision of local matching funds in excess of Aviation Division match requirements. Any project for which local funds are provided will receive two bonus points in this category for every 5 percent contribution of the airport owner up to a total of 20 bonus points for 50 percent matching funds. This is designed to give higher preference to projects that are financially supported by the local owner in excess of that which is required; therefore, no matching funds from other state sources will qualify for bonus points. Commitment for local funding support should be included in the resolution submitted by the local owner requesting assistance from the Aviation Division for the project.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1513 (August 1998).

§935. New Airports

A. An airport that is constructed on a new site presents some different prioritization issues than improvements to existing airports. Generally, a new airport will fall into either of two categories.

1. The first is an airport that is proposed for an area of the state not served by a public airport.

2. The second is a new airport proposed to replace an existing public airport which, for any number of reasons, is not considered a suitable public airport.

B. Prioritization of projects for the development of a new airport requires a process slightly different than that for an existing airport. There are some special considerations that must be made in each of the four prioritization categories.

C. Initially, it must be determined if the project under consideration is for a "new" airport. At some point during its development, a new airport becomes an existing airport. For purposes of the priority process, an airport is considered "new" until land is purchased for the airport, a primary runway is constructed, and an apron for aircraft parking is constructed. This includes clearing of runway approaches. The completion of these elements allows aircraft to operate at the airport and thus, at this point, the airport is no longer considered "new" and future projects are prioritized using the standard prioritization process. Before this point is reached, however, the land acquisition, runway, and apron construction will be prioritized using the following special considerations in each category.

D. Under the "project type" category, new airport projects will be categorized in either of two project type categories. Those new airports that are replacing an existing airport are categorized as upgrade to standards type projects. This type of new airport allows construction of an airport that meets all DOTD design standards and allows for future expansion to meet these standards. It should be noted that land purchased for a new airport is often funded with state funds, but when the FAA begins funding other improvements such as the primary runway, the state is reimbursed for land acquisition costs. If this is the case, land acquisition should be treated as a federally-funded project and prioritized accordingly.

E. New airports constructed in areas of the state not being served by a public airport should be prioritized under the project type "capacity increases" subcategory. These airports are primarily to increase the capacity of the Louisiana public airports system and thus are prioritized in the "capacity increases" subcategory. As previously discussed, land acquisition costs are usually reimbursed by the FAA and these projects should be prioritized accordingly.

F. For the "facility usage" category, the based aircraft and enplanements numbers that determine the points awarded for the new airport project will be those cited in the supporting planning document for the first planning phase. This will usually be the numbers cited for the first year of operation.

G. Under the "sponsor responsibility" category, there are two areas that can be included in the prioritization process.

The presence of height limitation zoning and land use zoning should be determined and points assigned accordingly. Most new airports will not have developed an operations manual for the airport. In cases where the airport has not developed an operations manual, the airport will be awarded five points based on the assumption that the elements of an operations manual will be in place when the airport is opened for operations.

H. In the "special considerations" category, a new airport can be assigned points in the same manner as an existing airport. If an airport is the first public airport in an area, a strong case can be made that the airport should receive bonus points for its economic development potential. The airport represents a totally new mode to the local transportation system and thus should have a significant long-term economic impact on the area served. The remaining bonus point areas can be assigned in the same manner they are assigned for existing airports.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1513 (August 1998).

§937. Prioritization of Projects

A. Once a determination has been made by the Aviation Division that a project is eligible to be included in the prioritization system, the project will be prioritized using the rating system. The preliminary evaluation of the project should provide the information necessary to complete the process. If adequate information is not available, it will be requested before the project is prioritized. Prioritizing a project without sufficient information may cause a project to receive a higher or lower ranking than it deserves. Subsequent questions about why the project received the evaluation score may be difficult to answer without the documentation to support the points assigned in each category.

B. Point values are assigned in each category using the worksheet that is included as Exhibit 5. The worksheet follows the priority rating system and provides the documentation of how the total score for a project was derived. The worksheet is maintained with the project file so that documentation of the value assigned in each category is available.

C. Occasionally, a change in a project or at the airport might occur requiring the point values for a project to be modified. The new values are put on the same worksheet with a note explaining the reasons for the change.

D. As part of the evaluation of the project, the eligibility of the project for federal funding is noted on the worksheet. If federal funds are already committed, this is also included on the worksheet. When the project is entered in the automated priority system, the eligibility or commitment of federal funding for the project is noted.

E. Some projects will have equal scores after they are evaluated. If these projects fall at a point in the ranking list where a break is necessary (funded program versus four-year unfunded program), projects with the same score will be ranked based on the highest score in Category I. The project with the higher score in Category I will be ranked higher. If the projects are tied in Category I, Category III is used to break the

tie and, if still tied, Category II is used, etc. Should the projects still be tied after examining all four categories, the project at the airport with the largest number of based aircraft will be ranked higher.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1514 (August 1998).

§939. Automated Priority Ranking System

After the total evaluation score for a project is determined, it is entered into the automated priority ranking system and its relative ranking is determined. This system automatically ranks projects by descending score in the commercial service airport or general aviation airport priority program as appropriate.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1514 (August 1998).

§941. Program of Projects

A. The lists of projects for commercial service and general aviation airports prioritized by evaluation score represent the program of projects that the Aviation Division will seek to implement through its development program. The actual number of projects from each list that will ultimately be constructed is primarily dependent upon the level of funding that the Aviation Division receives each year.

B. The automated priority system has been designed to allow inclusion of a cost estimate for each project. The estimate is broken down by federal share, state share, and local sponsor share. Since the system is designed to prioritize the use of state monies, the state funds required for a project are the key to developing a program of projects. The automated priority ranking system includes a column that maintains a cumulative total of state funds required for projects as they are listed by priority ranking. The figures in this column are used to determine a program of projects based on the state funds available. For example, if five million dollars are available for commercial service airport projects, a person would look down the cumulative state fund column until \$5,000,000 of project cost has accumulated. All projects above this point will be funded during the time this amount was available.

C. Most projects will require more than one year to design, acquire land (if necessary), and construct. When a project that is programmed to be funded over two or more fiscal years is included in the program, the phase of work (design, construction phase I, construction phase II, etc.) will be noted along with the cost of that phase. Subsequent phases may be shown at the top of the four-year unfunded list. As projects are constructed and more funding becomes available, remaining projects with the highest scores will be placed in the construction program to the extent that funding is available. This group of projects for which funding is available will not be changed until more funds become available. However, projects on the four-year unfunded list do not automatically move up to the funded list in the succeeding fiscal year. Rather, unfunded projects recompile for funding each fiscal year until

they are either funded or dropped from the list after three years. Because needs, cost estimates, airport situation, and other data change regularly, after three years all projects which have not been started are dropped from the program and must be resubmitted with updated information. They will then be reviewed and re-entered into the priority system.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1514 (August 1998).

§943. Projects Eligible for FAA Funding

A. Special consideration for projects that will receive FAA funding is not included in the priority system. The priority system is a listing of the projects in the order that the state considers implementation desirable based on the state's overall aviation development policies. Utilization of the FAA's priorities to set state priorities is inconsistent with a state prioritization process. This does not mean that the state should ignore potential FAA funding in its development program.

B. There are two decisions that the Aviation Division makes when seeking FAA funding for its program. Projects that are planned at National Plan of Integrated Airport Systems (NPIAS) airports and that are types in which FAA will participate are noted. This enables the Aviation Division to present a proposed program of projects to the FAA that are eligible for FAA funding and that reflect state priorities. The Aviation Division then negotiates with the FAA to secure federal funding for top ranked projects. The second consideration for FAA funding is that there will be projects the FAA will fund that do not appear in the implementation program based on priority rankings. Realistically, the Aviation Division cannot reject a project that will receive 90 percent of its funding from the FAA. In these cases, a project that has received a commitment for federal funds is to be automatically included in the list of projects for implementation in the current year. If the current year program is already developed, the project is given top priority in the next year program. Therefore, it is important that airports seeking federal funding for projects that are eligible for matching funds from the aviation program apply for federal funds through the Aviation Division and apply for state matching funds by resolution at the same time.

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1515 (August 1998).

§945. Exhibits

A. Exhibit 1

Exhibit 1	
Category I—Project Type (50% of total score)	
A. Safety—Projects directly affecting operational safety.	
Points	
50	Correction of runway failures severe enough to be an obvious safety problem. Runway friction surface or grooving or other action directly related to safety.

49	Repair of primary runway lighting system or approach lighting system which is not functional and is deemed to be a safety hazard.
48	Obstruction removal which is requiring the displacement of the runway threshold and relocation of runway lighting.
47	Obstruction removal to meet FAA Part 152 clear zone and FAR Part 77 imaginary surface requirements.
46	ARFF vehicles and equipment required at commercial service airports or minimum safety equipment at GA airports. Security fencing to correct a specific safety problem (does not include general perimeter fencing).
45	Safety condition identified by professional evaluation or accident statistics.
B. Preservation of Existing System—Work required to maintain the functional integrity of the existing system. Examples are overlaying of runway, taxiway, or apron; drainage to prevent pavement failure; joint sealing; or pavement rejuvenation.	
40	Completion or continuation of previously approved and funded multi year project
39	Primary runway
38	Taxiway serving primary runway
37	Apron
36	Secondary runway
35	Taxiway serving secondary runway
34	Stub taxiways and taxilanes
33	Primary vehicle access road
32	Nonrevenue-generating vehicle parking
C. Upgrade to Standards—Upgrading of facilities to DOTD or FAA design standards based on current use. (Any project which requires the acquisition of additional land must include the cost of the land and the cost of all services and fees associated with acquiring the land).	
30	Primary runway
29	Primary taxiway
28	Apron
27	Perimeter fencing
26	Secondary runway
25	Secondary taxiway
24	Agricultural loading area
23	Primary vehicle access road
22	Primary vehicle non-revenue generating parking
21	Terminal (not more than 50% of the cost and not to exceed \$25,000 unless matching an FAA grant in which case the state will provide a 10% matching share without a cost ceiling)
20	Other landside items (may not include fuel facilities, hangars, or revenue-generating items and not more than 50% of the cost and not to exceed \$25,000 unless matching an FAA grant in which case the state will provide a 10% matching share without a cost ceiling).
19	Land for noise control or noise control required project and land acquisition in clear zones other than for obstruction removal.

D. Capacity Increases—Improvements to facilitate handling more aircraft or improving operations and improvements designed for the handling of new, larger, or heavier critical aircraft. (Any project which requires the acquisition of additional land must include the cost of the land and the cost of all services and fees associated with acquiring the land).

17	Landing area improvements to handle operations capacity problems such as additional taxiways or a parallel runway.
16	Landing area improvements for larger critical aircraft such as runway lengthening and strengthening.
15	Taxiway construction or strengthening.
14	Apron expansion for number of aircraft capacity reasons.
13	Apron expansion or strengthening because of critical aircraft considerations.
12	Taxiway to new apron or apron construction to open new area of airport.
11	Primary vehicle access road capacity increase (additional lanes or to new area of airport).
10	Primary vehicle nonrevenue-generating parking.
9	New airport construction including runway, taxiway, and apron.
8	Land acquisition for future expansion unrelated to any immediate project needs.

B. Exhibit 2

Exhibit 2	
Category II—Facility Usage (20% of total score)	
Based Aircraft*	Points
100 or more	12
50 to 99	9
20 to 49	6
0 to 19	3
Additional points for Air Carrier and Commercial Service Enplanements**	Points
500,000 or more	8
250,000 to 499,999	6
50,000 to 249,999	4
2,500 to 49,999 ***	2
If noncommercial reliever airport	2

* Taken from latest 5010 Inspection
 ** Taken from Annual FAA Enplanement Data
 *** Less than 2,500 enplanement do not receive points

C. Exhibit 3

Exhibit 3	
Category III—Sponsor Compliance (39% of total score)	Points
Height Limitation Zoning	4
Land Use Zoning	4
Operations Manual*	2
Pavement Maintenance Plan**	5
Annual Part 139 or 5010 Inspection***	10
Airport Maintenance other than pavement	5

* Operations manual points awarded one half point each for:
 Publishing of Traffic Pattern
 Approved Lease Agreements with Tenants
 Uniform Fuel Flowage Fee
 NOTAM Filing Procedure
 ** Documentation of implementation is required. Points may be awarded on a sliding scale relative to quality of the plan and degree of implementation.
 *** Points are not awarded based solely on the number of deficiencies. Also taken into consideration are the timeliness and appropriateness of corrective actions. Points may be awarded on a sliding scale relative to the progress toward correcting deficiencies.

D. Exhibit 4

Exhibit 4	
Category IV—Special Considerations	Points
Designated as Special Program*	15
Economic Development Potential**	10
Maintain or Attract Commercial Service	10
Local Funding in Excess of Requirements***	2 - 20

* Special Program—Certain types of projects mandated by Federal or State law or identified in a policy decision by DOTD. For example, if the EPA requires a certain kind of wash down facility, it could be given added priority with bonus points. If DOTD wishes to place emphasis on a particular type of project, e.g., hazard removal around the state, these types of projects could receive Special Program points.
 ** Economic Development— Clearly demonstrated impact on economic development in an industrial airpark or around the airport locale. For example, a taxiway to open industrial airpark access would get bonus points, but a taxiway to a T-Hangar area would not. A runway project to accommodate corporate aircraft would need to be thoroughly documented that it was a major factor in the location of the business. To receive bonus points in this category an economic impact study may be required, the cost of which is the responsibility of the airport owner.
 *** Two points will be awarded for each 5% of matching funds provided by the airport owner up to a maximum of 20 points (50% matching funds). Funds may not come from other state sources.

E. Exhibit 5

Project Priority Evaluation Worksheet

Project Number _____ Date Evaluated _____
 Airport Name _____
 Airport Code _____
 Description of Work _____

Category I: Project Type	Score
Safety	_____
Preservation of Existing System	_____
Upgrade to Standards	_____
Capacity Increases	_____
Total	_____

Category II: Facility Usage	
Based Aircraft	_____
Enplanements	_____
Reliever Airport	_____
Total	_____

Category III: Sponsor Responsibility	
Height Limitation Zoning	_____
Land Use Zoning	_____
Operations Manual Use	_____
Pavement Maintenance	_____
Part 139/5010 Inspection	_____
Total	_____

Category IV: Special Considerations	
Special Program	_____
Economic Development	_____
Commercial Service	_____
Local Funding	_____
Total	_____

PROJECT TOTAL EVALUATION SCORE **TOTAL** _____

AUTHORITY NOTE: Promulgated in accordance with SCR 67, 1997 and R.S. 2:6.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Aviation, LR 16:583 (June 1990), amended LR 24:1515 (August 1998).

Frank M. Denton
Secretary

9808#017

RULE

**Department of Transportation and Development
Weights and Standards Section**

Shifting of Vehicle Loads
(LAC 73:I.103 and 1103)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development, Weights and Standards Section hereby amends LAC 73:I.103 and 1103 in accordance with R.S. 32:2 and 32:386.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 1. Policy and Procedures for Weight Enforcement Field Personnel

§103. Field Procedures for Enforcing Weight and Size Limitations

* * *

B. Procedures for Enforcing the Weight Law and Impounding Vehicles

1. Shifting the Load. In order to conform with the policy of Louisiana State Police (Mobile Weight Enforcement Police), drivers will not be allowed to shift the loads carried by their vehicles after being weighed in order to qualify for a second weighing and a lesser fine amount. The loads may be required to be shifted by weight enforcement police after weighing and before proceeding.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 and 32:386.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:28 (February 1979), amended by the Weights and Standards Section, LR 24:1517 (August 1998).

Chapter 11. Enforcement Procedures and Penalties

§1103. Legal Limitation Violations

A. In order to conform with the policy of Louisiana State Police (Mobile Weight Enforcement Police), drivers will not be allowed to shift the loads carried by their vehicles after being weighed in order to qualify for a second weighing and a lesser fine amount. The loads may be required to be shifted by weight enforcement police after weighing and before proceeding.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 and 32:386.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Weights and Standards Section, LR 22:120 (February 1996), LR 24:1517 (August 1998).

Frank M. Denton
Secretary

9808#018

RULE

**Department of Treasury
Board of Review of Deputy Sheriffs' Supplemental Pay**

Supplemental Pay Requirements and Board Operations
(LAC 55:XIX.101)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Review of Deputy Sheriffs' Supplemental Pay Program

("Board of Review") has amended the following rule of the Board of Review of Deputy Sheriffs' Supplemental Pay.

The Board of Review approved a motion, at its meeting on March 5, 1997, to amend the rule for the administration and regulation of the Deputy Sheriffs' Supplemental Pay Program.

The purpose of this rule change is to recognize, within the rule, the "Sheriff's Guide to Departmental Policies and Statutory Specifications for the Administration of the Supplemental Pay Program" ("the guide") which was adopted by the Board of Review of Deputy Sheriffs' Supplemental Pay.

The guide had been printed and sent to the sheriffs in October 1994, in response to their request for a working guide for the day-to-day administration of the Deputy Sheriffs' Supplemental Pay Program.

The guide contains the statutory requirements for the Deputy Sheriffs' Supplemental Pay Program and the administrative requirements of the Board of Review of Deputy Sheriffs' Supplemental Pay.

Title 55

PUBLIC SAFETY

Part XIX. Deputy Sheriffs' Supplemental Pay

Chapter 1. General Provisions

§101. Supplemental Pay Requirements and Board Operations

A. "The Sheriff's Guide to Departmental Policies and Statutory Specifications for the Administration of the Supplemental Pay Program" is hereby identified as the official guide to the administration of the Deputy Sheriffs' Supplemental Pay Program. Revisions to "The Sheriff's Guide" shall be approved by the Board of Review.

B. - D. ...

E. The board shall have semiannual regular meetings each fiscal year, and the chairman may call additional regular meetings, as required. The meetings will be held in the office of the state treasurer.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.8.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Review of Deputy Sheriffs' Supplemental Pay, LR 6:517 (August 1980), amended LR 24:1518 (August 1998).

Carl V. Berthelot
First Assistant State Treasurer

9808#019

RULE

Department of Treasury Office of the Treasurer

State Tax Revenue Limit (LAC 71:I.301-305)

In accordance with the legislature's directive contained in R.S. 47:5010, the state treasurer, acting through the Department of the Treasury, has adopted the following rule to establish the value of the State Tax Revenue Limit; to define "self-generated funds" as that term is used in R.S. 47:5003, in

order to permit the annual computation and declaration by the Department of the Treasury of state tax revenue for each fiscal year; and to provide for the administration of the Tax Surplus Fund provided by R.S. 47:5008.

Title 71

TREASURY

Part I. Treasurer

Chapter 3. State Tax Revenue Limit

§301. Determination of the State Tax Revenue Limit

A. Basis of Calculation of State Tax Revenue Limit. Pursuant to 47:5002, the state tax revenue limit is the percentage formed by dividing state tax revenue for the 1978-79 fiscal year by state personal income for 1977. The State Tax Revenue Limit shall be rounded to the nearest tenth of 1 percent.

1. The state tax revenue for the 1978-79 fiscal year is \$1,755,114,254.11.

2. The state personal income for 1977 is \$23,187,000,000.

B. Value for State Tax Revenue Limit. The State Tax Revenue Limit is hereby established as 7.6 percent.

C. Definition of Self-Generated Funds to Permit Determination of State Tax Revenue for a Fiscal Year

1. *Self-Generated Funds*—for purposes of calculation of state tax revenue:

a. those monies the state receives which are classified by the department receiving the funds in "means of financing" group codes 05, 06, and 11 and in the following object codes:

- i. 1435 Interest on Investments;
- ii. 1440 Interest Income 8(g) Settlement;
- iii. 1445 Gain from Sales of Securities;
- iv. 1450 Loss from Sales of Securities;
- v. 1455 Dividends on Investments;
- vi. 1460 Other—Investment Income;
- vii. 1730 Tuition—Vo-Techs;
- viii. 1735 Ineligible Patient Fees;
- ix. 1775 Sales to Non-State Agencies—Merch & Comm;

x. 1780 Sales to Non-State Agencies—AEF;

xi. 1785 Sales to Non-State Agencies—Services;

xii. 1790 Sales to Non-State Agencies—Timber;

xiii. 1795 Miscellaneous Receipts—Conversion of Property.

b. this listing shall be modified, as appropriate, to reflect changes made to self-generated object codes in the State's Chart of Accounts which is maintained by the Office of Statewide Reporting and Accounting Policy within the Division of Administration;

c. at the end of each fiscal year, no later than August 30, the State Treasurer shall submit to the House Appropriations Committee and the Senate Finance Committee (State Treasury oversight committees) a listing of self-generated object codes that are to be utilized in the determination of state tax revenue for the fiscal year previously ended.

2. *State Tax Revenue*—as defined by R.S. 47:5003, excludes federal funds, royalties, interagency transfers, proceeds from the First Use Tax, severance taxes, and self-generated funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:5010.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 24:1518 (August 1998).

§303. Declaration of Maximum State Tax Revenue

Within six months after the close of the previous fiscal year, the state treasurer shall declare maximum state tax revenue for the year then ended, by a letter addressed to the commissioner of Administration, the president of the Senate and the speaker of the House of Representatives of the Louisiana State Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:5010.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 24:1519 (August 1998).

§305. Administration of Tax Surplus Fund

Monies classified to the Tax Surplus Fund shall be invested in the same manner as monies classified to the state general fund. Disbursements from the Tax Surplus Fund shall only be made pursuant to an appropriation by the legislature for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:5010.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Office of the Treasurer, LR 24:1519 (August 1998).

Carl V. Berthelot
First Assistant State Treasurer

9808#020

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Fisherman's Sales
Card (LAC 76:VII.201 and 203)

The Wildlife and Fisheries Commission does hereby amend a rule (LAC 76:VII.201) implementing dealer receipt forms, and repeal a rule (LAC 76:VII.203) implementing the commercial fisherman's sales report form. Authority for adoption of the rule is included in R.S. 56:303.7(B), 56:306.4(E) and 56:345.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 2. General Provisions

§201. Commercial Fisherman's Sales Card; Dealer Receipt Form Design and Use

A. The "Commercial Fisherman's Sales Card" shall be provided by the department in lieu of the commercial fisherman's license. The card will be embossed with the following information:

1. commercial fisherman's name;
2. commercial license number;
3. commercial fisherman's social security number;
4. expiration date;
5. residency status.

B. The card shall be presented by the commercial fisherman to the dealer at the time of sale or transfer of possession of the catch.

C. The dealer receipt form shall be a three-part numbered form provided by the department. The dealer receipt form shall be completed when fish are purchased or received from commercial fishermen. The receipt form shall represent the actual transaction between the commercial fisherman and the dealer. The dealer shall fill out the receipt form in its entirety containing all of the information required in §201.D and E with the exception of the commercial fisherman's signature that shall be recorded by the fisherman. The "Dealer's Copy" of the receipt shall be maintained on file at the dealer's place of business or where the fish are received. The dealer shall maintain the receipts for a period of three years. The "Department Copy" portion of the dealer receipt form shall be returned to the department by the dealer by the tenth of each month to include purchases made during the previous month. Along with the receipts for each month, the dealer shall submit a "Monthly Submission Sheet" provided by the department that certifies that the transactions submitted represent all of the transactions by that dealer from commercial fishermen for that particular month. The "Monthly Submission Sheet" shall fulfill the reporting requirements in R.S. 56:345. The dealer shall mail completed receipt forms to a predetermined address designated by the department. Dealers are responsible for obtaining dealer receipt forms from the department by calling a predetermined phone number.

D. The commercial fisherman is responsible for providing the following information to the dealer at the time of sale or transfer of possession of the catch:

1. commercial fisherman's name;
2. commercial fisherman's license number;
3. information on commercial gear used;
4. information on vessel used;
5. information on location fished;
6. permit numbers for species requiring a permit to harvest;
7. commercial fisherman's signature;
8. duration of trip.

E. The dealer is responsible for recording on the dealer receipt form that information provided by the commercial fisherman in §201.D and is responsible for the following information at the time of sale or transfer of possession of the catch:

1. dealer's name;
2. dealer's license number;
3. commercial fisherman's name;
4. commercial fisherman's license number;
5. species purchased;
6. quantity and units of each species purchased;
7. size and condition of each species purchased;
8. transaction date;
9. unit price of each species purchased;
10. dealer's signature;
11. permit numbers for species requiring a permit to harvest;

12. commercial fisherman's signature.

F. Dealers may designate an agent to sign the dealer receipt form for them however, in all cases the dealer shall remain responsible for the actions of their agent.

G. All records and receipt forms shall be available and produced upon demand to any duly authorized agent of the Department of Wildlife and Fisheries Law Enforcement Division or department auditor.

H. Effective date of §201.A and B is upon publication in the *Louisiana Register*. Effective date for §201.C-G will be January 1, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.7(B), 56:306.4(E) and 56:345.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:81 (January 1992), repromulgated LR 18:198 (February 1992), amended LR 20:323 (March 1994), amended by the Office of Fisheries, LR 21:477 (May 1995), LR 22:373 (May 1996), amended by the Wildlife and Fisheries Commission, LR 24:1519 (August 1998).

§203. Commercial Fisherman's Sales Report Form

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:345(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:82 (January 1992), repromulgated LR 18:198 (February 1992), amended LR 20:323 (March 1994), amended by the Office of Fisheries, LR 21:477 (May 1995), LR 22:373 (May 1996), repealed by the Wildlife and Fisheries Commission, LR 24:1520 (August 1998).

Thomas M. Gattle, Jr.
Chairman

9808#072

RULE

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

Netting Prohibition—John K. Kelly-Grand
Bayou Reservoir (LAC 76:VII.185)

The Wildlife and Fisheries Commission hereby adopts a rule prohibiting commercial netting in the John K. Kelly-Grand Bayou Reservoir.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§185. Netting Prohibition—John K. Kelly-Grand Bayou Reservoir

The Louisiana Wildlife and Fisheries Commission hereby prohibits the possession and/or use of commercial nets, including, but not limited to, gill nets, trammel nets, flagg nets, hoop nets, wire nets and fish seines in John K. Kelly-Grand Bayou Reservoir located in Red River Parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:1520 (August 1998).

Thomas M. Gattle, Jr.
Chairman

9808#074

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Boll Weevil Eradication (LAC 7:XV.314 and 321)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry and the Louisiana Boll Weevil Eradication Commission, proposes to adopt and amend LAC 7:XV.314 and 321 under the authority of R.S. 3:1609 and R.S. 3:1613, for the purpose of creating the Louisiana Eradication Zone and fee payment in the Boll Weevil Eradication Program.

No preamble concerning the proposed rules is available.

The full text of this proposed rule can be viewed in the emergency rule section of this issue of the *Louisiana Register*.

All interested persons may submit written comments on the proposed amendments by the end of business on September 30, 1998 to Mr. John Andries, Louisiana Department of Agriculture and Forestry and the Louisiana Boll Weevil Eradication Commission at 5825 Florida Boulevard, Baton Rouge, Louisiana 70806, phone (504) 922-0725.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Boll Weevil Eradication

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

The purpose of this regulation is to establish a program for Boll Weevil eradication in all areas of Louisiana except the Red River Eradication Zone. Following the passage of a referendum, the cost to state governmental units to implement the program is an estimated \$95,819,000 over a five year period. The cost to establish and operate the program will be paid half from producer assessments (agency self generated funds) and half from statutorily dedicated funds. Also, some federal funding will be obtained, if available, to help offset some of the cost of the program. The estimated cost of implementation for FY 98-99 is \$5,025,650 and will be paid from statutorily dedicated funds. In subsequent fiscal years, the cost will be paid from both statutorily dedicated funds and producer assessments.

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

The estimated effect on revenue collections of state governmental units is \$48,000,000 over a five-year period. This estimate is based on a \$75 per acre assessment over the five

year lifetime of the program and assumes an average of approximately 640,000 acres of cotton each year. The assessments will be collected beginning in FY 99-00, generating an estimated \$7,500,000. In FY 00-01, the amount of cotton planted is expected to slightly increase, resulting in an estimated revenue of \$9,000,000.

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

The estimated cost to directly affected persons is \$48,000,000 over a five-year period. This estimate is based on a \$75 per acre assessment over the five year lifetime of the program and assumes an average of approximately 640,000 acres of cotton each year. The estimated benefits to directly affected persons include average cotton yield increasing, cotton insecticide use decreasing, cotton acreage increasing, average cotton farm income rising, and the possibility of new cotton gins becoming established.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition within the state, but will facilitate competition with out of state producers. A maximum of 700 new jobs will be created at the time the program is in existence. These will be a combination of full-time year-round, full-time seasonal, and part-time jobs. The number of jobs will decrease over the life of the program.

Bob Odom
Commissioner
9808#064

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Alternative Dispute Resolution—Mediation

The State Civil Service Commission will hold a public hearing on September 2, 1998, to consider the following rule proposals. The hearing will begin at 9 a.m. in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana. The following will be considered at the meeting.

Adopt Rule 13.50

13.50 Alternative Dispute Resolution; Pilot Program

(a) The Appeals Division is authorized to pilot an Alternative Dispute Resolution Program and to establish its guidelines. The Appeals Division will submit the guidelines to the commission for its approval.

(b) The purpose of the Alternative Dispute Resolution Program is to encourage the resolution of employment disputes without traditional adversarial hearings.

Explanation

This rule will enable the Appeals Division to pilot Alternative Dispute Resolution programs and to establish guidelines for the pilot programs. For oversight purposes, the rule requires the guidelines to be submitted to the commission for its approval.

The goal of any Alternative Dispute Resolution program is to resolve employment disputes without resorting to traditional adversarial hearings. Instead, appeals will be referred to mediation, which is the type of Alternative Dispute Resolution that the Appeals Division has chosen to begin the pilot program. Mediation is simply assisted settlement negotiation. Traditional hearings are emotionally draining and can damage an ongoing employment relationship. The sad reality is that co-workers and supervisors who testify against each other one day cannot function as an effective working group the next day.

A related goal of an Alternative Dispute Resolution program is to eliminate or reduce the need for witnesses at hearings, which would mean that few, if any, people have to disrupt their schedules. Traditional hearings are expensive and time consuming for a large number of people—many of whom are not parties to the dispute. The greatest expense is the cost of having witnesses (mostly state employees) appear at the hearing. The state loses the work that would have been performed if the witnesses had not been at a hearing and often has to pay overtime to provide coverage for employees attending hearings.

The guidelines will not be adopted as rules at this time. A pilot program will allow the Appeals Division to determine how well the guidelines work in practice and to make prudent changes. With the help of a pilot program, the Appeals Division can later recommend rules that work.

Adopt Rule 13.51

13.51 Mediation

(a) The commission or a referee may direct the attorneys and the parties in an appeal to participate in mediation to attempt to resolve the appeal before a hearing.

(b) A member of the commission, a referee, or anyone appointed by the commission or by the chief referee may conduct the mediation. The person who conducts the mediation must meet the mediator qualifications established by the Appeals Division.

(c) The mediator's role is to facilitate communication among the parties at the mediation. The mediator will not later influence, participate in, or make any decision on any issue in the appeal. The mediator will not issue any orders or sanctions pertaining to the mediation or the appeal.

(d) Before the mediation, the attorneys must confer with their clients about the clients' goals and expectations from settlement. The attorneys and every person whose authority is necessary for settlement must appear at the mediation (or, at the discretion of the mediator, be available by telephone), on time and prepared to negotiate.

(e) The commission, the chief referee, or the referee presiding over the appeal may order the attorneys and/or the parties to bring to (or exchange before) the mediation a witness and exhibit list, relevant documents and/or exhibits, a proposed settlement offer, and anything else that will aid in resolving the appeal.

(f) The mediation will not be open to the public and will be confidential as established in the guidelines.

(g) If anyone fails to comply with an order pertaining to the mediation, the commission or the referee presiding over the appeal may order appropriate sanctions. Those sanctions may include punishing for contempt, dismissing the appeal or portions of it, reversing the action appealed or portions of it, and assessing costs and attorney's fees against the noncomplying person.

Explanation

This rule provides the foundation for a successful mediation program. Paragraph (a) allows parties and their attorneys to be ordered to participate in mediation, and Paragraph (g) allows the person presiding over the case (NOT the mediator) to sanction anyone who does not comply with an order pertaining to mediation. To evaluate the pilot program, the Appeals Division needs a random sample of cases, which would not result if the program were piloted on a purely voluntary basis or lacked sanctions for noncompliance.

Paragraph (b) establishes who may mediate and who may appoint a mediator, and Paragraph (c) dictates that the mediator is a facilitator, not a decision-maker. For the program to succeed, the parties must have confidence in the mediator's competence and neutrality.

Paragraph (d) requires attorneys and parties to be prepared and to have someone with settlement authority available at the mediation, and Paragraph (e) allows the person presiding over the case (NOT the mediator) to order production and/or exchange of documents and exhibits. Mediation can only succeed if the parties/attorneys are prepared and have the documents needed to evaluate their case and persons with settlement authority are available.

Paragraph (f) provides that the mediation is confidential. To achieve candor during the mediation process, the parties must be assured that nothing said in the mediation will ever be "held against them."

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the director of State Civil Service at Box 94111, Baton Rouge, LA 70804-9111. If any accommodations are needed, notify this office prior to the hearing.

Allen H. Reynolds
Director

9808#073

NOTICE OF INTENT

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 proposes to adopt 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 actives 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:

Persons interested in making comments relative to these proposals may do so by writing to the director of State Civil Service, Box 94111, Baton Rouge, LA 70804-9111.

Allen H. Reynolds
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commission Member Election—Classified
Employee**

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

The only costs associated with implementing these rules are the costs of publishing them during Fiscal Year 1998-1999, at a total cost of \$160. There are no savings to state or local governmental units.

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

There will be no effect on revenue collections 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 cost and/or economic benefit to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Allen H. Reynolds
Director
9808#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of State Museum**

Museum Admission Fees (LAC 25:III.105)

The Department of Culture, Recreation and Tourism, Office of State Museum, proposes to amend the following rule relative to admission fees to State Museum buildings, per authority of R.S. 25:242. The purpose of the amendment is to align admission fees for State Museum buildings to that of similar types of activities or attractions in the state. Branch museums are included due to recent legislation that adds branch museums in Patterson and Natchitoches, Louisiana.

Title 25

CULTURAL RESOURCES

Part III. Office of State Museum

Chapter 1. Public Access

§105. Admissions Fees

A. Admission fees for single admissions to the Louisiana State Museum buildings are as indicated:

Building	Location	Adult Single Building	Student, Senior Citizen, Active Military, Single Building	12 years of Age and Under
Cabildo with Arsenal	New Orleans	\$5	\$4	Free
Presbytere	New Orleans	5	4	Free
Old U.S. Mint	New Orleans	5	4	Free
1850 House	New Orleans	3	2	Free
Madame John's Legacy	New Orleans	3	2	Free
Wedell-Williams Aviation Museum	Patterson Branch	3	2	Free
Old Courthouse	Natchitoches Bridge	3	2	Free

B. Combination admissions may be purchased by selecting two or more buildings, to which a 20 percent discount will be applied. Visitor may select from any New Orleans listings.

C. Special or group tour rates and requirements for Louisiana State Museum buildings are as indicated:

1. There must be a minimum of 15 persons in the group or tour which are old enough to require an admissions fee.

2. Groups/tours should make advance arrangements by calling the following telephone numbers:

New Orleans (504) 568-6968 or 1-800-568-6968
Patterson (504) 395-7067
Natchitoches (318) 357-2270

3. Groups/tours which meet the criteria in §105.C.1 will be discounted by 20 percent from the appropriate single building rate.

D. School Groups

1. Must be affiliated with a recognized public or private school system.

2. Must be accompanied by at least one chaperon per every 10 children as a minimum, these chaperons will be admitted free, up to one per every five children. Additional chaperons will be required to pay the admission fee.

3. Prefer advance arrangements be made to accommodate scheduling. For advance arrangements, call:

New Orleans (504) 568-6968 or 1-800-568-6968
Patterson (504) 395-7067
Natchitoches (318) 357-2270

4. School groups admitted free when criteria in §105.D.1 and 2 are met.

E. Visitors may choose from any/all museum buildings which are open to the public on the date of the visit.

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 12:89 (February 1986), amended LR 13:85 (February 1987), LR 20:784 (June 1994), LR 24:

Written comments may be addressed to James F. Sefcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Box 2448, New Orleans, LA 70176-2448.

James F. Sefcik
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Museum Admission Fees**

- 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 rules reflect building admission fees for the Wedell Williams Aviation Museum in Patterson and the Old Courthouse Museum in Natchitoches. The proposed rules also realign all State Museum building admission fees to that of similar attractions within the state.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule change, effective November 20, 1998, is anticipated to generate an additional \$44,597 in self-generated revenue in FY99 and \$89,190 in FY 00. Admission fees for the larger State Museum buildings (Cabildo with Arsenal, Presbytere and Old U.S. Mint) will be increased from \$4 to \$5 per visitor and admission fees for Wedell Williams will be increased from \$2 to \$3. Admission fees for the smaller State Museum buildings (1850 House and Madame John's Legacy) will be decreased from \$4 to \$3 per visitor. The \$3 admission fee for the newly acquired Old Courthouse Museum will be additional self-generated revenue for the agency.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Individual patrons/visitors will pay an additional \$1 for admission to the Cabildo, Presbytere, Old U.S. Mint and Wedell Williams. Individual patrons/visitors will pay \$1 less for admission to 1850 House and Madame John's Legacy.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Since this rule change will bring the State Museum admissions fee structure in line with other similar attractions throughout the state, no effect is expected on competition and employment.

James F. Sefcik
Assistant Secretary
9808#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of State Museum**

Museum Facility Rental (LAC 25:III.103)

The Department of Culture, Recreation and Tourism, Office of State Museum proposes to amend the following rule relative

to building rental fees for State Museum buildings, per authority of R.S. 25:242. The purpose of the amendment is to adjust and align building rental use fees for State Museum buildings to that of similar type and size buildings housing the same types of activities in the area. Branch museums in Patterson, Louisiana and Natchitoches, Louisiana are included due to recent legislation which added them to the State Museum.

**Title 25
CULTURAL RESOURCES**

Part III. Office of State Museum

Chapter 1. Public Access

§103. Building Rental Policy

The Louisiana State Museum is responsible for the preservation and maintenance of the historic buildings placed in its care and the irreplaceable collections items contained within these buildings. In order to meet this responsibility, the Board of Directors of the Louisiana State Museum has adopted the following policy for use of the Museum's facilities for functions or events not sponsored by the Louisiana State Museum.

- 1. Requests for Usage. Requests for the use of State Museum buildings will be considered from:
 - a. nonprofit organizations with purposes similar to the educational and historical museum purposes of the Louisiana State Museum;
 - b. official governmental agencies for governmental functions or events;
 - c. groups or companies whose proposed usage does not involve merchandising or political promotion or fundraising and whose usage is, in the opinion of the Museum Board of Directors, not in conflict with the purpose of the Louisiana State Museum. Certain types of parties, such as wedding receptions, retirement parties and private individual parties are usually of a nature that could cause damage to the Museum buildings and/or the irreplaceable collections items within the buildings, therefore these types of functions/events will normally not be approved.
- 2. Procedures
 - a. Requests will be considered from:
 - i. eligible organizations/agencies/groups/companies for receptions and similar functions numbering no more than 500 persons and occurring during nonpublic hours (after 5:30 p.m.);
 - ii. eligible organizations/agencies/groups/companies for business meetings, lectures, and/or slide presentations numbering no more than 200 persons and occurring during nonpublic hours;
 - iii. eligible organizations/agencies, groups for business meetings, lectures and slide presentations numbering no more than 100 persons and occurring during public hours.
 - b. The maximum capacity for the State Museum buildings is as indicated:

Building	Capacity Using Entire Building
Cabildo	500 persons
Presbytere	500 persons

Old U.S. Mint	500 persons
Madame John's Legacy	200 persons
The Arsenal	200 persons
Wedell-Williams Aviation Museum	200 persons
Natchitoches Old Courthouse Museum	200 persons

c. The director of the State Museum is authorized to approve usage of museum buildings within the provisions of this policy, in addition to all museum-sponsored programs/functions/activities.

d. Requests for usage of the buildings that do not clearly come within this policy will be submitted to the State Museum Board of Directors, Executive Committee for a recommendation for final action by the Board of Directors.

e. The Museum Board of Directors will deny an application if, in the board's opinion, the proposed usage would endanger the museum's building and/or collections, or interfere with its exhibitions and/or other programs/activities.

f. The Museum Board of Directors may waive the donation portion when the board determines that to do so would be in the best interest of the museum. However, the base service charge fees will not be waived for non-museum functions.

g. The host organization must make arrangements with the caterer of their choice, however, the museum reserves the right to reject caterers that do not comply with the museum's instructions concerning proper care of Museum facilities. The museum does not provide or recommend catering services.

h. All building usage requests must be submitted in writing (at least 30 days prior to the date of the function is preferred) to allow for proper planning, coordination, and completion of all required paperwork, including but not limited to the required written agreement.

i. All rentals will be based on a written agreement which will specify all costs and fees, arrangement requirements, and the specific space to be used in the specified building. Certain spaces in each building may be designated as being not available for rental use. The agreement must be completed and signed by both the designated representative of the museum and the renting organization/group, at least 10 days prior to the date of the function.

j. The base service charge fees are established based on the costs of all security, custodial, utilities, and administrative support required to service previous functions of the same size.

Note: The State Museum may, at its discretion, make additional charges based on the nature of the requested function and/or additional requirements, as agreed upon. Such additional charges will be included in the written agreement.

k. The museum will not remove collections/ exhibition items to accommodate the host organization.

l. Smoking is prohibited in all museum buildings.

m. The host organization/agency will designate an authorized representative to be present at the function and to have decision-making authority. This representative will be responsible for all coordination with the State Museum.

n. If, after the completion of the function, the actual number of persons in attendance exceeded the planned number, or the time and space used was greater than planned, the host organization will be billed for the additional fees in accordance with the provisions of this policy.

o. A deposit of not less than 50 percent of the total indicated in the written agreement will be paid by the host organization to the museum at least one week prior to the date of the function. The balance and any additional charges required will be payable upon billing by the museum.

p. Host organizations will be charged the total costs involved in any repairs necessary to the museum building, collections, or exhibitions that are the result of the function. These charges will be in addition to all other charges and fees and will be payable immediately.

q. A function which requests the closing of any portion of the museum building prior to its normal closing time will be charged an additional \$250 per hour for the period closed. This request must be agreed to in advance by the museum director and be in the written agreement, otherwise it will be considered as disapproval of the request.

r. The museum does not provide special equipment or tables for a sit-down type dinner or other after hours events.

3. Rates. Established rates apply to the buildings as indicated. Only buildings that are open to the public and/or available for use at the time of the request will be considered.

a. Donation. All applicants eligible under §103.A.1.c (except those requesting use of space for business meetings, lectures, or slide presentations) will donate a gift to the Louisiana Museum Foundation fund designated for use by the Louisiana State Museum for endowment, education, acquisition, publications, conservation and building function support purposes. Expenditure of these funds generated by these donations shall be subject to approval by the Joint Legislative Committee on the Budget, prior to such expenditures. Donations will be in accordance with the following schedule:

Location	Building	Rate (3 hours)	Each Additional Hour
New Orleans	Cabildo	\$4,000	\$1,000
New Orleans	Presbytere	4,000	1,000
New Orleans	Old U.S. Mint	3,000	1,000
New Orleans	Arsenal	1,500	500
New Orleans	Madame John's Legacy	1,500	500
Patterson	Wedell-Williams Aviation Museum	1,500	500
Natchitoches	Old Courthouse Museum	1,500	500

Note: Time will be rounded to the next quarter hour for determination of donation requirements above the initial three-hour gift rate.

b. Base Service Charge Fees—All Buildings

i. Business meetings, lectures, slide presentations:

(a). 9 a.m. - 5 p.m., maximum 100 persons, 1 - 4 hours, \$100; 4 - 8 hours, \$200.

(b). After 5 p.m., maximum 200 persons;

Guests	1st Hour	Each Additional Hour
1 - 100	\$200	\$100
101 - 200	300	150

Note: Minimum of one hour for business meetings, lectures, slide presentation, both §103.A.3.b.i.(a) and (b) above.

An additional cleaning and repair fee of \$100 during public hours and \$300 during nonpublic hours will be charged for costs involved in preparation and post-function requirements.

ii. Receptions and Similar Functions. After 5 p.m., maximum 500 persons (see building capacities above), minimum of one hour:

Guests	1st Hour	Each Additional Hour
1 - 200	\$300	\$150
201 - 300	400 (both floors)	200
301 - 500	450 (both floors)	300

An additional cleaning repair fee of \$300 will be charged for costs involved in preparation and post-function responsibilities.

iii. Sit-Down Dinner. After 5 p.m., maximum 75 persons:

Guests	1st Hour	Each Additional Hour
1 - 25	\$200	\$100
25 - 50	400	200
51 - 75	600	300

An additional cleaning repair fee of \$500 will be charged for costs involved in preparation and post-function requirements.

All sit-down dinners must be catered to include waiters serving dinners to each table. The ratio of waiters to diners must be at least 1 to 15.

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 11:683 (July 1985), amended LR 13:83 (February 1987), LR 16:295 (April 1990), LR 20:783 (July 1994), LR 24:

Written comments may be addressed to James F. Sefcik, Assistant Secretary, Department of Culture, Recreation and Tourism, Box 2448, New Orleans, LA 70176-2448.

James F. Sefcik
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Museum Facility Rental

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 rules establish rental rates for Wedell Williams Aviation Museum in Patterson and the Old Courthouse in Natchitoches. Rental rates are also changed for business meetings, receptions, and sit-down dinners held in state museum buildings. The proposed rules align current rental fees with those of similar attractions in the area and adjust rates according to the size of the buildings.

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

This rule change, effective November 20, 1998, is anticipated to generate an additional \$5,000 in self-generated revenue in FY/99 and \$10,000 in FY/00. Rental rates are increased for the Presbytere (\$3,000 to \$4,000) and the Old U.S. Mint (\$2,500 to \$3,000). A \$1,500 rental rate is established for Wedell-Williams and the Old Courthouse. The increase in revenue is based on an estimated 10 percent increase in the rental of state museum buildings in New Orleans and at least one rental per quarter in each branch museum.

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

Persons/organizations renting museum buildings will be the only one affected. They will be paying rates more in line with other similar buildings with similar activities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rates will make the museum more competitive with similar nonprofit organizations of similar activity.

James F. Sefcik
Assistant Secretary
9808#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
ACT Deadline (LAC 28:IV.301, 703, and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the Tuition Opportunity Program for Students (R.S. 17:3048.1) program rules.

The revision is necessary to provide a one-time extension of the deadline for completing the ACT test to the national test date scheduled in October, 1998 for those students who failed to take the test prior to their high school graduation date. Failure to provide this exception would have an adverse impact on the financial welfare of affected students and the financial condition of their families by denying the students a reasonable opportunity to establish their program eligibility. Such students may not have been aware of the requirement to take the ACT test by the date of their high school graduation in order to qualify for the TOPS program. The rules are amended as follows:

**Title 28
EDUCATION**

Part IV. 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 ("ACT") taken on only one national test date (or a special test date specifically authorized by ACT for a Disabled Student or Exceptional Child) prior to the date of high school graduation or an equivalent score, as determined by the comparison tables used by LOSFA, on the Scholastic Aptitude Test (SAT) taken prior to the date of high school graduation. ACT test scores which are unofficial, including "residual" test scores, or composites of scores from more than one test date, 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.

* * *

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

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

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

* * *

6. have achieved an ACT score, as defined in §301, of at least:

a. ...

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

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

* * *

7. have achieved an ACT score, as defined in §301, of at least:

a. ...

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

Interested persons may submit written comments on the proposed revision until 4:30 p.m., September 20, 1998, at the following address: Jack L. Guinn, Executive Director, Office of 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
(TOPS) ACT Deadline**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated costs to implement this rule change include the routine charge to publish by the Louisiana Register of \$120 for publication of the declaration of emergency, the notice of intent, and the final rule; staff man-hour costs to program the changes of \$3,000; and cost for an estimated 100 additional scholarship awards of \$220,900 in FY 1998-99, \$147,893 in FY 1999-2000, and \$137,096 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)
Since possible Tuition Opportunity Program for Students (TOPS) applicants may not have been generally aware of the requirement to take the ACT test prior to their high school graduation date to establish their eligibility, this rule revision will enable such students to qualify for the program.
- 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
9808#046

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Emission Guidelines for MSW Landfills and
Hospital/Medical/Infectious Waste Incinerators
(LAC 33:III.3003)(AQ178)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.3003 (AQ178).

This proposed rule complies with the provisions for emission guidelines for MSW landfills and Hospital/Medical/Infectious Waste Incinerators found in 40 CFR 60, subpart Cc and 40 CFR 60, subpart Ce. The department has been delegated program authority for New Source Performance Standards (NSPS) and emission guidelines associated with NSPS by the EPA. The department has incorporated by reference the federal NSPS and the emission guidelines. Emission guidelines affect existing facilities and NSPS impact new facilities. The guidelines as written by EPA do not set forth the language that can be easily transferred into a state program when incorporated by reference. This proposed rule will clarify milestones addressed in the MSW landfill emission guidelines and will clarify sections of the Hospital/Medical/Infectious Waste Incinerators emission guidelines that comprise the department's section 111(d) plan. The basis and rationale for this proposed rule are to clarify the federal regulations.

This proposed 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 III. Air

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR)

Part 60

* * *

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

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T), to read as follows: State of Louisiana: Program Administrator, Air Quality Division, Louisiana Department of Environmental Quality, Box 82135, Baton Rouge, LA 70884-2135;

3. the availability to the public of information provided to or otherwise obtained by the state under this Chapter shall be governed by LAC 33:I.501-509;

4. clarification of MSW landfill milestones are as follows: initial design capacity report and NMOC report are due on or before September 28, 1998; design plans are due on or before January 28, 1999; awarding of contracts is due on or

before June 28, 1999; initiation of on-site construction is due on or before September 28, 1999; initial performance test is to be completed on or before March 28, 2000; and final compliance is due on or before April 28, 2000; and

5. the department's section 111(d) emission guideline plan for Hospital/Medical/Infectious Waste Incinerators includes the following CFR citations: 40 CFR 60.30, 60.30(e), 60.31(e), 60.32(e), 60.33(e), 60.35(e), 60.36(e), 60.37(e), 60.38(e), and 60.39(e). Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.34(e), the department accepts accreditation approved by other states complying with 40 CFR 60.34(e).

* * *

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 14:1287 (July 1998), LR 24:

A public hearing will be held on September 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ178. Such comments must be received no later than October 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ178.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaaregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Emission Guidelines for MSW Landfills and Hospital/Medical/Infectious Waste Incinerators

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

This rulemaking complies with the provisions for emission guidelines for MSW Landfills and Hospital/Medical/Infectious

Waste Incinerators found in 40 CFR 60, Subparts Cc and Ce. Existing staff prepare the necessary plans and provide enforcement of emission guidelines on regulated facilities. There is no implementation cost or savings to state or local governmental units.

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

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

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

Owners/operators of MSW Landfills and Hospital/Medical/Infectious Waste Incinerators must comply with the provisions of 40 CFR Part 60, Subparts Cc and Ce. There are no estimated costs or economic benefits to directly affected persons as a result of this rule. This rule provides the LDEQ the mechanism to continue the delegation of authority, granted by EPA, for implementing Emission Guidelines.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These regulations are applicable to existing federally regulated facilities and there is no adverse effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9808#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Emission Reduction Credits Banking
(LAC 33:III.603)(AQ176)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.603 (AQ176).

This revision allows emissions banking for all parishes in the state. The change in the Ozone National Ambient Air Quality Standard (NAAQS) makes predicting which parishes may participate in the current rule a difficult task. While the requirements are mandatory for ozone nonattainment areas, the proposed revision lifts the restriction so that other parishes may participate in a voluntary manner. The basis and rationale for this rule are to promote emissions banking in all parts of the state.

This proposed 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 III. Air**

**Chapter 6. Regulations on Control of Emissions
through the Use of Emission Reduction
Credits Banking**

§603. Applicability

The following sources are eligible to participate in the emissions banking program: any stationary point source, any area source, and any mobile source registered in the designated ozone nonattainment area. The rule shall apply to the following pollutants: NO_x and VOC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:874 (August 1994), amended LR 24:

A public hearing will be held on September 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ176. Such comments must be received no later than October 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emission Reduction Credits Banking**

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

There are no estimated implementation costs (savings) to state or local governmental units, as this is a voluntary control measure.

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

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

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

Economic benefits may be derived by permitted facilities. Banked emissions may be used for offsetting purposes as well as marketable asset. It may also be a cost to permitted facilities should the LDEQ have to confiscate banked emissions to meet ozone nonattainment milestones.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9808#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Lead-Based Paint Activities
(LAC 33:III.2807)(AQ179)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2807 (AQ179).

The proposed rule amends the lead-based paint activities accreditation requirements as follows: change the date to November 30, 1998, for individuals to begin taking the state examination for accreditation purposes; remove high school diploma (or equivalent) from education requirements for individuals seeking accreditation as lead supervisors and add relevant work experience requirement; change EPA-model-curriculum course to EPA-authorized state accredited training program; allow documentation by applicants of relevant work experience and refresher training to receive accreditations under the "grandfathering" provisions; and extend accreditation based on prior training to November 30, 1998. This proposed rule revises the education and experience requirements under the "grandfather" provisions for persons performing lead abatement activities to make it easier to receive accreditation. The demand for an accredited work force exceeds the supply, such that necessary lead abatement is not being done. This would delay lead abatement activities that will reduce exposure to lead hazards. The basis and rationale for this proposed rule are to prevent exposure to lead-based paint by having individuals properly trained and use proper work practice standards. The rule will increase the number of individuals available to perform lead-based paint abatement.

This proposed 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 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 24:

A public hearing will be held on September 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ179. Such comments must be received no later than October 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504)765-0399 for pricing information. Check or money order is required in advance for each copy of AQ179.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Lead-Based Paint Activities

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These revisions have no significant costs or savings to state or local governments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These revisions will have no significant effects on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
These revisions will benefit individuals seeking accreditation by the department under the "grandfather" provisions by allowing them to become accredited based on prior lead-based paint activities experience.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These revisions will have no effect on competition. These revisions will allow individuals to be accredited and employed to perform lead abatement activities that would not otherwise be qualified.

Gus Von Bodungen, P.E.
Assistant Secretary
9808#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pulp and Paper Industry Compliance Date
(LAC 33:III.5122)(AQ177)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.5122.B (AQ177).

This proposed rule inserts the paragraph from 40 CFR 63.440(d)(1), with the compliance date changed to be consistent with state law. The federal law has a compliance date of April 17, 2006, allowing eight years. State law allows only six years, and the compliance date has been changed to December 20, 2004. When the regulations governing the pulp and paper industry for maximum achievable control technology were adopted by reference, this paragraph was excluded because the compliance date was not consistent with our state law, specifically R.S. 30:2070(N)(3). If this paragraph is not adopted the regulations would not be as stringent as the federal regulations, and we would not be able to obtain delegation from the U.S. Environmental Protection Agency. The basis and rationale for this proposed rule are to mirror the federal regulations as far as possible while complying with the state requirement as to compliance date.

This proposed 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 III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

§5122. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

* * *

[See Prior Text in A]

B. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Federal Register* as promulgated from July 2, 1997, through December 31, 1997, and on April 15, 1998, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the State of Louisiana.

40 CFR 63	FEDERAL REGISTER CITATION	DATE PROMULGATED	SUBPART/APPENDIX HEADING
* * * [See Prior Text in Subpart N-O]			
Subpart S	63 FR 18616	April 15, 1998	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry [In §63.440(d)(1), the requirement is modified to read, "Each kraft pulping system shall achieve compliance with the pulping system provisions of §63.443 for the equipment listed in §63.443(a)(1)(ii) through (a)(1)(v) as expeditiously as practicable, but in no event later than December 20, 2004, and the owners and operators shall establish dates, update dates, and report the dates for the milestones specified in §63.455(b)."]
* * * [See Prior Text in Subpart U-Appendix A]			

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:

A public hearing will be held on September 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ177. Such comments must be received no later than October 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504)765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504)765-0399 for pricing information. Check or money order is required in advance for each copy of AQ177.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501

Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pulp and Paper Industry Compliance Date**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs or savings on state or local government are anticipated from this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on state or local governmental revenue collections from this rulemaking.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No costs and no significant economic benefits on directly affected persons or nongovernmental groups are anticipated by this rulemaking.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment from this rulemaking.

Gus Von Bodungen
Assistant Secretary
9808#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Reduced Sulfur Compounds
(LAC 33:III.1509)(AQ180)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.1509 (AQ180).

This proposed rule will allow units emitting a concentration less than 400 ppm hydrogen sulfide to be exempt from the requirements of LAC 33:III.1509. The basis and rationale for this proposed rule are to remove the requirement for facilities to install controls in cases where the concentration is so low that the cost is not justified.

This proposed 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 III. Air

Chapter 15. Emission Standards for Sulfur Dioxide §1509. Reduced Sulfur Compounds (New and Existing Sources)

All refinery process gas streams or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide shall be controlled by flaring or combustion. Units emitting less than 10 tons per year as hydrogen sulfide, or a concentration less than 400 ppm hydrogen sulfide, may be exempted from this Section by the administrative authority unless a more stringent federal or state requirement is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 24:

A public hearing will be held on September 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ180. Such comments must be received no later than October 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge,

LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ180.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaereg.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Reduced Sulfur Compounds**

- 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 from this proposal.
- 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 as a result of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The total one-time savings for regulated facilities is in excess of \$25,000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposal will not have any known effect on competition or employment.

Gus Von Bodungen
Assistant Secretary
9808#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Temporary and Emergency Use Tanks
(LAC 33:III.2103)(AQ175)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.2103 (AQ175).

Any internal floating roof storage tank that is used less than two weeks in the calendar year will be exempted from the requirements of LAC 33:III.2103 to install a closure seal,

provided that the tank is empty and liquid-free when not in use. The facility shall keep records of the type(s) of volatile organic compounds stored and the length of time stored. Verbal notification to the administrative authority is required in advance, if possible, but no later than 24 hours after the tank starts filling. This proposed rule resulted from a request received from a pipeline terminal for consideration of tanks used for temporary and emergency storage. Tanks that are used less than two weeks of the year produce relatively low annual emissions. The same control measures required for tanks that are used year-round are not justified in this case. The basis and rationale for this proposed rule are to remove compliance requirements that impose an unjustified economic burden for tanks used less than two weeks of the year.

This proposed 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 III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

* * *

[See Prior Text in A-G.2]

3. existing and new storage tanks in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge that are used for crude oil or condensate prior to lease custody transfer and that have a nominal storage capacity of less than 420,000 gallons (1,589,900 liters) unless such new tanks are subject to New Source Performance Standards;

4. JP-4 fuels stored in horizontal underground tanks; and

5. any storage tank that is used for less than two weeks in the calendar year is exempt from the requirements of Subsection C.1 of this Section, provided that the tank is empty and liquid-free when not in use.

* * *

[See Prior Text in H-1.4]

5. records of the type(s) of VOC stored and the average monthly true vapor pressure of the stored liquid for any storage vessel with an external floating roof that is exempt from the requirements for a secondary seal and is used to store VOCs with a true vapor pressure greater than 1.0 psia; and

6. records of the type(s) of VOC stored and the length of time stored for any storage tank exempted under Subsection G.5 of this Section. Verbal notification to the administrator is required in advance, if possible, but no later than 24 hours after the tank starts filling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:27 (January 1990), LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995),

repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:

A public hearing will be held on September 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ175. Such comments must be received no later than October 1, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (504)765-0399 for pricing information. Check or money order is required in advance for each copy of AQ175.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

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

RULE TITLE: Temporary and Emergency Use Tanks

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 for this proposal.

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 as a result of this proposed rule.

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

The total savings for regulated facilities is in excess of \$100,000. (This represents a one-time cost for equipment modifications.)

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal will not have any known effect on competition or employment.

Gus Von Bodungen
Assistant Secretary
9808#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 gives notice that rulemaking procedures have been initiated to amend the Radiation Protection Division regulations, LAC 33:XV.Chapters 1, 3, 4, 5, 7, 10, 13, and 17 (NE020*).

This proposed 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 proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed 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 proposed 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 proposed 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 proposed 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.1, 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:

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:

§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:

§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:

§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 state license or the permit issued by a licensee of broad scope of Pharmaceutical Specialties and the division, licensing state, Nuclear Regulatory Commission, or agreement 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, repackage, 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:

§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:

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:

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:

§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.462;

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.

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:

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:

Subchapter G. Precautionary Procedures **§452. Exceptions to Posting Requirements**

* * *

[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:

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:

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:

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 part; 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

1. 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:

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:

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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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 radiopharmaceuticals 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:

§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:

§720. Syringe Shields

* * *

[See Prior Text in A]

B. A licensee shall require each individual who prepares or administers radiopharmaceuticals 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:

§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:

§725. Release of Individuals Containing Radiopharmaceuticals or Permanent Implants

A. A licensee may authorize the release from its control of any individual who has been administered radiopharmaceuticals 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:

§729. Use of Radiopharmaceuticals for Uptake, Dilution, or Excretion Studies

* * *

[See Prior Text in A-B]

C. The radiopharmaceuticals 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:

§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits or Imaging and Localization Studies

* * *

[See Prior Text in A-E]

F. The radiopharmaceuticals 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:

§735. Use of Radiopharmaceuticals for Therapy

A. A licensee may use the following prepared radiopharmaceuticals:

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 radiopharmaceuticals 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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

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:

§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:

§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 radiopharmaceuticals, 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 radiopharmaceuticals 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

n 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 radiopharmaceuticals, 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 radiopharmaceuticals 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 Radiopharmaceuticals. 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 radiopharmaceuticals 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 80 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:

§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:

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:

§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:

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:

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

reducing 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:

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:

§1703. Definitions

As used in this Chapter, the following definitions apply. Other definitions applicable to this Chapter may be found in

AC 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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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

ersonnel 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:

§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:

§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 per

centimeter 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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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

f 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:

§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:

§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:

§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:

§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:

§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:

§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:

§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 LAC

33: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:

§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:

A public hearing will be held on September 24, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by NE020*. Such comments must be received no later than October 20, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olaie/irdd/olaeregs.htm>.

Gus Von Bodungen, P.E.
Assistant Secretary

9808#069

NOTICE OF INTENT

Department of Health and Hospitals Board of Pharmacy

Pharmacy Education
(LAC 46:LIII.717, 719, and 721)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Pharmacy Law, R.S. 37:1178, the Board of Pharmacy hereby gives notice to amend LAC 46:LIII.717, 719, and 721.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LIII. Pharmacists

Chapter 7. Pharmacy Education

§717. Practical Experience Program

A. For B.S. Candidates, 600 hours practical experience must be earned in the extern program, prior to and as a prerequisite for obtaining a maximum credit of 400 hours for the structured or demonstration projects program offered by an approved college or school of pharmacy.

B. For Pharm. D Candidates, 400 hours practical pharmacy experience of which a maximum of 200 hours may be obtained in a non permitted pharmacy practice, as defined in R.S. 46:913, must be earned in the extern program, prior to and as a prerequisite for obtaining hours of credit for the structured or demonstration projects offered by an approved college of school of pharmacy, as defined in §719.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 24:

§719. Didactic Program

A. For B.S. Candidates, a maximum credit of 400 hours may be allowed by the board upon satisfactory completion of the approved structured program or demonstration projects offered by the college or school of pharmacy.

B. For Pharm. D. Candidates, a maximum credit of 1,100 hours may be earned upon satisfactory completion of the approved structured didactic program or demonstration projects offered by the college or school of pharmacy. Of the 1,100 hours maximum allowed of the structured program, a minimum of 300 hours must be obtained in community practice and a minimum of 300 hours must be obtained in hospital practice. All required 1,500 hours may be obtained prior to the applicant's graduation pursuant to §§717 and 719.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, 14:708 (October 1988), amended LR 24:

§721. Post-Graduate Intern Program

A. For B.S. Candidates, a minimum of 500 hours of intern practical experience must be obtained after certification of graduation. All 1,500 hours of practical experience may be obtained after certification of graduation in a permitted site.

B. For Pharm D. Candidates, all 1,500 hours of practical experience may be obtained after certification of graduation in a permitted site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 24:

Any person may submit data, views, or positions orally or in writing to Fred H. Mills, Jr., Executive Director, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496. Comments will be accepted through 4 p.m. on September 20, 1998.

Under the provisions of the Administrative Procedure Act, if a public hearing is necessary, it will be held from 10 a.m. to 12 noon, Thursday, September 24, 1998, at the Board of Pharmacy office, 5615 Corporate Boulevard, Suite 8E, Baton Rouge, LA 70808, phone (504) 925-6496.

Fred H. Mills, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Education**

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

The only cost associated with the implementation of the proposed amendment of 46:717, 719, 721 will be the cost of printing and distribution of the new regulation. It is estimated that the register cost of \$300, printing cost of \$500, and postage for distribution is estimated at \$640 or a total of \$1,440 will be in FY 98/99.

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

This proposed amendment would have no effect on any revenue collections for this board or any state or local government entity.

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

The proposed amendment will allow pharmacy graduates earlier licensure opportunities. The demand for pharmacy graduates has increased in Louisiana. This amendment will allow entrance into the profession with less constraints.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Fred H. Mills, Jr.
Executive Director
9808#008

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**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 intends to amend 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:

**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:

§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;

(c). human behavior including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior;

(d). 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:

Interested parties may submit written comments to Gary S. Grand, Board Chair, 8631 Summa Avenue, Suite A, Baton Rouge, LA 70809. Comments will be accepted through September 15, 1998.

A public hearing will be held on September 29, 1998, at 5 p.m. at Central State Hospital, West Shamrock, Building 14, Room 127, Pineville, LA.

Gary S. Grand
Board Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licensure; Supervised Experience**

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

There will be a one time implementation cost to include promulgation of rule and forms-\$300, and staff time-\$80 to

qual \$380. No costs are anticipated for the FY's 99/2000 or 2000/01. Costs will be incurred by the LPC Board only. There will be no impact upon the general treasury.

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

No anticipated revenue collection as a result of implementation of these rules. No impact on the general treasury.

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

These proposed rules are to clearly and succinctly define "degree plan," "supervised experience," and "eight required content areas."

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since this is a clarification of "degree plan," "supervised experience" and "eight required content areas," there is no foreseeable effect on competition and employment.

Gary S. Grand
Board Chair
9808#045

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

**Sanitary Code—Sewage Disposal (Chapter 13)
(LAC 48:V.Chapter 75)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to comprehensively amend and repromulgate in its entirety Chapter 13 (Sewage Disposal) of the *Louisiana Sanitary Code*, pursuant to R.S. 40:4, as amended by Acts 1978, Number 786; Acts 1982, Number 619; Acts 1986, Number 885; Acts 1988, Number 942. Predominantly, the comprehensive amendment(s) to this portion of the *Louisiana Sanitary Code* are necessitated in consideration of prevailing sanitary wastewater treatment technological improvements, amendments to federal and state laws and industry guidelines, and related sanitary wastewater treatment enforcement concerns which have become evidenced since the last major revision to this section of *Louisiana Sanitary Code* in 1993 (reference: *Louisiana Register*, January 20, 1993, Volume 19, Number 1, pages 49-53).

Due to volume of text of *Louisiana Sanitary Code*, Chapter 13, a printing will not appear in the *Louisiana Register*. Rather, copies will be made available for public review at the Office of State Register, 1051 North Third Street, Baton Rouge, Louisiana 70802, (504) 342-5015, and, alternatively, at the following locations during normal business hours:

325 Loyola Avenue, Room 403
New Orleans, LA

1500 Lee Street
Alexandria, LA

1772 Wooddale Boulevard
Baton Rouge, LA

1525 Fairfield Ave
(Room 569)
Shreveport, LA

206 East Third Street
Thibodaux, LA

2913 Betin Street
Monroe, LA

825 Kaliste Saloom Road
(Brandywine III)
Lafayette, LA

520 Old Spanish Trail
(Suite 100)
Slidell, LA

4240 Senator J. Bennett Johnston Ave.
Lake Charles, LA

Comments regarding the proposed rule should be addressed to Bobby G. Savoie, Executive Director, Division of Environmental Health Services, Box 60630, New Orleans, LA 70160.

A public review hearing will be held on September 24, 1998 at 10:00 a.m. in the Fourth Floor Conference Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code—Sewage Disposal
(Chapter 13)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of the proposed action will cost the agency approximately \$160 for implementation in FY 98-99.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Increased revenue collections of approximately \$65,625 are expected to accrue to state and local governmental units during FY 98-99. These will result from increased sales tax collections, where applicable.

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

Additional estimated costs of \$1,093,750 to consumer groups (individuals and businesses) who utilize individual mechanical wastewater treatment systems addressed by the proposed action are projected during FY 98-99. The average additional cost to an affected consumer is estimated to be approximately \$125.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The action will in all likelihood increase competition and employment in the private sector. Related providers of goods and services addressed by the proposed action will be most likely affected. The amount of increase in either category is, however, inestimable at this time.

David W. Hood
Secretary
9808#049

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Sanitary Code—Sewage Effluent Reduction (Chapter 13)
(LAC 48:V.Chapter 75)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to adopt Section 13:011-3 of Chapter 13 (Sewage Disposal) of the *Louisiana Sanitary Code*, pursuant to R.S. 40:4, as amended by Acts 1978, No. 786; Acts 1982, No. 619; Acts 1986, No. 885; Acts 1988, No. 942. Predominantly, the adoption to this portion of the *Louisiana Sanitary Code* is necessary in order to comply with the requirements of Act 505 of the 1995 Regular Session of the Legislature. Act 505 mandated installation of effluent reduction systems following approved individual sewerage systems up through 1,500 gpd capacity, and gave the Department of Health and Hospitals authority to require such effluent reduction systems.

Copies of the proposed rule (including accompanying drawings) are available for public review at the Office of State Register, 1051 North Third Street, Baton Rouge, Louisiana 70802, (504) 342-5015, and at the following Office of Public Health offices during normal business hours:

325 Loyola Avenue, Room 403
New Orleans, LA

1500 Lee Street
Alexandria, LA

1772 Wooddale Boulevard
Baton Rouge, LA

1525 Fairfield Ave
(Room 569)
Shreveport, LA

206 East Third Street
Thibodaux, LA

2913 Betin Street
Monroe, LA

825 Kaliste Saloom Road
(Brandywine III)
Lafayette, LA

520 Old Spanish Trail
(Suite 100)
Slidell, LA

4240 Senator J. Bennett Johnston Ave.
Lake Charles, LA

A public review hearing will be held on September 24, 1998 at 10 a.m. in the Fourth Floor Conference Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Written comments regarding the proposed rule must be received no later than October 5, 1998, and should be addressed to Bobby G. Savoie, Executive Director, Division of Environmental Health Services, Box 60630, New Orleans, LA 70160.

David W. Hood
Secretary

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

**RULE TITLE: Sanitary Code—Sewage
Effluent Reduction**

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

There will be an estimated \$720 implementation cost in FY 98-99 for the publication of this rulemaking in the *Louisiana Register*.

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

No increased revenue collections are expected to accrue to state and local governmental units during FY 98-99. Subsequent year collections will result from increased sales tax collections, where applicable.

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

No additional costs to consumers who utilize wastewater treatment systems addressed by the proposed action are projected during FY 98-99. The average additional cost to an average related consumer will be approximately \$1,250 per system in subsequent years. Additionally, manufacturers/distributors/installers of such wastewater systems will incur related costs increases, although these costs are projected to be recapture by means of "pass-through to consumers" recovery of same (costs). There are no additional costs for FY 98-99 to be borne by the consumer.

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

This action will in all likelihood increase competition and employment in the private sector. Related providers of goods and services addressed by the proposed action will be most likely affected. The amount of increase in either category is, however, inestimable at this time.

David W. Hood
Secretary
9808#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Emergency Medical Services
Ambulance Certification**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 982 of the 1997 Regular Session of the Louisiana Legislature mandated the Department of Health and Hospitals to promulgate rules and regulations to establish a list of required medical and safety equipment which shall be carried as part of the regular equipment of all ambulances operating within the State of Louisiana. No person shall conduct, maintain, or operate an ambulance which does not carry with it, in fully operational condition, all of the equipment included in the list, which shall be consistent with the scope of practice for emergency medical technician established in R.S. 40:1234. Therefore, the department proposes to accept the recommendations of the Ambulance Standards Committee to establish certification standards for all ambulances operating throughout the State of Louisiana.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following list of medical and safety equipment as requirements for certification of all ambulances operating within the State of Louisiana.

I. All ambulances must have a National Standard Public Safety two-way radio communication (day-to-day communications). The ambulance dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way communications within all of the service's defined area:

A. All dispatch center(s) and/or point(s) of dispatch shall have a proper FCC licensed radio system or an agreement with an FCC licensed communication provider that does not allow for transmission by unauthorized users, but will provide the capability for the dispatcher, with one transmission, to be heard simultaneously by all of its ambulances/emergency medical response vehicles within that defined geographic service area.

B. Services that utilize multiple transmitters/tower sites shall have simultaneous communications capabilities with all units utilizing a specific transmitter/tower site.

C. Two-way radio with disaster communications must be either:

a. VHF—Hospital Emergency Activation Radio (HEAR) system 155.340 Mhz with carrier squelsh, ENCODER optional; or

b. 800 Mhz Trunking—SmartNet or Smart Zone—using the ICALL or ITAC frequencies.

D. Direct communication with a physician and hospital must be conducted through:

HEAR; or cellular telephone; or Radio Telephone Switch Station (RTSS); or Med. System 10, etc.

II. All ambulances must carry the following basic medical supplies and equipment:

Two suction units - one must generate 300 mm Hg and one must be portable	1 each
Appropriate refill canister/liners for suction unit (if required)	2
Suction tubing, wide bore	2
Rigid pharyngeal/tonsillar wide bore suction	2
Suction catheters 5, or 6, or 5/6 and 14 French	2 each

Fixed oxygen system with variable flow regulator and humidifier - minimum 500 PSI	1
Portable oxygen cylinder - full 2000 + psi size "D" or above	2
Variable flow regulator and an oxygen wrench	1
Adult oxygen masks with tubing	4
Pediatric oxygen masks with tubing	4
Nasal prongs, "nasal cannulas", adult with O ₂ tubing	4
CPR mask or barrier device, with one-way valve or filter	1
Adult bag valve mask devices with tubing	2 each
Pediatric bag valve mask devices with tubing, approximately 450 cc. Note: Recommend no pop-off valve or making the valve inoperable	2
Oral airways - adult, child, and infant	2 each
Cervical collars- extra small/small or equivalent, medium/large or equivalent	2 each 4 each
Cervical immobilization device - head blocks, other commercial head immobilization device or firm padding to improvise such a device such as towels or blankets that are not used to fulfill any other requirement	2 sets
Traction splint with ankle hitch, adult	1
Extremity splint - upper and lower	2 each
Short spinal immobilization device with appropriate straps and pillows	2
Long spinal immobilization device with at least three points of confinement - not including the head immobilization device, one of which must be a scoop stretcher with at least three straps Note: Wood acceptable if impervious to body fluids. Disposable cardboard not acceptable	3
Clean burn sheets, individually wrapped	2
Triangular bandages	8
Sterile multi-trauma dressings, 10" x 30"	2
Sterile combine dressings, minimum 5" x 9"	10
Sterile 4" x 4" gauze pads	25 packs minimum 2 per pack
Sterile individually packed occlusive dressings, 3" x 3" or larger	4
Roller gauze, clean, at least 2 inches wide	10 rolls
Cold packs	4
Sterile water - 500 cc plastic container	1
Normal saline - plastic containers	2 liters
Oral Glucose - based Paste	Min. 12.5g
Medical adhesive tape, 1" and 2" or wider paper tape not acceptable	6 each
OB kit: 2 towels, a 4" x 4" dressing, umbilical tape, sterile cutting instrument, a bulb suction, clamps for the cord, sterile gloves, and blanket	2

Blood pressure cuff, adult and pediatric, multi-cuff kits are acceptable	1 each
Stethoscope	1
Emergency Medical Technician - Shears personal or truck	1 pair
Clean, single use bite sticks	2
Flashlights - two "C" size battery minimum	2
Blankets	2
Sheets, linen or paper	4
Fire extinguisher - 10 B:C, 1 in patient compartment, and 1 accessible from driver cab. Note: no Halon	2
Triage Tags	25
Current hazardous material reference guide (Department of Transportation or equivalent)	1
Reflective triangles a set that consists of 3 or more signs	1 set

III. All ambulances must carry the following infection control supplies and equipment:

Full peripheral glasses, or face masks, surgical, or face shields for splash protection	2 4 4
Gloves, nonsterile	1 box
Handwash, commercial antimicrobial	1 bottle or can or 12 towelettes
Sharps container, OSHA approved, one quart or larger	1
Readily identifiable trash bags, labeled for contaminated wastes	2
Jumpsuit/gown, impervious to liquid, disposable	1 per crew member
Shoe covers, disposable	1 pair per crew member
Tuberculosis mask, OSHA approved	1 per crew member

IV. All ambulances must be equipped with the following:

Hard hat and safety goggles (ANSI Z 37.1)	1 per crew member
NFPA-approved fire helmet with face shield may be substituted for the hard hat and safety goggles	1 per crew member
Gloves, leather or Nomex, over-wrist	1 pair per crew member

V. The following must be carried by all intermediate and paramedic level ambulances:

All IV fluids must be in plastic bags or jugs, not glass bottles, unless medically indicated otherwise.

Ringer's lactate - 500 cc minimum	2000 cc
Dextrose 5 percent in water - 250 cc minimum	2 bags

Normal saline - 500 cc minimum over and above irrigation	2000 cc
Macro drip administration sets	4
Minidrip administration sets	4
Venous tourniquets	2
IV Roof hook or pole	1
IV Catheters - 22, 20, 18, 16 and 14 gauge	4 each
Y-type blood infusion set with in line filter	1
Antiseptic solution pads	10
Arm boards -various sizes	3
3-way stop clock	1
Extension tubing	2
Syringe with luer-lock -30 cc minimum	2
Sharps container OSHA approved, suitable for sharps disposal at patient's side	1

VI. The following must be carried by all paramedic level ambulances:

Intra osseous needles of choice	2
1 cc syringe with 1/10 cc graduates	2
3 to 6 cc syringe	2
10 to 12 cc syringe	2
Hypodermic needles, 18 to 20 Ga.	2
Hypodermic needles, 21 to 23 Ga.	2
Hypodermic needles, 25 to 27 Ga.	2
Laryngoscope handle with 1 set extra batteries and bulb or 2 disposable handle units	1
Laryngoscope blade, Size 0 straight or 2 each disposable	1
Laryngoscope blade, Size 1 straight or 2 each disposable	1
Laryngoscope blade, Size 2 straight or 2 each disposable	1
Laryngoscope blade, Size 3 straight or curved or 2 each disposable	1
Laryngoscope blade, Size 4 straight or curved or 2 each disposable	1
Endotracheal tubes, uncuffed, size 3.0 or 3.5	2
Endotracheal tubes, uncuffed, size 4.0 or 4.5	2
Endotracheal tubes, uncuffed, size 5.0 or 5.5	2
Endotracheal tubes, uncuffed, size 6.0 or 6.5	2
Endotracheal tubes, uncuffed, size 7.0 or 7.5	2
Endotracheal tubes, uncuffed, size 8.0 or 8.5	2
Stylettes for ET tubes, adult and pediatric	2 each
Magill forceps, adult and pediatric	1 each

Water soluble lubricating jelly non-cellulose containing - 5 packs or 1 tube	1
Cardiac monitor/defibrillator with paper recorder, defibrillator pads or gel, quick look paddles or hands off capability, chest attachment cable and pads, capable of min.5 to 360 joules. An automatic external defibrillator may be used if it has manual override capability and all other features listed.	1
Pediatric drug dosing chart or tape to include all mandated drugs	1
Home use glucometer - FDA approved	1
*Nastrogastric tube (when use allowed) 5 Fr.	1
*Nastrogastric tube (when use allowed) 8 Fr.	1
*Nastrogastric tube (when use allowed)14 to 18 Fr.	1
DRUGS	
Adenosine 6 mg	3
Albuterol inhalation solution (2.5 mg) with appropriate delivery device	1
Aspirin 325 mg (5 grains)	1
Atropine	3 mg
Benadryl (50 mg for IV use)	1
Bretylum tosylate, 500 mg	5
Calcium chloride, 10 percent	1 g
Dopamine (200 mg minimum vials)	400 mg
Dextrose, 25g in 50 cc	2
Epinephrine, 1:1,000 (minimum 2 mg) and Epinephrine 1:10,000 (minimum 2 mg)	12 mg min. Total
Lidocaine, 1g vial or premixed 4 mg/cc	1g
Lidocaine, 100 mg boluses	4
Loop diuretic (e.g., furosemide 80 mg or bumetanide 2 mg)	1 dose
Naloxone	4 mg
NTG spray or tablets	3 doses
Magnesium sulfate, 1 gram	1 g
Sodium bicarbonate, 44 meq minimum	2
Verapamil, 10 mg	1

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Friday, September 25, 1998 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. 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: Emergency Medical Services
Ambulance Certification**

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

Implementation of this proposed rule will not result in state costs. However, \$240 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

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

There is no effect on federal revenue collections. There may be additional self-generated revenue collections from an anticipated fee increase. However, the federal share of promulgating this proposed rule as well as the final rule is \$240 to be incurred in SFY 1998-99.

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

Some ambulances may be required to purchase additional equipment and supplies to meet certification requirements. It is anticipated that there may be additional costs to providers subject to an anticipated increase in fees for certification of ambulances that operate in Louisiana. There is insufficient data to determine the effect on ambulances operating in Louisiana to better project an impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Under this rule, ambulances that do not carry as part of the regular equipment the required medical and safety equipment will be reported to parish offices and may be prohibited from operating in Louisiana. There is insufficient data to determine the effect on ambulances operating in Louisiana to project an impact.

Thomas D. Collins
Director
9808#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Emergency Medical Services—Emergency Medical Response (EMR) Vehicle Certification

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to

adopt the following rule under the Medical Assistance Program as authorized by R.S. 32:1 et seq. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 297 of the 1997 Regular Session of the Louisiana Legislature mandates the Department of Health and Hospitals to inspect and certify emergency medical response (EMR) vehicles. In addition, the department is authorized to deny, probate, suspend, or revoke certifications; to provide for penalties; and to provide for related matters. Therefore, the department proposes to adopt the following rule to establish certification requirements for emergency medical response vehicles.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following provisions to establish certification requirements for all emergency medical response vehicles.

An *emergency medical response vehicle* is defined as a marked emergency vehicle with full visual and audible warning signals operated by a certified ambulance service; the primary purpose of which is to respond to the scene of a medical emergency to provide emergency medical stabilization or support, or command control and communication, but which is not an ambulance designed or intended for the purpose of transporting a victim from the scene to a medical facility regardless of its designation. Included, but not limited to, are such vehicles designated as *sprint car, quick response vehicle, special response vehicle, triage trucks, supervisor units*, and other similar designations. Fire apparatus and law enforcement patrol vehicles that carry first aid or emergency medical supplies and respond to medical emergencies as part of their routine duties shall not be considered emergency medical response vehicles.

A. Qualifications of Vehicle. The vehicle may be on either an automobile or truck chassis, have four or more wheels and must have the following:

1. emergency warning lights. These lights shall be mounted as high and as widely spaced laterally apart as practicable. There must be two alternating flashing red lights on the front of the vehicle mounted at the same level. There must be two alternating flashing red lights on the rear of the vehicle mounted at the same level. These front and rear lights shall have sufficient intensity to be visible at 500 feet in normal sunlight. Exceptions:

a. any authorized emergency vehicle may be equipped with a large revolving red light on the roof instead of alternating flashing red lights on the front. This light must be discernible in all directions and have sufficient intensity to be visible at 500 feet in normal sunlight;

b. authorized emergency medical response vehicles of organized fire companies may be equipped with a large red and white light on the roof encased in a clear dome, instead of the large red light on the roof. This light must be discernible in all directions and have sufficient intensity to be visible at 500 feet in normal sunlight;

2. audible warning signals. Each emergency medical response vehicle must have a siren, exhaust whistle, or bell

capable of giving an audible signal sufficient to warn motorists of its approach (audible up to 500 feet);

3. external markings:

a. all numbering and lettering shall be reflective;

b. the unit number shall be displayed in numerals 3 inches high or greater on the rear and both sides of the vehicle;

c. the agency's name shall appear on both sides of the vehicle in lettering 3 inches high or greater, or with a logo that is 6 inches or greater in size;

d. the agency's name or logo shall appear on the trunk or rear door in lettering 3 inches high. Agency logos must be specific to the agency and on file with the Department of Health and Hospitals;

e. the vehicle's markings shall indicate its designation as an emergency medical response vehicle such as *Sprint Car, Supervisor, Chief, Special Services*, etc. No markings on the vehicle may imply that it is an ambulance.

B. Equipment and Supplies

1. All vehicle units must have a National Standard Public Safety two-way radio communication (day-to-day communications). The ambulance dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way communications within all of the service's defined area:

a. all dispatch center(s) and/or point(s) of dispatch shall have a proper FCC licensed radio system or an agreement with an FCC licensed communication provider that does not allow for transmission by unauthorized users, but will provide the capability for the dispatcher, with one transmission, to be heard simultaneously by all of its emergency medical response vehicles/ambulances within that defined geographic service area;

b. services that utilize multiple transmitters/tower sites shall have simultaneous communications capabilities with all units utilizing a specific transmitter/tower site;

c. two-way radio with disaster communications must be either:

i. VHF—Hospital Emergency Activation Radio (HEAR) system 155.340 Mhz with carrier squelch, ENCODER optional; or

ii. 800 Mhz Trunking—SmartNet or Smart Zone—using the ICALL or ITAC frequencies;

d. direct communication with a physician and hospital must be conducted through:

HEAR; or cellular telephone; or Radio Telephone Switch Station (RTSS); or Med. System 10, etc.

2. All emergency medical response vehicles must be equipped with the following:

Fire extinguisher with a minimum of Underwriters Laboratory rating of 10:B,C (1) (no Halon). This device should be properly secured in the vehicle.	1
Triangle reflectors	1 set of three
Flashlight, 2 "C" cell or larger	1
Current hazardous materials reference guide Department of Transportation or equivalent	1
Hard hat and safety goggles (ANSI Z 37.1)	1 per crew member

ational Fire Protection Association-approved fire helmet with face shield may be substituted for the hard hat and safety goggles.	1 per crew member
Gloves, leather or Nomex, over-wrist.	1 pair per crew member

3. All emergency medical response vehicles must have basic life support medical supplies as follows:

Portable suction unit	1
Appropriate refill canister/liners for suction unit (if required)	1
Suction tubing, wide bore (if required)	1
Rigid pharyngeal/tonsillar wide bore suction	1
Suction catheters 5 or 6 or 5/6 and 14 French (if required)	1 each
Portable oxygen cylinder - full, 2,000 + psi size "D" or above	1
Variable flow regulator and an oxygen wrench	1
Adult oxygen masks with tubing	1
Pediatric oxygen masks with tubing	1
Nasal prongs "nasal cannulas", adult with O ₂ tubing	1
CPR mask or barrier device with one-way valve or filter	1
Adult bag valve mask devices with tubing	1 each
Pediatric bag valve mask devices with tubing, approximately 450 cc Note: Recommend no pop-off valve or make the valve inoperable.	1
Oral airways - adult, child, and infant	1 each
Cervical collars - extra small/small or equivalent medium/large or equivalent	1 each
Cervical immobilization device - head blocks, other commercial head immobilization device or firm padding to improvise for such a device (such as towels or blankets not used to fulfill any other requirement)	1 set
Extremity splint suitable for upper or lower extremity fracture	1
Long spinal immobilization device must be a scoop stretcher with at least three straps; Note: Wood acceptable if impervious to body fluids. Disposable cardboard not acceptable.	1
Clean burn sheet, individually wrapped	1
Triangular bandages	2
Sterile multi-trauma dressing, 10" x 30"	1
Sterile combine dressings, minimum 5" x 9"	4
Sterile 4" x 4" gauze pads	10 packs minimum 2 per pack

Sterile individually packed occlusive dressings, 3" x 3" or larger	2
Roller gauze, clean, at least 2 inch wide	4 rolls
Normal saline - plastic containers	1 liter
Oral Glucose - based Paste	Min. 12.5g
Medical adhesive tape, 1" and 2" or wider paper tape not acceptable	1 each
OB kit: 2 towels, a 4" x 4" dressing, umbilical tape, sterile cutting instrument, a bulb suction, clamps for the cord, sterile gloves, and a blanket	1
Unopened box aluminum foil or silver swaddler	1
Blood pressure cuff, adult and pediatric, multi-cuff kits are acceptable	1 each
Stethoscope	1 pair
EMT Shears	1
Clean, single use bite stick	1
Blanket	1
Triage Tags	25

4. All emergency medical response vehicles must carry infection control equipment as follows:

Full Peripheral Glasses (1) or Face Mask, surgical (1 set); or, face shield for splash protection (1)	1
Gloves, Non-sterile.	1 box
Handwash, Commercial Antimicrobial.	1 bottle or can or 12 towelettes
Sharps container, OSHA approved.	1
Readily identifiable trash bags, labeled for contaminated wastes.	1
Jumpsuit/gown, impervious to liquid, disposable.	1 per crew member
Shoe covers, disposable.	1 per crew member
Tuberculosis mask, OSHA approved.	1 per crew member

5. The following must be carried by intermediate level and paramedic level emergency medical response vehicles:

All IV fluids must be in plastic bags or jugs, not glass bottles, unless medically indicated otherwise.

Ringer's Lactate - 500 cc minimum	1
Dextrose 5 percent in water - 250 cc minimum	1
Normal saline - 500 cc minimum	1
Macro drip administration sets	1
Mini drip administration sets	2
Venous tourniquet	1

V Catheters - 22, 20, 18, 16, and 14 gauge	1 each
Antiseptic solution pads	6
3-way stop-clock	1
Extension tubing	1
Syringe with Luer-lock 30 cc minimum	1

6. The following must be carried by all paramedic level emergency medical response vehicles:

Intra osseous needles of choice	1
1 cc syringe with 1/10 cc graduates	1
3 to 6 cc syringe	1
10 to 12 cc syringe	1
Hypodermic needle, 18 to 20 Ga.	1
Hypodermic needle, 21 to 23 Ga.	1
Hypodermic needle, 25 to 27 Ga.	1
Laryngoscope handle with 1 set extra batteries and bulb or 1 disposable handle unit	1
Laryngoscope blade, Size 0 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 1 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 2 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 3 Straight or Curved or 1 each disposable handle unit	1
Laryngoscope blade, Size 4 Straight or Curved or 1 each disposable handle unit	1
Endotracheal tubes, Uncuffed, Size 3.0 or 3.5	1
Endotracheal tubes, Uncuffed, Size 4.0 or 4.5	1
Endotracheal tubes, Uncuffed, Size 5.0 or 5.5	1
Endotracheal tubes, Uncuffed, Size 6.0 or 6.5	1
Endotracheal tubes, Uncuffed, Size 7.0 or 7.5	1
Endotracheal tubes, Uncuffed, Size 8.0 or 8.5	1
Stylettes for ET tubes, adult and pediatric	1 each
Magill Forceps, adult and pediatric	1 each
Water soluble lubricating jelly non-cellulose containing	1 pack of 5 or 1 tube
Cardiac monitor/defibrillator with paper recorder, defib pads or gel, quick look paddles or hands off capability, chest attachment cable and pads, capable of min. 5 to 360 joules. An automatic external defibrillator may be used if it has manual override capability and all other features listed.	1
Pediatric drug dosing chart or tape to include all mandated drugs	1
Home use glucometer (FDA approved)	1

Nasogastric Tube (when use allowed) 5 Fr.	1
Nasogastric Tube (when use allowed) 8 Fr.	1
Nasogastric Tube (when use allowed) 14 to 18 Fr.	1
DRUGS	
Albuterol inhalation solution 2.5 mg with appropriate delivery device	1
Aspirin 325 mg 5 grains	1
Atropine	3 mg
Benadryl 50 mg for IV use	1
Bretylium tosylate, 500 mg.	1
Dopamine 200 mg minimum Vials	200 mg
Dextrose, 25 g in 50 cc	1
Epinephrine, 1:1,000 minimum 2 mg and Epinephrine 1:10,000 minimum 2 mg	4 mg min.
Lidocaine, 100 mg boluses	3
Loop diuretic e.g. furosemide 80 mg or bumetanide 2 mg	1 dose
Naloxone	2 mg
NTG spray or tablets	3 doses
Sodium bicarbonate, 44 meq min.	2

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 responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Friday, September 25, 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: Emergency Medical Services—Emergency
Medical Response (EMR) Vehicle Certification**

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

Implementation of this proposed rule will not result in state costs. However, \$320 will be incurred in SFY 1998-99 for the state's administrative expense of promulgating this proposed rule as well as the final rule.

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

There is no effect on federal revenue collections. There may be self generated revenue collections from an anticipated cost subject to implementation of a fee for this certification. However, the federal share of promulgating this proposed rule as well as the final rule is \$320 and will be incurred in 1998-99.

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

All emergency medical response vehicles (sprint vehicles) operating in Louisiana, must comply with the certification of medical and safety equipment requirements. It is anticipated that there may be costs to providers subject to implementation of fees for certification of emergency medical response vehicles operating in Louisiana. There is insufficient data to determine the effect on emergency medical response vehicles operating in Louisiana to better project an impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Under this rule, emergency medical response vehicles that do not carry as part of the regular equipment the required medical and safety equipment will be reported to parish offices and may be prohibited from operating in Louisiana. There is insufficient data to determine the effect on emergency medical response vehicles operating in Louisiana to project an impact.

Thomas D. Collins
Director
9808#050

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Licensure Standards for Hospices
(LAC 48:I.Chapter 82)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the following rule governing the licensure and regulation of hospices as authorized by R.S. 40:2181-2191 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act.

Act 941 of the 1988 Regular Session of the Legislature enacted R.S. 40:2181-2191 relative to hospices. This measure provided for the licensing and regulation of all hospices operating in the state of Louisiana, and empowered the Department to adopt rules and regulations consistent with Medicare Hospice guidelines to carry out the provisions of the Act. The Department adopted the rule necessary for administration of the law in June 1989 (*Louisiana Register*, Volume 15, Number 6). The rule had been previously published as a notice of intent in the *Louisiana Register* (Volume 15, Number 4) and had earlier been adopted through the emergency provision of the Administrative Procedure Act, R.S. 49:953 in March 1989 (*Louisiana Register*, Volume 15, Number 3). This rule provided that the criteria developed and published at 42 CFR 418.3-.310 by the Health Care Financing Administration be followed by the Bureau for the licensure and

regulation of hospice care provided to individuals in Louisiana.

Proposed Rule

The Bureau of Health Services Financing proposes to amend the following regulations which will govern the licensure of hospice agencies licensed on or after adoption of this proposed rule. This rule shall replace and supersede the rule adopted in June 1989, except that the rule adopted in June 1989 and referenced in the *Louisiana Register*, Volume 15, Number 6 shall continue to regulate those hospice agencies licensed on or before adoption of this proposed rule, and shall continue to regulate these agencies for one full year from adoption of this proposed rule. Effective one full year from the adoption of this proposed rule, the provisions of this proposed rule shall govern all hospice agencies, regardless of the date of issuance of license.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensure of Hospice Agencies

Subchapter A. General Provisions

§8201. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Activities of Daily Living (ADL's)—the following functions or tasks performed either independently or with supervision or assistance:

- a. mobility;
- b. transferring;
- c. walking;
- d. grooming;
- e. bathing;
- f. dressing and undressing;
- g. eating; and
- h. toileting.

Acute/General Inpatient Care—short-term, intensive hospice services provided in an appropriately licensed facility to meet the patient's need for skilled nursing, symptom management or complex medical treatment.

Advance Directives—an instruction given to the patient/family (see definition of family) such as a durable power of attorney for health care, a directive pursuant to patient self-determination initiatives, a living will, or an oral directive which either states a person's choices for medical treatment or, in the event the person is unable to make treatment choices, designates who shall make those decisions.

Attending/Primary Physician—a person who is a doctor of medicine or osteopathy fully licensed to practice medicine in the State of Louisiana, who is designated by the patient as the physician responsible for his/her medical care.

Bereavement Services—organized services provided under the supervision of a qualified professional to help the family cope with death related grief and loss issues. This is to be provided for up to one year following the death of the patient.

Branch—a location or site from which a hospice agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the parent hospice agency and is located within a 50 mile radius of the parent agency and shares administration and supervision.

Bureau—Bureau of Health Services Financing of the Department of Health and Hospitals.

Care Giver—the person whom the patient designates to provide his/her emotional support and/or physical care.

Chaplain—a member of the clergy.

Community—a group of individuals or a defined geographic area served by a hospice.

Continuous Home Care—care provided by the hospice during a period of crisis as necessary to maintain the terminally ill individual at home. A minimum of eight hours of care must be furnished on a particular day to be considered continuous home care. Nursing care must be provided for more than one half of the period of care and must be provided by either a registered nurse or licensed practical nurse. Services may be provided by a homemaker or home health aide to supplement the nursing care. A registered nurse must complete an assessment of the patient and determine that the patient requires continuous home care prior to assigning a licensed practical nurse, homemaker, or a home health aide to a patient requiring continuous home care. This assignment must comply with accepted professional standards of practice.

Contracted Services—services provided to a hospice provider or its patients by a third party under a legally binding agreement that defines the roles and responsibilities of the hospice and service provider.

Core Services—nursing services, physician services, medical social services, and counseling services, including bereavement counseling, dietary counseling, spiritual counseling, and any other counseling services required to meet the needs of the individual and family. These services must be provided by employees of the hospice, except that physician services may be provided through contract.

Department—the Department of Health and Hospitals (DHH).

Discharge—the point at which the patient's active involvement with the hospice program is ended and the program no longer has active responsibility for the care of the patient.

Do Not Resuscitate Orders—orders written by the patient's physician which stipulate that in the event the patient has a cardiac or respiratory arrest, no cardiopulmonary resuscitation will be initiated or carried out.

Emotional Support—counseling provided to assist the person in coping with stress, grief, and loss.

Employee—an individual whom the hospice pays directly for services performed on an hourly or per visit basis and the hospice is required to issue a form W-2 on his/her behalf. If a contracting service or another agency pays the individual, and is required to issue a form W-2 on the individual's behalf, or if the individual is self-employed, the individual is not considered a hospice employee. An individual is also considered a hospice employee if the individual is a volunteer under the jurisdiction of the hospice.

Facility-Based Care—hospice services delivered in a place other than the patient's home, such as an inpatient hospice facility, nursing home or hospital inpatient unit.

Family—a group of two or more individuals related by ties of blood, legal status, or affection who consider themselves a family.

Geographic Area—area around location of parent agency which is within 50 mile radius of the agency premises.

Governing Body—the person or group of persons that assumes full legal responsibility for determining, implementing and monitoring policies governing the hospice's total operation. The governing body must designate an individual who is responsible for the day-to-day management of the hospice program, and must also insure that all services provided are consistent with accepted standards of practice. Written minutes and attendance of *governing body* meetings are to be maintained.

Home—a person's place of residence.

Homemaker—an individual who provides light housekeeping services to patients in their homes.

Hospice—an autonomous, centrally administered, medically directed program providing a continuum of home, outpatient, and homelike inpatient care for the terminally ill patient and his family. It employs an interdisciplinary team to assist in providing palliative and supportive care to meet the special needs arising out of the physical, emotional, spiritual, social, and economic stresses which are experienced during the final stages of illness and during dying and bereavement.

Hospice Inpatient Facility—organized facilities where specific levels of care ranging from residential to acute, including respite, are provided in order to meet the needs of the patient/family.

Hospice Physician—a person who is a doctor of medicine or osteopathy fully licensed to practice medicine in the State of Louisiana, designated by the hospice to provide medical care to hospice patients in lieu of their primary physician.

Hospice Premises—the physical site where the hospice maintains staff to perform administrative functions, and maintains its personnel records, or maintains its client service records, or holds itself out to the public as being a location for receipt of client referrals.

Hospice Services—a coordinated program of palliative and supportive care, in a variety of appropriate settings, from the time of admission through bereavement, with the focus on keeping terminally ill patients in their place of residence as long as possible.

Informed Consent—a documented process in which information regarding the potential and actual benefit and risks of a given procedure or program of care is exchanged between provider and patient.

Inpatient Services—care available for pain control, symptom management and/or respite purposes that is provided in a participating facility.

Interdisciplinary Group (IDG)—an interdisciplinary group or groups designated by the hospice, composed of representatives from all the core services. The IDG must include at least a doctor of medicine or osteopathy, a registered nurse, a social worker, and a pastoral or other counselor. The interdisciplinary group is responsible for participation in the

establishment of the plan of care; provision or supervision of hospice care and services; periodic review and updating of the plan of care for each individual receiving hospice care, and establishment of policies governing the day-to-day provision of hospice care and services. If a hospice has more than one interdisciplinary group, it must designate in advance the group it chooses to execute the establishment of policies governing the day-to-day provision of hospice care and services.

Interdisciplinary Group Conferences—regularly scheduled periodic meetings of specific members of the interdisciplinary group to review the most current patient/family assessment, evaluate care needs, and update the plan of care.

Level of Care—hospice care is divided into four categories of care rendered to the hospice patient:

- a. routine home care;
- b. continuous home care;
- c. inpatient respite care;
- d. general inpatient care.

License (Hospice)—a document permitting an organization to practice *hospice care* for a specific period of time under the rules and regulations set forth by the State of Louisiana.

Life-Threatening—causes or has the potential to cause serious bodily harm or death of an individual.

Medical Social Services—include a comprehensive psychosocial assessment; ongoing support for the patient and family; and assistance with coping skills, anticipatory grief, and grief reactions.

Non-Core Services—services provided directly by hospice employees or under arrangement. These services include, but are not limited to:

- a. home health aide and homemaker;
- b. physical therapy services;
- c. occupational therapy services;
- d. speech-language pathology services;
- e. inpatient care for pain control and symptom management and respite purposes; and
- f. medical supplies and appliances including drugs and biologicals.

Period of Crisis—a period in which a patient requires predominately nursing care to achieve palliation or management of acute medical problems.

Plan of Care (POC)—a written document established and maintained for each individual admitted to a hospice program. Care provided to an individual must be in accordance with the plan. The plan includes an assessment of the individual's needs and identification of the services including the management of discomfort and symptom relief.

Representative—an individual who has been authorized under State law to terminate medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or physically incapacitated.

Residential Care—hospice care provided in a nursing facility or any residence or facility other than the patient's private residence.

Respite Care—short-term care generally provided in a nursing facility or hospice facility to provide relief for the family from daily care of the patient.

Spiritual Services—providing the availability of clergy as needed to address the patient's/family's spiritual needs and concerns.

Sub-Unit—a semi-autonomous organization, licensed separately, which serves patients in a different geographic location from that of the parent agency. The *sub-unit* is located outside of the 50-mile radius and does not share administration/staff/services on a daily basis with the parent agency.

Terminally Ill—the individual has a medical prognosis that his or her life expectancy is 6 months or less if the illness runs its normal course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8203. Licensure

A. It shall be unlawful to operate or maintain a hospice without first obtaining a license from the department. The Department of Health and Hospitals is the only licensing authority for hospice in the State of Louisiana.

B. A separately licensed hospice may not use a name which is substantially the same as the name of another hospice licensed by the department unless the agency is part of a corporation or is chain affiliated.

C. Issuance of a License. The licensing agency shall have authority to issue two licenses as described below.

1. Full license is issued only to those agencies that are in substantial compliance with applicable federal, state, and local laws. The license shall be valid until the expiration date shown on the license.

2. Provisional license is issued to those existing licensed agencies which do not meet criteria for Full licensure. The license shall be valid for six months or until termination date.

a. An agency with a provisional license shall pay an additional amount equal to the annual licensing renewal fee for each follow-up survey. Fee shall be paid to the state agency prior to the follow-up survey being performed and is non-refundable.

b. An agency with a provisional license may be issued a full license, if at the follow-up survey the agency has corrected the violations. A full license will be issued for the remainder of the year until the hospice agency's license anniversary date.

c. DHH may re-issue a provisional license or initiate licensing revocation of a provisional license when the hospice fails to correct violations within sixty (60) days of being cited, or at the time of the follow-up survey, whichever occurs first.

d. A provisional license may be issued by DHH for the following non-exclusive reasons:

i. agency has more than five violations of hospice regulations during one survey;

ii. agency has more than three valid complaints in a one year period;

iii. there is a documented incident that places a patient at risk;

iv. agency fails to correct violations within 60 days of being cited, or at the time of a follow-up survey, whichever occurs first;

v. agency has an inadequate referral base, other than at the time of the initial survey for licensure, has less than twenty new patients admitted since the last annual survey.

e. Agency fails to submit assessed fees after notification by DHH.

f. Documented evidence that agency has bribed, or harassed any person to use the services of any particular hospice agency.

D. Display of License. The current license shall be displayed in a conspicuous place inside the hospice program office at all times. A license shall be valid only in the possession of the agency to which it is issued. A license shall not be subject to sale, assignment, or other transfer, voluntary or involuntary. A license shall not be valid for any hospice other than the hospice for which originally issued. If an agency is also licensed as a hospice inpatient facility, both licenses shall be displayed.

E. Initial Licensure. All requirements of the application process must be completed by the applicant before the application will be processed by DHH. No application will be reviewed until payment of application fee.

1. The applicant must become fully operational and prepared for an initial survey within ninety days after payment of the application fee. If the agency is unable to do so, the application shall be considered closed and the agency shall be required to submit a new application packet including fees.

2. An initial applicant shall, as a condition of licensure, submit the following:

a. a complete and accurate Hospice Application Packet. (This packet is purchased from DHH and contains the forms required for initial hospice licensure. The fee for this packet is set by DHH). The address provided on the application must be the address from which the agency will be operating;

b. current licensing fee by certified check, company check, or money order. Refer to the Fees section of this manual for information on fees;

c. line of credit from a federally insured, licensed, lending agency for at least \$50,000 as proof of adequate finances to sustain the hospice agency for at least six months;

d. proof of general and professional liability insurance, and worker's compensation of at least \$300,000. The certificate holder shall be The Department of Health and Hospitals;

e. documentation of qualifications for administrator, director of nursing, and medical director. Any changes in the individuals designated or in their qualifications must be submitted to and approved by DHH prior to the initial survey;

f. disclosure of any financial and/or familial relationship with any other entity receiving third party payor funds, or any entity which has previously been licensed in Louisiana;

g. proof of criminal background investigations on the administrator and all owners. If a corporation, submit proof of criminal background investigations on all Board of Directors and principal owners;

F. Denial of Initial Licensure. An applicant may be denied a license for the following reasons:

1. failure to comply with applicable federal, state, and local laws;

2. failure to complete the application process;

3. conviction of a felony by an owner, administrator, or director of nursing, as shown by a certified copy of the record of the court, of the conviction of the above individual; or if the applicant is a firm or corporation, conviction of any of its members or officers, or of the person(s) designated to manage or supervise the Hospice agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8205. Survey

A. Initial Survey. After approval of application by DHH, hospice must become fully operational, in substantial compliance with applicable federal, state, and local laws, and providing care to two and only two patients at the time of the initial survey.

1. An on-site survey will be conducted to assure compliance with all hospice minimum standards.

a. The initial on-site survey will be scheduled after the agency notifies the department that the agency is fully operational and providing services. The agency has 90 days from the date the application and fees are submitted to DHH to complete the application process and become fully operational.

b. In cases of a vast number of requests for surveys by different applicants, DHH will survey according to the date of request.

2. If, at the initial licensure survey, the agency is in substantial compliance with all regulations, a Full license will be issued.

3. If, at the initial licensure survey, an agency has less than five violations of hospice minimum standards in an area other than personnel qualifications and/or patient care, the agency shall submit an acceptable plan of correction. A follow-up survey may be conducted to assure compliance.

4. If, at the initial licensure survey, an agency has more than five violations of any minimum standards or if the violations are determined to be of such a serious nature that they may cause or have the potential to cause actual harm, DHH shall deny licensure and the agency may not re-apply for a period of two years from the date of the survey.

B. Annual Licensing Survey. An unannounced annual on-site visit, or any other survey, which may include home visits, will be conducted to assure compliance with all applicable federal, state, and local laws and/or any other requirements.

C. Follow-up Survey. An on-site follow-up may be conducted whenever necessary to assure correction of

violations. When applicable, DHH may clear violations at exit interview and/or by mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8207. Revocation or Denial of Renewal of License

A. If an agency's license, whether full or provisional, is revoked, or denied renewal, subsequently no other hospice license application may be approved by DHH for two years from date of termination.

B. The Secretary of DHH may deny an application for a license, or refuse to renew a license or revoke a license in accordance with LA R.S. 40:2187-2188. An agency's license may not be renewed and/or may be revoked for any of the following:

1. failure to be in substantial compliance with the hospice minimum standards;
2. failure to provide services essential to the palliative care of terminally ill individuals;
3. failure to uphold patient rights whereby violations may result in harm or injury;
4. failure of agency to protect patients/persons in the community from harmful actions of the agency employees; including, but not limited to, health and safety, coercion, threat, intimidation, and harassment;
5. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient;
6. failure to maintain staff adequate to provide necessary services to current active patients;
7. failure to employ qualified personnel;
8. failure to remain fully operational at any time for any reason other than a disaster;
9. failure to submit fees including, but not limited to, annual fee, renewal fee, provisional follow-up fee, or change of agency address or name, or any fines assessed by DHH;
10. failure to allow entry to hospice agency or access to any requested records during any survey;
11. failure to protect patient from unsafe skilled and/or unskilled care by any person employed by the agency;
12. failure of agency to correct violations after being issued a provisional license;
13. agency staff or owner has knowingly, or with reason to know, made a false statement of a material fact in:
 - a. application for licensure;
 - b. data forms;
 - c. clinical record;
 - d. matter under investigation by the department;
 - e. information submitted for reimbursement from any payment source;
 - f. the use of false, fraudulent or misleading advertising;
 - g. that the agency staff misrepresented or was fraudulent in conducting hospice business;
 - h. convictions of a felony by an owner, administrator, director of nursing or medical director as shown by a certified

copy of the record of the court of conviction of the above individual; or if the applicant is a firm or corporation, of any of its members or officers, or of the person designated to manage or supervise the hospice agency;

14. failure to maintain proper insurance; and

15. failure to comply with all reporting requirements in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8209. License Renewal Process

A. License must be renewed at least annually.

B. Renewal packet includes forms required for renewal of license.

C. An agency seeking a renewal of its hospice license shall:

1. request a renewal packet from the bureau if one is not received at least 45 days prior to license expiration;
2. complete all forms and return to bureau at least 30 days prior to license expiration;
3. submit the current annual licensure fees with packet.

An application is not considered to have been submitted unless the licensure fees are received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8211. Notice and Appeal Procedure

A. Notice shall be given in accordance with the current State Statutes.

B. Administrative Reconsideration. The hospice agency may request an administrative reconsideration of the violation(s) which support the departments actions. This reconsideration shall be conducted by a designated official(s) of the department who did not participate in the initial decision to impose the actions taken. Reconsideration shall be made solely on the basis of documents before the official and shall include the survey report and statement of violations and all documentation the agency submits to the department at the time of the agency's request for reconsideration. Correction of a violation shall not be a basis for reconsideration. A hearing shall not be held. Oral presentations can be made by the department's spokesperson(s) and the agency's spokesperson(s). This process is not in lieu of the appeals process and does not extend the time limits for filing an administrative appeal. The designated official shall have authority only to affirm the decision, to revoke the decision, to affirm part and revoke part, or to request additional information from either the department or the agency.

C. Administrative Appeal Process. Upon refusal of the DHH to grant a license as provided in the current State Statutes, or upon revocation or suspension of a license, or the imposition of a fine, the agency, institution, corporation, person, or other group affected by such action shall have the

ight to appeal such action by submitting a written request to the Secretary of the Department within thirty (30) days after receipt of the notification of the refusal, revocation, suspension of a license, or imposition of a fine.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8213. Fees

A. Any remittance submitted to DHH in payment of a required fee must be in the form of a company or certified check or money order made payable to the Department of Health and Hospitals.

B. Fee amounts are determined by DHH. (Check with DHH to determine the current required fees.)

C. Fees paid to DHH are not refundable.

D. A licensing fee is required for:

1. an initial application;
2. a renewal;
3. a change of controlling ownership.

E. Additional licensure fees are required for inpatient hospice facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8215. Changes

A. DHH shall be notified, in writing, of any of the following within five working days following the occurrence:

1. address/location (An Inpatient Hospice facility must notify and receive approval by DHH prior to a change of address/location) - fee required;

2. agency name - fee required;

3. phone number;

4. hours of operation/24 hour contact procedure;

5. ownership (Controlling) - fee required;

6. change in address or phone number of any branch office;

7. administrator (completed Key Personnel Change Form, obtained from DHH, is required); and

8. director of nursing (completed Key Personnel Change Form required);

9. cessation of business. (See §8245.)

B. Change of Ownership. A representative of the buyer must request approval for a change of ownership prior to the sale.

1. Submit a written request to DHH for written approval to undergo a Change of Ownership. Change of Ownership (CHOW) Packets may be obtained from DHH. If the hospice had less than two active patients at the time of the most recent survey, and less than twenty new patients admitted since the last annual survey, the department may have issued a

provisional license. Only an agency with a full license shall be approved to undergo a change of ownership.

2. Submit the following with the request for CHOW:

a. a new license application and the current licensing fee. The purchaser of the agency must meet all criteria required for initial licensure for hospice;

b. any changes in the name and or address of the agency;

c. any changes in administrative personnel;

d. disclosure of ownership forms.

3. Within five working days after the act of sale, submit a copy of the Bill of Sale and Articles of Incorporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter B. Organization and Staffing

§8217. Personnel Qualifications/Responsibilities

A. Administrator. A person who is designated, in writing, by the Governing Body as administratively responsible for all aspects of hospice operations. When the administrator serves more than one licensed agency, he/she shall designate, in writing, an alternate to serve as administrator for each site where he/she is not physically housed continuously. The alternate shall be a full-time, on-site employee of the hospice and shall meet the same qualifications as the administrator. The administrator and the Director of Nurses/Alternates may be the same individual if that individual is dually qualified.

NOTE: A Director of Nurses, while employed by the hospice, may not be employed by any other licensed health care agency.

1. Qualifications. Licensed physician, a licensed registered nurse, a social worker with a masters degree, or a college graduate with a bachelor's degree. Each shall have at least three years of documented management experience in a health care service delivery.

2. Responsibilities. The Administrator shall be responsible for compliance with all regulations, laws, policies and procedures applicable to hospice specifically and to Medicare/Medicaid issues when applicable:

a. ensure the hospice employs qualified individuals;

b. be on-site during business hours or immediately available by telecommunications when off-site conducting the business of the hospice, and available after hours as needed;

c. be responsible for and direct the day-to-day operations of the hospice;

d. act as liaison among staff, patients, and governing board;

e. ensure that all services are correctly billed to the proper payer source;

f. designate, in writing, an individual who meets the administrator qualifications to assume the authority and the control of the hospice if the administrator is unavailable; and

g. designate in advance the IDG he/she chooses to establish policies governing the day-to-day provisions of hospice care.

B. Counselor—Bereavement

1. Qualifications. Documented evidence of experience dealing with grief, under the supervision of a qualified professional, as part of an organized program for the provision of bereavement services.

2. Responsibilities. The counselor shall implement bereavement services based on the assessment of grief counseling needs in a manner consistent with standards of practice including, but not limited to the following:

- a. provide bereavement information and referral services to the bereaved, as needed, in accordance with the POC;
- b. provide bereavement support to hospice staff as needed;
- c. attend hospice IDG meetings; and
- d. document bereavement services provided and progress of bereaved on a clinical progress note to be incorporated in the clinical record.

C. Counselor—Dietary

1. Qualifications. A registered nurse or person who meets the qualification standards of the Commission on Dietetic Registration of the American Dietetic Association.

2. Responsibilities. The dietitian shall implement dietary services based on initial and ongoing assessment of dietary needs in a manner consistent with standards of practice including, but not limited to, the following:

- a. evaluate outcomes of interventions and document findings on a clinical progress note which is to be incorporated into the clinical record within one week of the visit;
- b. collaborate with the patient/family, physician, registered nurse, and/or the IDG in providing dietary counseling to the patient/family;
- c. instruct patient/family and/or hospice staff as needed;
- d. evaluate patient socioeconomic factors to develop recommendations concerning food purchasing, preparation and storage;
- e. evaluate food preparation methods to ensure nutritive value is conserved, flavor, texture and temperature principles are adhered to in meeting the individual patient's needs;
- f. participate in IDG conference as needed; and
- g. be an employee of the hospice agency.

D. Counselor—Spiritual

1. Qualifications. Documented evidence of appropriate training and skills to provide spiritual counseling, such as Bachelor of Divinity, Master of Divinity or equivalent theological degree or training.

2. Responsibilities. The counselor shall provide spiritual counseling based on the initial and ongoing assessment of spiritual needs of the patient/family, in a manner consistent with standards of practice including, but not limited to, the following:

- a. serve as a liaison and support to community chaplains and/or spiritual counselors;
- b. provide consultation, support, and education to the IDG members on spiritual care;

c. supervise spiritual care volunteers assigned to family/care givers; and

d. attend IDG meetings.

E. Director of Nurses (DON). A person designated, in writing, by the Governing Body to supervise all aspects of patient care, all activities of professional staff and allied health personnel, and responsible for compliance with regulatory requirements. The DON, or alternate, shall be immediately available to be on site, or on site, at all times during operating hours, and additionally as needed. If the DON is unavailable he/she shall designate a Registered Nurse to be responsible during his/her absence.

1. Qualifications. A registered nurse must be currently licensed to practice in the State of Louisiana:

a. with at least three years' experience as a registered nurse. One of these years shall consist of full-time experience in providing direct patient care in a hospice, home health, or oncology setting; and

b. be a full time, salaried employee of only the hospice agency. The Director of Nurses is prohibited from simultaneous/concurrent employment. While employed by the hospice, he or she may not be employed by any other licensed health care agency.

2. Responsibilities. The registered nurse shall supervise all patient care activities to assure compliance with current standards of accepted nursing and medical practice including, but not limited to, the following:

- a. the POC;
- b. implement personnel and employment policies to assure that only qualified personnel are hired. Verify licensure and/or certification (as required by law) prior to employment and annually thereafter; maintain records to support competency of all allied health personnel;
- c. implement hospice policies and procedures that establish and support quality patient care, cost control, and mechanisms for disciplinary action for infractions;
- d. supervise employee health program;
- e. assure compliance with local, state, and federal laws, and promote health and safety of employees, patients and the community, using the following non-exclusive methods:
 - i. resolve problems;
 - ii. perform complaint investigations;
 - iii. refer impaired personnel to proper authorities;
 - iv. provide for orientation and in-service training to employees to promote effective hospice services and safety of the patient, to familiarize staff with regulatory issues, and agency policy and procedures;
 - v. orient new direct health care personnel;
 - vi. perform timely annual evaluation of performance of health care personnel;
 - vii. assure participation in regularly scheduled appropriate continuing education for all health professionals and home health aides and homemakers;
 - viii. assure that the care provided by the health care personnel promotes effective hospice services and the safety of the patient; and

ix. assure that the hospice policies are enforced.

F. Home Health Aide/Homemaker. A qualified person who provides direct patient care and/or housekeeping duties in the home or homelike setting under the direct supervision of a registered nurse.

1. Qualifications. The home health aide/homemaker must meet one of the training requirements listed in §8217.F.a, b, and c and meet all other requirements:

a. have current nursing assistant certification and have successfully completed a Home Health Aide competency evaluation; or

b. have successfully completed a Home Health Aide training program and have successfully completed a competency evaluation; or

c. have successfully completed a Home Health Aide competency evaluation; and

d. exhibit maturity, a sympathetic attitude toward the patient, ability to provide care to the terminal patient, and ability to deal effectively with the demands of the job;

e. have the ability to read, write, and carry out directions promptly and accurately; and

f. shall not perform simultaneous/concurrent employment; and

g. when employed by more than one agency, inform all employers and coordinate duties to assure highest quality when providing services to the patients.

NOTE: The Home Health Aide competency evaluation is to be completed by a registered nurse prior to the Home Health Aide being assigned to provide patient care.

2. Responsibilities. The home health aide/homemaker shall provide services established and delegated in POC, record and notify the primary registered nurse of deviations according to standard practice including, but not limited to, the following:

a. perform simple one-step wound care if written documentation of in-service for that specific procedure is in the aide's personnel record. All procedures performed by the aide must be in compliance with current standards of nursing practice;

b. provide assistance with mobility, transferring, walking, grooming, bathing, dressing or undressing, eating, toileting, and/or housekeeping needs. Some examples of assistance include:

i. helping the patient with a bath, care of the mouth, skin and hair;

ii. helping the patient to the bathroom or in using a bed pan or urinal;

iii. helping the patient to dress and/or undress;

iv. helping the patient in and out of bed, assisting with ambulating;

v. helping the patient with prescribed exercises which the patient and home health aide have been taught by appropriate personnel; and

vi. performing such incidental household services essential to the patient's health care at home that are necessary to prevent or postpone institutionalization;

d. complete a clinical note for each visit, which must be incorporated into the record at least on a weekly basis.

3. Restrictions. The home health aide/homemaker shall not:

a. perform any intravenous procedures, procedures involving the use of Levine tubes or Foley catheters, or any other sterile or invasive procedures, other than rectal temperatures or enemas;

b. administer medications to any patient.

4. Initial Orientation. The content of the basic orientation provided to home health aides shall include the following:

a. policies and objectives of the agency;

b. duties and responsibilities of a home health aide/homemaker;

c. the role of the home health aide/homemaker as a member of the health care team;

d. emotional problems associated with terminal illness;

e. the aging process;

f. information on the process of aging and behavior of the aged;

g. information on the emotional problems accompanying terminal illness;

h. information on terminal care, stages of death and dying, and grief;

i. principles and practices of maintaining a clean, healthy and safe environment;

j. ethics; and

k. confidentiality.

NOTE: The orientation and training curricula for home health aides/homemakers shall be detailed in a policies and procedures manual maintained by the hospice agency and provision of orientation and training shall be documented in the employee personnel record.

5. Initial Training shall include the following areas of instruction:

a. assisting patients to achieve optimal activities of daily living;

b. principles of nutrition and meal preparation;

c. record keeping;

d. procedures for maintaining a clean, healthful environment; and

e. changes in the patients' condition to be reported to the supervisor.

6. In-service Training. Home Health Aide/homemaker must have a minimum of 12 hours of appropriate in-service training annually. Six of these hours of in-service training must be provided each six months. In-service training may be prorated for employees working a portion of the year. However, part-time employees who worked throughout the year must attend all twelve hours of in-service training. The in-service may be furnished while the aide is providing service to the patient, but must be documented as training.

G. Licensed Practical Nurse. The L.P.N. must work under the direct supervision of a registered nurse and perform skilled nursing services as delegated by the registered nurse. The role of the L.P.N. in hospice is limited to stable hospice patients.

1. Qualifications. A licensed practical nurse must be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions:

a. with at least three years' full time experience as an L.P.N.;

b. be an employee of the hospice agency; and
c. when employed by more than one agency the LPN must inform all employers and coordinate duties to assure quality provision of services.

2. Responsibilities. The L.P.N. shall perform skilled nursing services under the supervision of a registered nurse, in a manner consistent with standards of practice, including but not limited to, such duties as follows:

a. observe, record, and report to the registered nurse or director of nurses on the general physical and mental conditions of the patient;

b. administer prescribed medications and treatments as permitted by State or Local regulations;

c. assist the physician and/or registered nurse in performing specialized procedures;

d. prepare equipment for treatments, including sterilization, and adherence to aseptic techniques;

e. assist the patient with activities of daily living;

f. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;

g. perform complex wound care if in-service is documented for specific procedure;

h. perform routine venipuncture (phlebotomy) if written documentation of competency is in personnel record. Competency must be evaluated by an RN even if LPN has completed a certification course; and

i. receive orders from the physician and follow those that are within the realm of practice for an LPN and within the standards of hospice practice.

3. Restrictions. An LPN shall not:

a. access any intravenous appliance for any reason;

b. perform supervisory aide visit;

c. develop and/or alter the POC;

d. make an assessment visit;

e. evaluate recertification criteria;

f. make aide assignments; or

g. function as a supervisor of the nursing practice of any registered nurse.

H. Medical Director/Physician Designee. A licensed physician knowledgeable about the medical and psychosocial aspects of hospice care. The Medical Director reviews, coordinates, and is responsible for the management of clinical and medical care for all patients.

NOTE: The Medical Director or Physician Designee may be an employee or a volunteer of the hospice agency. The hospice agency may also contract for the services of the Medical Director or Physician Designee.

1. Qualifications. A Doctor of Medicine or Osteopathy licensed to practice in the state of Louisiana.

2. Responsibilities. The Medical Director or Physician designee assumes overall responsibility for the medical component of the hospice's patient care program and shall include, but not be limited to:

a. serve as a consultant with the attending physician regarding pain and symptom control as needed;

b. serve as the attending physician if designated by the patient/family unit;

c. review patient eligibility for hospice services;

d. serve as a medical resource for the hospice interdisciplinary group;

e. act as a liaison to physicians in the community;

f. develop and coordinate procedures for the provision of emergency care;

g. provide a system to assure continuing education for hospice medical staff as needed;

h. participate in the development of the POC prior to providing care, unless the POC has been established by an attending physician who is not also the Medical Director or Physician Designee; and

i. participate in the review and update of the POC, unless the plan of care has been reviewed/updated by the attending physician who is not also the Medical Director or Physician Designee. These reviews must be documented.

I. Social Worker

1. Qualifications. A master's degree from a school of social work accredited by the Council on Social Work Education:

a. documented clinical experience appropriate to the counseling and casework needs of the terminally ill.

b. must be an employee of the hospice; and

c. when the Social Worker is employed by one or more agencies he/she must inform all employers and cooperate and coordinate duties to assure the highest performance of quality when providing services to the patient.

2. Responsibilities. The social worker shall assist the physician and other IDG members in understanding significant social and emotional factors related to the patient's health status and shall include, but not be limited to:

a. assessment of the social and emotional factors having an impact on the patient's health status;

b. assist in the formulation of the POC;

c. provide services within the scope of practice as defined by state law and in accordance with the POC;

d. coordination with other IDG members and participate in IDG conferences;

e. prepare clinical and/or progress notes and incorporate them into the clinical record within one week of the visit;

f. participate in discharge planning, and in-service programs related to the needs of the patient;

g. acts as a consultant to other members of the IDG; and

h. when medical social services are discontinued, submit a written summary of services provided, including an assessment of the patient's current status, to be retained in the clinical record.

J. Occupational Therapist

1. Qualifications. A occupational therapist must be licensed by the State of Louisiana and registered by the American Occupational Therapy Association.

2. Responsibilities. The occupational therapist shall assist the physician in evaluating the patient's level of functioning by applying diagnostic and prognostic procedures including, but not limited to, the following:

a. provide occupational therapy in accordance with a physician's orders and the POC;

b. guide the patient in his/her use of therapeutic, creative, and self-care activities for the purpose of improving

function, in a manner consistent with accepted standards of practice;

c. observe, record, and report to the physician and/or interdisciplinary group the patient's reaction to treatment and any changes in the patient's condition;

d. instruct and inform other health team personnel including, when appropriate, home health aides/homemakers and family members in certain phases of occupational therapy in which they may work with the patient;

e. document each visit made to the patient and incorporate notes into the clinical record within one week of the visit;

f. participate in IDG conference as needed with hospice staff; and

g. prepare written discharge summary when applicable, with a copy retained in patient's clinical record and a copy forwarded to the attending physician.

3. Supervision of an Occupational Therapy Assistant

a. The occupational therapist shall conduct the initial assessment and establish the goals and treatment plan before the licensed and certified occupational therapy assistant may treat the patients on site without the physical presence of the occupational therapist.

b. The occupational therapist and the occupational therapy assistant must schedule joint visits at least once every two weeks or every four to six treatment sessions.

c. The occupational therapist must review and countersign all progress notes written by the licensed and certified occupational therapy assistant.

d. In the occupational therapist/occupational therapy assistant relationship, the supervising occupational therapist retains overall personal responsibility to the patient, and accountability to the Louisiana Board of Medical Examiners for the patients' care.

e. The supervising occupational therapist is responsible for:

i. assessing the competency and experience of the occupational therapy assistant;

ii. establishing the type, degree and frequency of supervision required in the home health care setting.

K. Occupational Therapy Assistant (OTA)

Qualifications. The occupational therapist assistant must be licensed by the Louisiana Board of Medical Examiners to assist in the practice of occupational therapy under the supervision of a licensed Registered Occupational Therapist and have at least two years experience as a licensed OTA before starting hospice caseload.

L. Physical Therapist (PT). The physical therapist when provided must be available to perform in a manner consistent with accepted standards of practice.

1. Qualifications. The physical therapist must be currently licensed by the Louisiana State Board of Physical Therapy Examiners and have graduated from a physical therapy curriculum approved by:

a. the American Physical Therapy Association; or

b. the Council on Medical Education and Hospitals of the American Medical Association; or

c. the Council on Medical Education of the American Medical Association and the American Physical Therapy Association.

2. Responsibilities. The physical therapist shall assist the physician in evaluating the patient's functional status and physical therapy needs in a manner consistent with standards of practice to include, but is not limited to, the following:

a. assist in the formation of the POC;

b. provide services within the scope of practice as defined by state law governing the practice of physical therapy, in accordance with the POC, and in coordination with the other members of the IDG;

c. observe, and report to the physician and the IDG, the patient's reaction to treatment and any changes in the patient's condition;

d. instruct and inform participating members of the IDG, the patient, family/care givers, regarding the POC, functional limitations and progress toward goals;

e. prepare clinical and progress notes for each visit and incorporate them into the clinical record within one week of the visit;

f. when physical therapy services are discontinued, prepare written discharge summary, with a copy retained in the patient's clinical record and a copy forwarded to the attending physician;

g. participate in IDG conference as needed with hospice staff.

3. Supervision of Physical Therapy Assistant (PTA)

a. The physical therapist shall be readily accessible by telecommunications.

b. The physical therapist shall evaluate and establish a written treatment plan on the patient prior to implementation of any treatment program.

c. The physical therapist shall treat and reassess the patient on at least every sixth visit, but not less than once per month.

d. The physical therapist shall conduct, once weekly, a face-to-face patient care conference with each PTA to review progress and modification of treatment programs for all patients.

e. The physical therapist shall assess the final treatment rendered to the patient at discharge and write a discharge summary.

M. Physical Therapy Assistant (PTA)

1. Qualifications. A physical therapy assistant must be licensed by the Physical Therapy Board of Louisiana and supervised by a Physical Therapist.

2. Responsibilities. The physical therapy assistant shall:

a. provide therapy in accordance with the POC;

b. document each visit made to the patient and incorporate notes into the clinical record at least weekly; and

c. participates in IDG conference as needed with hospice staff.

N. Registered Nurse (RN). The hospice must designate a registered nurse to coordinate the implementation of the POC for each patient.

1. Qualifications. A licensed registered nurse must be currently licensed to practice in the State of Louisiana with no restrictions:

a. with at least two years' full time experience as a registered nurse; and

b. be an employee of the hospice. If the registered nurse is employed by more than one agency, he or she must inform all employers and coordinate duties to assure quality service provision.

2. Responsibilities. The registered nurse shall identify the patient/family's physical, psychosocial, and environmental needs and reassess as needed but no less than every 14 days:

a. provide nursing services in accordance with the POC;

b. document problems, appropriate goals, interventions, and patient/family response to hospice care;

c. collaborate with the patient/family, attending physician and other members of the IDG in providing patient and family care;

d. instruct patient/family in self-care techniques when appropriate;

e. supervise ancillary personnel and delegates responsibilities when required;

f. complete and submit accurate and relevant clinical notes regarding the patient's condition into the clinical record within one week of the visit;

g. if a home health aide/homemaker is assigned to a patient by the RN, in accordance with the POC, specific written instructions for patient care are to be prepared by the RN. All personal care services are to be outlined for the patient, in writing, by the RN in charge of that patient;

h. supervise and evaluate the home health aide/homemaker's ability to perform assigned duties, to relate to the patient and to work effectively as a member of the health care team;

i. perform supervisory visits to the patient's residence at least every 14 days (when the aide/homemaker is present to observe and assist, and when the aide/homemaker is absent) to assess relationships and determine whether goals are being met. A supervisory visit with the aide present must be made at least once every three (3) months;

j. document supervision, to include the aide/homemaker-patient relationships, services provided and instructions and comments given as well as other requirements of the clinical note; and

k. annual performance review for each aide/homemaker documented in the individual's personnel record.

Q. Speech Pathology Services

1. Qualifications. A speech pathologist must:

a. be licensed by the State of Louisiana and certified by the American Speech and Hearing Association; or

b. completed the academic requirements and is in the process of accumulating the necessary supervised (as directed by the State Certifying body) work experience required for certification. Evidence of this supervision will be retained in the non-certified speech pathologist's personnel folder.

2. Responsibilities. The speech pathologist shall assist the physician in evaluation of the patient to determine the type

f speech or language disorder and the appropriate corrective therapy in a manner consistent with standards of practice to include, but is not limited to, the following:

a. provide rehabilitative services for speech and language disorders;

b. observe, record and report to the physician and the IDG the patient's reaction to treatment and any changes in the patient's condition;

c. instruct other health personnel and family members in methods of assisting the patient to improve and correct speech disabilities;

d. communicate with the registered nurse, director of nurses, and/or the IDG the need for a continuation of speech pathology services for the patient;

e. participate in IDG conferences;

f. document each visit made to the patient and incorporate notes into the clinical record within one week of the visit; and

g. prepare written discharge summary as indicated, with a copy retained in patient's clinical record and a copy forwarded to the attending physician.

R. Volunteers. The volunteer may and are designed to play a vital role in enhancing the quality of care delivered to the patient/family by encouraging community participation in the overall hospice program. Volunteers that provide patient care and support services according to their experience and training must be in compliance with agency policies, and under the supervision of a designated hospice employee.

1. Qualifications. A mature, non-judgmental, caring individual supportive of the hospice concept of care, willing to serve others, and appropriately oriented and trained. Volunteers who are qualified to provide professional services must meet all standards associated with their specialty area.

2. Responsibilities. The volunteer shall:

a. provide assistance to the hospice program, and/or patient/family in accordance with designated assignments;

b. provide input into the plan of care and interdisciplinary group meetings, as appropriate;

c. document services provided as trained and instructed by the hospice agency;

d. maintain strict patient/family confidentiality; and

e. communicate any changes or observations to the assigned supervisor.

3. Training. The volunteers must receive appropriate documented training which shall include at a minimum:

a. an introduction to hospice;

b. the role of the volunteer in hospice;

c. concepts of death and dying;

d. communication skills;

e. care and comfort measures;

f. diseases and medical conditions;

g. psychosocial and spiritual issues related to death and dying;

h. the concept of the hospice family;

i. stress management;

j. bereavement;

k. infection control;

l. safety;

m. confidentiality;

- n. patient rights;
- o. the role of the IDG; and
- p. additional supplemental training for volunteers working in specialized programs (i.e. Nursing homes, AIDS facilities).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

Subchapter C. Patient Care Services

§8219. Patient Care Standard

A. Patient Certification. To be eligible for hospice care, an individual, or his/her representative, must sign an election statement with a licensed hospice; the individual must have a certification of terminal illness and must have a plan of care (POC) which is established before services are provided.

B. Admission criteria. The hospice shall have written policies to be followed in making decisions regarding acceptance of patients for care. Decisions are based upon medical, physical and psychosocial information provided by the patient's attending physician, the patient/family and the interdisciplinary group. The admission criteria shall include:

1. the ability of the agency to provide core services on a 24-hour basis and provide for or arrange for non-core services on a 24-hour basis to the extent necessary to meet the needs of individuals for care that is reasonable and necessary for the palliation and management of terminal illness and related conditions;
2. certification of terminal illness signed by the attending physician and the medical director of the agency;
3. assessment of the patient/family needs and desires for hospice services;
4. informed consent signed by patient or representative who is authorized in accordance with state law to elect the hospice care, which will include the purpose and scope of hospice services;
5. patients will be accepted for care without regard to age, color, creed, sex, national origin, handicap, or the ability to pay; and
6. patient meets all other criteria required by any applicable payor sources.

C. Admission procedure. Patients are to be admitted only upon the order of the patient's attending physician.

1. An assessment visit shall be made by a licensed Registered Nurse who will assess the patient's needs with emphasis on pain and symptom control. This assessment shall occur within 48 hours of referral unless otherwise ordered by physician or unless a request for delay is made by patient/family.

2. Documentation at admission will be retained in the clinical record and shall include:

- a. signed consent forms;
- b. signed patient's rights statement;
- c. clinical data including physician order for care;
- d. patient Release of Information;
- e. orientation of the patient/care giver, which includes:

- i. advanced directives;
- ii. agency services;
- iii. patient's rights; and
- iv. agency contact procedures;

f. certification of terminal illness signed by the medical director or the physician member of the IDG and the individual's attending physician. The certification must be obtained according to any applicable payor source criteria for hospice care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8221. Plan of Care (POC)

A. Prior to providing care, a written plan of care is developed for each patient/family by the attending physician, the Medical Director or physician designee and the IDG. The care provided to an individual must be in accordance with the POC.

1. The initial plan of care (IOPC) will be established on the same day as the assessment if the day of assessment is to be a covered day of hospice.

2. The IDG member who assesses the patient's needs must meet or call at least one other IDG member before writing the IPOC. At least one of the persons involved in developing the IPOC must be a registered nurse or physician. Within 2 days of the assessment, the other members of the IDG must review the IPOC and provide their input. This input may be by telephone. The IPOC is signed by the attending physician and an appropriate member of the IDG.

3. At a minimum the POC will include the following:

- a. an assessment of the individual's needs and identification of services, including the management of discomfort and symptom relief;
- b. in detail, the scope and frequency of services needed to meet the patient's and family's needs;
- c. identification of problems with realistic and achievable goals and objectives;
- d. medical supplies and appliances including drugs and biologicals needed for the palliation and management of the terminal illness and related conditions;
- e. patient/family understanding, agreement and involvement with the POC; and
- f. recognition of the patient/family's physiological, social, religious and cultural variables and values.

4. The POC is incorporated into the individual clinical record.

5. The hospice will designate a Registered Nurse to coordinate the implementation of the POC for each patient.

B. Review and Update of the Plan of Care. The plan of care is reviewed and updated at intervals specified in the POC, when the patient's condition changes, and a minimum of every 14 days for home care and every 7 days for general inpatient care, collaboratively with the IDG and the attending physician.

1. Agency shall have policy and procedures for the following:

a. the attending physician's participation in the development, revision, and approval of the POC is documented. This is evidenced by change in patient orders and documented communication between Hospice Staff and the attending physician;

b. physician orders must be signed and dated in a timely manner, not to exceed 14 days, unless the hospice has documentation that verifies attempts to get orders signed; in this situation up to 30 days will be allowed.

2. The agency shall have documentation that the patient's condition and POC is reviewed and the POC updated, even when the patient's condition does not change.

C. Coordination and Continuity of Care. The hospice shall adhere to the following additional principles and responsibilities:

1. an assessment of the patient/family needs and desire for hospice services and a hospice program's specific admission, transfer, and discharge criteria determine any changes in services;

2. nursing services, physician services, and drugs and biologicals are routinely available to hospice patients on a 24-hour basis, seven days a week;

3. all other covered services are available on a 24-hour basis to the extent necessary to meet the needs of individuals for care that is reasonable and necessary for the palliation and management of terminal illness and related conditions;

4. case-management is provided and an accurate and complete documented record of services and activities describing care of patient/family is maintained;

5. collaboration with other providers to ensure coordination of services;

6. maintenance of professional management responsibility and coordination of the patient/family care regardless of the setting;

7. maintenance of contracts/ agreements for the provision of services not directly provided by the hospice, including but not limited to:

- a. radiation therapy;
- b. infusion therapy;
- c. inpatient care;
- d. consulting physician;

8. provision or access to emergency medical care;

9. when home care is no longer possible, assistance to the patient in transferring to an appropriate setting where hospice care can be delivered;

10. when the patient is admitted to a setting where hospice care cannot be delivered, hospice adheres to standards, policies and procedures on transfer and discharge and facilitates the patient's transfer to another care provider;

11. maintenance of appropriately qualified IDG health care professionals and volunteers to meet patients need;

12. documentation and maintenance of a volunteer staff sufficient to provide administrative or direct patient care in an amount that, at a minimum, equals 5 percent of the total patient care hours of all paid hospice employees and contract staff. The hospice must document a continuing level of volunteer activity;

13. coordination of the IDG, as well as of volunteers, by a qualified health care professional, to assure continuous

assessment, continuity of care and implementation of the POC;

14. supervision and professional consultation by qualified personnel, available to staff and volunteers during all hours of service;

15. hospice care provided in accordance with accepted professional standards and accepted code of ethics;

16. each member of the IDG accepts a fiduciary relationship with the patient/family, maintaining professional boundaries and an understanding that it is the responsibility of the IDG to maintain appropriate agency/patient/family relationships;

17. written policy to follow at the time of death of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8223. Pharmaceutical Services

A. Hospice provides for the pharmaceutical needs of the patient, consistent with the Board of Pharmacy regulations.

1. Agency shall institute procedures which protect the patient from medication errors.

2. Agency shall provide verbal and written instruction to patient and family as indicated.

3. Drugs and treatments are administered by agency staff only as ordered by the physician.

B. Hospice ensures the appropriate monitoring and supervision of pharmaceutical services and has written policies and procedures governing prescribing, dispensing, administering, controlling, storing and disposing of all biologicals and drugs in compliance with applicable laws and regulations.

C. Hospice ensures timely pharmaceutical services on a 24 hour a day/seven day a week basis that include provision of drugs, biologicals and infusion services which are consistent with patient's individual drug profile.

D. Hospice provides the IDG and the patient/family with coordinated information and instructions about individual drug profiles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8225. Pathology and Laboratory Services

Hospice provides or has access to pathology and laboratory services which comply with CLIA guidelines; and meet patient's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

8227. Radiology Services

Radiology services provided by hospice either directly; or under arrangements that must comply with Federal and State regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8229. Discharge/Revocation/Transfer

A. Hospice provides adequate and appropriate patient/family information at discharge, revocation, or transfer.

B. Discharge. Patient shall be discharged only in the following circumstance:

1. change in terminal status;
2. patient relocates from the hospice's geographically defined service area;
3. if the safety of the patient or of the hospice staff is compromised. The hospice shall make every effort to resolve these problems satisfactorily before discharge. All efforts by the hospice to resolve the problem must be documented in detail in the patient's clinical record; and
4. if the patient enters a non-contracted nursing home or hospital and all options have been exhausted (a contract is not attainable, the patient chooses not to transfer to a facility with which the hospice has a contract, or to a hospice with which the SNF has a contract), the hospice shall then discharge the patient. The hospice must notify the payor source to document that all options have been pursued and that the hospice is not "dumping" the patient;
5. the hospice must clearly document why the hospice found it necessary to discharge the patient.

C. Revocation. Occurs when the patient or representative makes a decision to discontinue receiving hospices services:

1. a recipient may revoke hospice care at any time. This is a right that belongs solely and exclusively to the patient or representative;
2. an effective date earlier than the actual date the revocation is made and signed can not be designated;
3. if a patient or representative chooses to revoke from hospice care, the patient must sign a statement that he or she is aware of the revocation and stating why revocation is chosen.

D. Non Compliance. When a patient is non-compliant, the hospice may counsel the patient/family on the option to revoke and any advantages or disadvantages of the decision that is made. A patient is considered non-compliant if:

1. the patient seeks or receives curative treatment for the illness; or
2. the patient seeks treatment related to the terminal illness in a facility that does not have a contract with the hospice;
3. the patient seeks treatment related to the terminal illness that is not in the POC, or is not pre-approved by the hospice.

E. Transfer. To change the designation of hospice programs, the individual must file with the hospice from which

e/she has received care and with the newly designated hospice, a signed statement which includes the following information:

1. the name of the hospice from which the individual has received care;
2. the name of the hospice to which he/she plans to receive care;
3. the date of discharge from the first hospice and the date of admission to the second hospice; and
4. the reason for the transfer;
5. appropriate discharge plan/summary is to be written, and appropriate continuity of care is to be arranged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8231. Patient Rights and Responsibilities

A. The hospice shall insure that the patient has the right to:

1. be cared for by a team of professionals who provide high quality comprehensive hospice services as needed and appropriate for patient/family;
2. have a clear understanding of the availability of hospice services and the hospice team 24 hours a day, seven days a week;
3. receive appropriate and compassionate care, regardless of diagnosis, race, age, gender, creed, disability, sexual orientation, place of residence, or the ability to pay for the services rendered;
4. be fully informed regarding patient status in order to participate in the POC. The hospice professional team will assist patient/family in identifying which services and treatments will help attain these goals;
5. be fully informed regarding the potential benefits and risks of all medical treatments or services suggested, and to accept or refuse those treatments and/or services as appropriate to patient/family personal wishes;
6. be treated with respect and dignity;
7. have patient/family trained in effective ways of caring for patient;
8. confidentiality with regard to provision of services and all client records, including information concerning patient/family health status, as well as social, and/or financial circumstances. The patient information and/or records may be released only with patient/family's written consent, and/or as required by law;
9. voice grievances concerning patient care, treatment, and/or respect for person or privacy without being subject to discrimination or reprisal, and have any such complaints investigated by the hospice; and
10. be informed of any fees or charges in advance of services for which patient/family may be liable. Patient/family has the right to access any insurance or entitlement program for which patient may be eligible.

B. Informed Consent. An informed consent form that specifies the type of care and services that may be provided as hospice care during the course of the illness shall be obtained, either from the individual or representative.

- C. The patient has the responsibility to:
1. participate in developing the POC and update as his or her condition/needs change;
 2. provide hospice with accurate and complete health information;
 3. remain under a doctor's care while receiving hospice services; and
 4. assist hospice staff in developing and maintaining a safe environment in which patient care can be provided.

D. The agency shall have written policies and procedures to address these concerns identified under §8231.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

§8233. Clinical Records

A. In accordance with accepted principles of practice the hospice shall establish and maintain a clinical record for every individual receiving care and services. The record shall be complete, promptly and accurately documented, readily accessible and systematically organized to facilitate retrieval. The clinical record shall contain all pertinent past and current medical, nursing, social, and other therapeutic information, including the current POC under which services are being delivered.

B. Hospice records must be maintained in a distinct location and not mingled with records of other types of health care related agencies.

C. Original clinical records shall be kept in a safe and confidential area which provides convenient access to clinicians.

D. The agency shall have policies addressing who is permitted access to the clinical records. No unauthorized person shall be permitted access to the clinical records.

E. All clinical records shall be safeguarded against loss, destruction and unauthorized use.

F. Records shall be maintained for five (5) years from the date of discharge, unless there is an audit or litigation affecting the records. Records for individuals under the age of majority shall be kept in accordance with current state and federal law.

G. When applicable, the agency will obtain a signed "release of information" from the patient and/or the patient's family; a copy will be retained in the record.

H. The clinical record shall contain a comprehensive compilation of information including, but not limited to, the following:

1. initial and subsequent Plans of Care and initial assessment;
2. certifications of terminal illness;
3. written physician's orders for admission and changes to the POC;
4. current clinical notes (at least the past sixty (60) days);
5. Plan of Care;
6. signed consent, authorization and election forms;
7. pertinent medical history; and

8. identifying data, including name, address, date of birth, sex, agency case number; and next of kin.

I. Entries are made for all services provided and are signed by the staff providing the service.

J. Complete documentation of all services and events (including evaluations, treatments, progress notes, etc.) are recorded whether furnished directly by hospice staff or by arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

Subchapter D. Administration

§8235. Agency Operations

A. Premises (see definition of Hospice Premises).

1. Staff must be able to distinguish and describe the scope and delineation of all activities being provided by the hospice.

2. Staff working areas are to be designed so that when planning for services, patient confidentiality is maintained.

3. The hospice must have a distinct telephone number. If the telephone number is shared with other health care related agencies, the telephone operator(s) must demonstrate knowledge and ability to distinguish and direct calls to the appropriate persons. If an answering service is used after normal hours, there must be evidence of distinct hospice staff and the answering service should be able to direct calls to the appropriate persons for each service.

4. The hospice shall not share office space with a non-health care related entity. When office space is shared with another health care related entity the hospice agency must operate separate and apart.

B. Hours of Operation

1. The hospice shall be required to have regular posted (in a prominent and easily accessible manner) business hours and be fully operational at least eight hours a day, five days a week between 7:00 a.m. and 6:00 p.m. Hospice services are available 24 hours per day, seven days a week, which include, at a minimum:

a. professional Registered Nurse services;

b. palliative medications;

c. other services, equipment or supplies necessary to meet the patient's immediate needs.

2. Hospice provides on-call medical and nursing services to assess and meet changing patient/family needs, provide instruction and support, and conduct additional on-site assessment or treatment, 24 hours a day, seven days per week.

C. Policies and Procedures:

1. must be written, current, and annually reviewed by appropriate personnel;

2. must contain policies and procedures specific to agency addressing personnel standards and qualifications, agency operations, patient care standards, problem and complaint resolution, purpose and goals of operation, the hospice's defined service area, as well as regulatory and compliance issues; and

3. must meet or exceed requirements of the Minimum Standards and all applicable federal, state, and local laws.

D. Operational Requirements

1. Hospice's responsibility to the community:
 - a. shall not accept orders to assess or admit from any source other than licensed physician or authorized physician representative (e.g. hospital discharge planner). Although the hospice may provide care to relatives of employees, the order to admit to the hospice must be initiated by the primary attending physician;
 - b. shall use only factual information in advertising;
 - c. shall not contact participants to market services. Door to door solicitation is prohibited;
 - d. shall not accept as a patient any person who is not terminally ill;
 - e. shall develop policy/procedure for patients with no or limited payor source;
 - f. shall have policy and procedures and a written plan for emergency operations in case of disaster;
 - g. provide all services needed in a timely manner, at least within 24 hours, unless physicians orders indicate otherwise. However, admission time-frames shall be followed as indicated in the Admission Procedures subsection;
 - h. is prohibited from harassing or coercing a prospective patient or staff member to use a specific hospice or to change to another hospice;
 - i. must have policy and procedures for post-mortem care in compliance with all applicable federal, state, and local laws;
 - j. may participate as community educators in community/health fairs; and
 - k. may provide free non-invasive diagnostic tests, such as blood pressure screening.
2. Hospice's responsibility to the patient shall include, but is not limited to, the following:
 - a. be in compliance with Minimum Standards and all applicable federal, state, and local laws at all times;
 - b. provide all Core services directly by the hospice agency and any non-core services required to meet the patient/family's needs;
 - c. act as the patient advocate in medical decisions affecting the patient;
 - d. protect the patient from unsafe skilled and unskilled practices;
 - e. protect the patient from being harassed, bribed, and/or any form of mistreatment by any employee or volunteer of the agency;
 - f. provide patient information on the patient's rights and responsibilities;
 - g. provide information on advanced directives in compliance with all applicable federal, state, and local laws;
 - h. protect and assure that patient's rights are not violated;
 - i. focus on enabling the patient remaining in the familiar surroundings of his/her place of residence as long as possible and appropriate;
 - j. encourage the patient/family to participate in developing the POC and provision of hospice services;

k. with the permission of the patient, include in the POC specific goals for involving the patient/family;

- l. make appropriate referrals for family members outside the hospice's service area for bereavement follow-up;
 - m. whenever a hospice program manages and/or delivers care in a facility, ensure that an appropriate standard of care is provided to the patient in the facility, regardless of whether or not hospice is responsible for the direct provision of those services, e.g. room and board services in a nursing facility;
 - n. ensure that any facility where hospice care is provided meets appropriate licensing requirements and any payor source requirements when applicable;
 - o. ensure that any facility in which hospice care is provided have the following:
 - i. areas that are designed and equipped for the comfort and privacy of each patient and family member;
 - ii. physical space for private patient/family visiting;
 - iii. accommodations for family members to remain with the patient throughout the night;
 - iv. accommodations for family privacy after a patient's death;
 - v. decor which is homelike in design and function;and
 - vi. patients must be permitted to receive visitors at any hour, including small children.
3. Responsibility of the hospice to the staff shall include, but is not limited to, the following:
- a. provide safe environment whenever the hospice knows or has reason to know that environment might be dangerous;
 - b. have safety and emergency preparedness programs that conform with federal, state, and local requirements and that include:
 - i. a plan for reporting, monitoring, and follow-up on all accidents, injuries, and safety hazards;
 - ii. documentation of all reports, monitoring activity, and follow-up actions, education for patient/family, care givers, employees and volunteers on the safe use of medical equipment;
 - iii. evidence that equipment maintenance and safety requirements have been met;
 - iv. policies and procedures for storing, accessing, and distributing abusable drugs, supplies and equipment;
 - v. a safe and sanitary system for identifying, handling, and disposing of hazardous wastes; and
 - vi. a policy regarding use of smoking materials in all care settings;
 - c. have policies which encourage realistic performance expectations;
 - d. maintain insurance and workman's compensation at all times;
 - e. provide adequate time on schedule for required travel;
 - f. meet or exceed Wage and Hour Board requirements;
 - g. provide adequate information, in-service training,

supplies, and other support for all employees to perform to the best of their ability; and

h. provide in-service training to promote effective, quality hospice care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

§8237. Contract Services

A. When the hospice provides services on a contractual basis to a patient the hospice is responsible for all actions of the contract personnel.

B. The hospice shall not at any time use contract employees as administrator/alternate or for the provision of core services, except that physician services may be provided through contract.

C. Whenever services are provided by an organization/individual other than the hospice, a written agreement will delineate services available and procedures for accessing those services.

D. Whenever services are provided by an outside agency or individual, a legally binding written agreement must be effected. The legally binding written agreement shall include at least the following items:

1. identification of the services to be provided;
2. a stipulation that services may be provided only with the express authorization of the hospice;
3. the manner in which the contracted services are coordinated, supervised, and evaluated by the hospice;
4. the delineation of the role(s) of the hospice and the contractor in the admission process, patient/family assessment, and the IDG conferences;
5. requirements for documenting that services are furnished in accordance with the agreement;
6. the qualifications of the personnel providing the services;
7. assurance that the personnel contracted complete the clinical record in the same timely manner as required by the staff personnel of the hospice;
8. payment fees and terms; and
9. statement that the hospice retains responsibility for appropriate hospice care training of the personnel who provide care under the agreement.

E. The hospice and contractor shall document review of their contract on an annual basis.

F. The hospice is to coordinate services with contract personnel to assure continuity of patient care.

G. Hospice maintains professional management responsibilities for those services and ensures that they are furnished in a safe and effective manner by qualified persons and in accordance with the patient's POC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

§8239. Quality Assurance

A. Agency shall have an on-going, comprehensive, integrated, self-assessment quality improvement process which provides assurance that patient care, including inpatient care, home care, and care provided by arrangement, is provided at all times in compliance with accepted standards of professional practice.

B. The hospice shall have written plans, policies and procedures addressing quality assurance.

C. Hospice monitors and evaluates its resource allocation regularly to identify and resolve problems with the utilization of its services, facilities and personnel.

D. Hospice follows a written plan for continually assessing and improving all aspects of operations which include:

1. goals and objectives;
2. the identity of the person responsible for the program;
3. a system to ensure systematic, objective regular reports are prepared and distributed to appropriate areas;
4. the method for evaluating the quality and the appropriateness of care;
5. a method for resolving identified problems; and
6. application to improving the quality of patient care.

E. The plan is reviewed at least annually and revised as appropriate.

F. The governing body and administration strive to create a work environment where problems can be openly addressed and service improvement ideas encouraged.

G. Quality assessment and improvement activities are based on the systematic collection, review, and evaluation of data which, at a minimum, includes:

1. services provided by professional and volunteer staff;
2. outcome audits of patient charts;
3. reports from staff, volunteers, and clients about services;
4. concerns or suggestions for improvement in services;
5. organizational review of the hospice program;
6. patient/family evaluations of care; and
7. high-risk, high-volume and problem-prone activities.

H. When problems are identified in the provision of hospice care, there shall be evidence of corrective actions, including ongoing monitoring, revisions of policies and procedures, educational intervention and changes in the provision of services.

I. The effectiveness of actions taken to improve services or correct identified problems is evaluated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

§8241. Branch Offices

A. No branch office may be opened without written approval from DHH.

B. No branch office may be opened unless parent office has had full licensure for the previous three years and has a current census of at least 10 active patients.

C. Each branch must serve the same or part of the

eographic area approved for the parent.

D. Each branch office must have a registered nurse immediately available to be on site, or on site in the branch office at all times during operating hours.

E. All services provided by the parent agency must be available in the branch.

F. The branch site shall retain all Clinical Records for its patients. Duplicate records need not be maintained at the parent agency, but shall be made available to federal/state surveyors during any review upon request.

G. Original personnel files are to be kept at the parent agency, but shall be made available to federal/state surveyors during any review upon request.

H. A statement of personnel policies is maintained in each branch for staff usage.

I. Approval for branch offices will be issued, in writing, by DHH for one year and will be renewed at time of re-licensure if the branch office meets the following criteria:

1. is operational and providing hospice services;
2. serve only patients who are geographically nearer to branch than to parent office;
3. offer exact same services as the parent agency; and
4. parent office meets requirements for full licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8243. Sub-Units

A. A sub-unit shall have:

1. a separate license; and
2. not serve the same geographical area as the parent agency.

B. Sub-unit shall be:

1. administratively independent; and
2. must meet full licensure requirements independently of the parent agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:

§8245. Cessation of Business

A. If at any time the agency is no longer operational, the license shall be deemed to be invalid and shall be returned to DHH within five working days.

B. The agency owner is responsible for notifying DHH of the location of all records.

C. In order to be operational, an agency must:

1. have had at least twenty new patients admitted since the last annual survey;
2. be able to accept referrals at any time;
3. have adequate staff to meet the needs of their current patients;
4. have required designated staff on the premises at all times during business hours;
5. be immediately available by telecommunications 24

ours per day. A registered nurse must answer calls from patients and other medical personnel after hours;

6. be open for the business of providing Hospice services to those who need assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

Subchapter E. Hospice Inpatient Facility §8247. Requirements for Licensure of Inpatient Hospice

A. Hospice inpatient services may be provided directly by the hospice or through arrangements made by the hospice. An agency is prohibited from providing hospice inpatient services only. A hospice that elects to provide hospice inpatient services directly is required to be licensed both as a hospice inpatient facility and as a hospice (These are two separate licenses which require separate applications and fees). The application process to establish a hospice inpatient facility may be completed simultaneously with an application to provide hospice services.

B. An application packet shall be obtained from DHH.

1. A completed application packet for a hospice inpatient facility shall be submitted to and approved by DHH prior to an agency providing hospice services.

2. The application submitted shall include the current licensing fee plus any bed fees. All fees shall be in the form of a company check, certified check or money order made payable to DHH. All fees submitted are non-refundable. All state owned facilities are exempt from fees.

3. The license shall be conspicuously displayed in the hospice inpatient facility.

4. Each initial applicant or an existing hospice inpatient facility requesting a change of address must have approval from the following offices prior to an on-site survey by this department.

a. Office of Public Health—Local Health Unit. All hospice inpatient facilities shall comply with the rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health. It shall be the primary responsibility of the Office of Public Health to determine if applicants are complying with those requirements. No initial license shall be issued without the applicant furnishing a certificate from the Office of Public Health that such an applicant is complying with their provisions. A provisional license may be issued to the applicant if the Office of Public Health issues the applicant a conditional certificate.

b. Office of the State Fire Marshal. All hospice inpatient facilities shall comply with the rules, established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements. No license shall be issued or renewed without the applicant furnishing a certificate from the Office of State Fire Marshal that such applicant is complying with their provisions. A provisional license may be issued to the applicant if the Office

f State Fire Marshal issues the applicant a conditional certificate.

C. New constructions must be reviewed by DHH Engineering and Plans Review Section.

1. All new construction, other than minor alterations for a hospice inpatient facility, shall be done in accordance with the specific requirements of the Office of State Fire Marshal and the Department of Health and Hospitals covering new construction in hospitals, including submission of preliminary plans and the final work drawings and specifications shall also be submitted prior to any change in facility type.

2. No new hospice inpatient facility shall be constructed, nor shall major alterations be made to existing hospice inpatient facilities, or change in facility type be made without the prior written approval of, and unless in accordance with plans and specifications approved in advance by the Department of Health and Hospitals and the Office of State Fire Marshal. The review and approval of plans and specifications shall be made in accordance with the publication entitled *Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1992-93 Edition* published by the American Institute of Architects Press, Box 753, Waldorf, MD 20601 and the current *Standard Plumbing Code*. Before any new hospice inpatient facility is licensed or before any alteration or expansion of a licensed hospice inpatient facility can be approved, the applicant must furnish one complete set of plans and specifications to the Department of Health and Hospitals and one complete set of plans to the Office of State Fire Marshal, with fees and other information as required. Plans and specifications for new construction other than minor alterations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer.

3. In the event that submitted materials do not appear to satisfactorily comply with the *Guidelines for Construction and Equipment of Hospital and Medical Facilities -1992-1993 Edition*, the Department of Health and Hospitals shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

4. Notice of satisfactory review from the Department of Health and Hospitals and the Office of State Fire Marshal constitutes compliance with this requirement if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes, or rules of any responsible agency.

D. An agency seeking to renew its license shall:

1. request a renewal application packet from DHH if one is not received at least 45 days prior to the license expiration date;

2. submit a renewal application packet annually accompanied by the current licensing fee plus any applicable bed fees.

E. An inpatient hospice facility shall maintain proof of compliance with all applicable local codes and ordinances governing health, fire, safety, and zoning regulations.

F. An agency shall notify DHH, in writing, prior to a change in name of the agency, address change, or a change in the number of beds.

1. A fee shall be submitted for a replacement license when a change occurs such as name change, address change, or a bed change.

2. The new facility location must meet the same licensing requirements as those required for an initial survey including approval of building plans by DHH Engineering and Plans Review Section, Office of State Fire Marshal, and Office of Public Health.

G. A hospice that provides inpatient hospice services directly is required to provide or make arrangements for all hospice services on both an outpatient and an inpatient level including routine home care, continuous home care, respite care, and general inpatient care.

H. Hospice inpatient facilities and any facility that provides hospice services shall be maintained in a manner which provides for maintaining personal hygiene of the patients and implementation of infection control procedures.

I. Equipment and furnishings in an inpatient facility must provide for the health care needs of the resident while providing a home-like atmosphere.

J. Services provided in the inpatient facility are consistent with the plan of care prepared for that patient and are consistent with services provided by the hospice program in other settings.

K. The hospice provider shall ensure that each patient residing in an inpatient facility has an identified hospice staff member who will serve as that patient's principle advocate and contact person.

L. The hospice inpatient facility shall ensure the following:

1. the facility meets appropriate licensing, regulatory, and certification requirements;

2. the facility has an acceptable, written emergency preparedness plan. The plan shall include:

a. the frequency/schedule for periodically rehearsing the plan with the staff;

b. the assignment of personnel for specific responsibilities;

c. the procedures for prompt identification and transfer of patients and records to an appropriate facility;

d. fire and/or other emergency drills, in accordance with the *Life Safety Code*;

e. procedures covering persons in the facility and in the community in case of external disasters, i.e., hurricanes, tornadoes, floods; and

f. arrangements with community resources in the event of a disaster.

3. the facility must design and equip areas for the comfort and privacy of each patient and family members. The facility must have the following:

a. physical space for private patient/family visiting;

b. accommodations for family members to remain with the patient throughout the night;

c. accommodations for family privacy after a patient's death;

- d. decor which is homelike in design and function;
- e. patients must be permitted to receive visitors at any hour, including small children;

4. patient rooms are designed and equipped for adequate nursing care and the comfort and privacy of patients. Each patient's room shall:

- a. be equipped with or conveniently located near toilet and bathing facilities;
- b. be equipped with a lavatory in each patient's toilet room or in each bedroom;
- c. be at or above grade level;
- d. contain room decor that is homelike and noninstitutional in design and function. Room furnishings for each patient shall include a bed with side rails, a bedside stand, an over-the-bed table, an individual reading light easily accessible to each patient and a comfortable chair. The patient shall be permitted to bring personal items of furniture or furnishings into their rooms unless medically inappropriate;
- e. have closet space that provides security and privacy for clothing and personal belongings;
- f. contain no more than 4 beds;
- g. measure at least 100 square feet for a single patient room or 80 square feet for each patient for a multi patient room; and
- h. be equipped with a device for calling the staff member on duty. A call bell or other communication mechanism shall be placed within easy reach of the patient and shall be functioning properly. A call bell shall be provided in each patient toilet, bath, and shower room;

5. the hospice inpatient facility shall:

- a. provide an adequate supply of hot water at all times for patient use;
- b. have plumbing fixtures with control valves that automatically regulate the temperature of the hot water used by patients; and
- c. designate a staff member responsible for monitoring and logging water temperatures at least monthly. This person is responsible for reporting any problems to the administrator;

6. the hospice inpatient facility shall have available at all times a quantity of linen essential for proper care and comfort of patients. Linens are handled, stored, processed, and transported in such a manner as to prevent the spread of infection. The facility shall have a clean linen storage area;

- a. the linen supply shall be adequate to accommodate the number of beds and the number of incontinent patients on a daily basis, including week-ends and holidays;
- b. soiled linen and clothing shall be collected and enclosed in suitable bags or containers in well ventilated areas, separate from clean linen and not permitted to accumulate in the facility;
- c. the hospice inpatient facility shall have policies and procedures that address:
 - i. frequency of linen changes;
 - ii. storage of clean linen; and
 - iii. storage of soiled linen;

7. the hospice inpatient facility shall make provisions for isolating patients with infectious diseases. The hospice should institute the most current recommendations of The Centers for

isease Control and Prevention (CDC) relative to the specific infection(s) and communicable disease(s). The hospice provisions for isolating patients with infectious diseases shall include:

- a. definition of nosocomial infections and communicable diseases;
 - b. measures for assessing and identifying patients and health care workers at risk for infections and communicable diseases;
 - c. measures for prevention of infections, especially those associated with immunosuppressed patients and other factors which compromise a patient's resistance to infection;
 - d. measures for prevention of communicable disease outbreaks, especially tuberculosis;
 - e. provision of a safe environment consistent with the current CDC recommendations for the identified infection and/or communicable disease;
 - f. isolation procedures and requirements for infected or immunosuppressed patients;
 - g. use and techniques for universal precautions;
 - h. methods for monitoring and evaluating practice of asepsis;
 - i. care of contaminated laundry, i.e., clearly marked bags and separate handling procedures;
 - j. care of dishes and utensils, i.e., clearly marked and handled separately;
 - k. use of any necessary gowns, gloves or masks posted and observed by staff, visitors, and anyone else in contact with the patient; and
 - l. techniques for hand washing, respiratory protection, asepsis sterilization, disinfection, needle disposal, solid waste disposal, as well as any other means for limiting the spread of contagion;
 - m. orientation of all new hospice personnel to infections, to communicable diseases and to the infection control program; and
 - n. employee health policies regarding infectious diseases, and when infected or ill employees must not render direct patient care;
8. the hospice inpatient facility should isolate infected patients only to the degree needed to isolate the infecting organism. The method should be the least restrictive possible while maintaining the integrity of the process and the dignity of the patient;
9. the hospice inpatient facility shall provide the following:
- a. storage for administrative supplies;
 - b. hand washing facilities located convenient to each nurses' station and drug distribution station;
 - c. charting facilities for staff at each nurses' station;
 - d. a "clean" workroom which contains a work counter, sink, storage facilities and covered waste receptacles;
 - e. a "soiled" workroom for receiving and cleanup of equipment. The workroom shall contain flushing rim clinical service sink, work counter, covered waste receptacle, covered linen receptacle, and storage facilities;
 - f. parking for stretchers and wheelchairs in an area out of the path of normal traffic and of adequate size for the facility;

g. a janitor's closet which contains a floor receptor with mop hooks over the sink and storage space for housekeeping equipment and supplies;

h. a multi-purpose lounge or lounges shall be provided suitable and furnished for: reception, recreation, dining, visitation, group social activities, and worship. Such lounge or lounges shall be located convenient to the patient rooms designed to be served;

i. a conference and consultation room shall be provided which is suitable and furnished for family privacy, including conjugal visit rooms, clergy visitations, counseling, and viewing of a deceased patient's body during bereavement. The conference and consultation room shall be located convenient to the patient rooms it is designed to serve;

j. public telephone and restrooms shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

§8249. Governing Body for Inpatient Hospice

A. The hospice shall have a governing body that assumes full legal responsibility for determining, implementing and monitoring policies governing the hospice's total operation.

B. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

C. The governing body shall:

1. designate an individual who is responsible for the day to day management of the hospice program;

2. ensure that all services provided are consistent with accepted standards of practice;

3. develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually; and

4. be an organizational chart that delineates lines of authority and responsibility for all hospice personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

§8251. Medical Director

The hospice inpatient facility shall have a Medical Director who is a doctor of medicine or osteopathy and is currently licensed to practice medicine in Louisiana. The Medical Director must ensure and assume the overall responsibility for the medical component of the hospice's in-patient care program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

§8253. Nursing Services

A. There shall be an organized nursing service that

provides 24-hour nursing services. The nursing services shall be under the direction of a Director of Nursing, who is a registered nurse licensed to practice in Louisiana, employed full-time by only one licensed agency. There shall be a similarly qualified registered nurse available to act in the absence of the Director of Nursing.

B. The inpatient facility has staff on the premises on a twenty-four (24) hour a day, seven (7) day a week basis. There shall be a registered nurse on duty at all times when there are patients in the facility and the facility shall provide nursing services which are sufficient to meet the total nursing needs of the patients in the facility. When there are no patients in the hospice inpatient facility, the hospice shall have a registered nurse on-call to be immediately available to the hospice inpatient facility. The services provided must be in accordance with the patient's plan of care. Each shift shall include two direct patient care staff, one of which must be a registered nurse who provides direct patient care. The nurse to patient ratio shall be at least one nurse to every 8 patients. In addition there shall be sufficient number of direct patient care staff on duty to meet the patient care needs.

C. Written nursing policies and procedures shall define and describe the patient care provided. There shall be a written procedure to ensure that all licensed nurses providing care in the inpatient hospice facility have a valid and current license to practice prior to providing any care.

D. Nursing services are either furnished and/or supervised by a registered nurse and all nursing services shall be evaluated by a registered nurse.

E. A registered nurse shall assign the nursing service staff for each patient in the inpatient hospice facility. The facility shall provide 24-hour nursing services which are sufficient to meet the total nursing needs of the patient and which are in accordance with the patient's plan of care. Staffing shall be planned so that each patient receives treatments, medication, and diet as prescribed, and is kept clean, well-groomed, and protected from accident, injury, and infection. Nursing services staff shall be assigned clinical and/or management responsibilities in accordance with education, experience and the current Louisiana Nurse Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

§8255. Nutritional Services

A. Nutritional services shall be under the supervision of a registered dietitian, licensed to practice in Louisiana, who is employed either full-time, part-time or on a consulting basis. If the registered dietitian is not full-time, there shall be a full-time dietary manager who is responsible for the daily management of dietary services.

1. The registered dietitian shall be responsible for assuring that quality nutritional care is provided to patients by providing and supervising the nutritional aspects of patient care. The registered dietitian is also responsible for:

a. recording the nutritional status of the patient;

b. plan menus for those patients who require medically prescribed special diets; and

c. supervise the preparation and serving of meals to ensure that the patient accepts the special diet.

2. The hospice inpatient facility shall have a dietary manager who is responsible for:

a. planning menus that meet the nutritional needs of each patient, following the orders of the patient's physician and, to the extent medically possible, the recommended dietary allowances of the Food and Nutrition Board of the National Academy of Sciences. There shall be a current therapeutic diet manual approved by the dietician and medical staff, and readily available to all medical, nursing, and food service personnel, which shall be the guide used for ordering and serving diets.

b. supervising the meal preparation and service to ensure that the menu plan is followed.

3. A dietary manager is someone who meets one of the following:

a. a graduate of a dietetic technician or dietetic assistant training program by correspondence or classroom, approved by the American Dietetic Association;

b. a graduate of a State approved course that provides 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian; or

c. has training and experience in food service supervision and management in the military service equivalent in content to a dietetic technician or dietetic assistant training program by correspondence or classroom, approved by the American Dietetic Association.

4. The hospice shall employ sufficient support personnel to meet the needs of the patients in the hospice inpatient facility.

5. The hospice shall have policies and procedures to ensure support personnel are competent to perform their respective duties within the dietary services department.

6. The hospice inpatient facility shall:

a. serve at least three meals or their equivalent each day at regular times, with not more than 14 hours between a substantial evening meal and breakfast;

b. include adequate nutritional services to meet the patient's dietary needs and food preferences, including the availability of frequent, small, or mechanically-altered meals 24 hours a day;

c. be designed and equipped to procure, store, prepare, distribute, and serve all food under sanitary conditions; and

d. provide a nourishment station which contains equipment to be used between scheduled meals such as a warming device, refrigerator, storage cabinets and counter space. There shall be provisions made for the use of small appliances and storage. This area shall be available for use by the patient, the patient's family, volunteers, guests and staff.

B. Sanitary Conditions

1. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.

a. All food shall be procured from sources that comply

with all laws and regulations related to food and food labeling.

b. The use of food in sealed containers that was not prepared in a food processing establishment is prohibited.

c. All food shall be stored, prepared, distributed and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 40 degrees F, except when being prepared and served. Refrigerator temperatures shall be maintained at 40 degrees F or below; freezers at 0 degrees F or below.

d. Hot foods shall leave the kitchen or steam table at or above 140 degrees F. In-room delivery temperatures shall be maintained at 120 degrees F, or above for hot foods and 50 degrees F or below for cold items. Food shall be covered during transportation and in a manner that protects it from contamination while maintaining required temperatures.

e. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized and stored. This includes maintaining a water temperature in dish washing machines at 140 degrees F during the wash cycle (or according to the manufacturer's specifications or instructions) and 180 degrees F for the final rinse. Low temperature machines shall maintain a water temperature of 120 degrees F with 50 ppm (parts per million) of hypochlorite (household bleach) on dish surfaces. For manual washing in a 3-compartment sink, a wash water temperature of 75 degrees F with 50 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine; or a hot water immersion at 170 degrees F for at least 30 seconds shall be maintained. An approved lavatory shall be convenient and equipped with hot and cold water tempered by means of a mixing valve or combination faucet for dietary services staff use. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least fifteen seconds without the need to reactivate the faucet. Effective with the promulgation of these requirements, an additional lavatory shall be provided in the dishwasher area in newly constructed hospices or in existing hospices undergoing major dietary alterations.

f. No staff, including dietary staff, shall store personal items within the food preparation and storage areas.

g. Dietary staff shall use good hygienic practices. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact may transmit the disease.

h. Toxic items such as insecticides, detergents, polishes and the like shall be properly stored, labeled and used.

i. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids. Containers used in food preparation and utensil washing areas shall be kept covered after they are filled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

8257. Pharmaceutical Services of Inpatient Hospice

A. The hospice shall provide pharmaceutical services that meets the needs of the patients.

B. The hospice shall ensure that pharmaceutical services are provided by appropriate methods and procedures for the storage, dispensing and administering of drugs and biologicals. Whether drugs and biologicals are obtained from community or institutional pharmacists or stocked by the facility, the hospice facility is responsible for ensuring that pharmaceutical services are provided in accordance with accepted professional principles and appropriate Federal, State, and local laws.

C. If a pharmacy is to be constructed within the hospice inpatient facility, plans shall be submitted to the Board of Pharmacy for Licensing and Registration. The pharmacy shall have a pharmacy permit issued by the Louisiana Board of Pharmacy to allow ordering, storage, dispensing, and delivering of legend prescriptive orders. The hospice inpatient facility pharmacy shall have a current controlled dangerous substance license to dispense controlled substances to patients in the facility. The pharmacy shall be directed by a registered pharmacist licensed to practice in Louisiana.

D. Licensed pharmacist. The hospice must employ a licensed pharmacist or have a formal agreement with a licensed pharmacist to advise the hospice on ordering, storage, administration, disposal, and record keeping of drugs and biologicals.

E. Orders for medications. A physician must order all medication for the patient.

1. If the medication order is verbal, the physician must give it only to a licensed nurse, pharmacist, or another physician; and the individual receiving the order must record and sign it immediately.

2. All orders (to include telephone and/or verbal) are to be signed by the prescribing physician in a timely manner (14 days).

F. Administering Medications. Patients must be accurately identified prior to administration of a medication.

1. Medications are administered only by a physician, a licensed nurse; or the patient, if his or her attending physician has approved.

2. Physicians' orders are checked at least daily to assure that changes are noted.

3. Drugs and biologicals are administered as soon as possible after dose is prepared for distribution, not to exceed two (2) hours.

4. Each patient has an individual medication administration record (MAR) on which the dose of each drug administered shall be properly recorded by the person administering the drug to include:

- a. name, strength, and dosage of the medication;
- b. method of administration to include site, if applicable;
- c. times of administration;
- d. the initials of persons administering the medication, except that the initials shall be identified on the MAR to identify the individual by name;
- e. medications administered on a "PRN" or as needed basis shall be recorded in a manner as to explain the reason for

administration and the results obtained. The Hospice shall have a procedure to define its methods of recording these medications;

f. medications brought to the Hospice by the patient or other individuals for use by that patient shall be accurately identified as to name and strength, properly labeled, stored in accordance with facility policy and shall be administered to the patient only upon the written orders of the attending physician;

g. medications shall not be retained at the patients bedside nor shall self-administration be permitted except when ordered by the physician. These medications will be appropriately labeled and safety precautions taken to prevent unauthorized usage;

h. medication errors and drug reactions are immediately reported to the Director of Nurses, Pharmacists and Physician and an entry made in the patients' medical record and/or an incident report. This procedure shall include recording and reporting to the physician the failure to administer a drug and/or the refusal of a patient to take a drug;

i. the nurses station or medicine room for all hospice inpatient facilities shall have readily available items necessary for the proper administration and accounting of medications;

j. each hospice shall have available current reference materials that provide information on the use of drugs, side effects and adverse reactions to drugs and the interactions between drugs.

G. Conformance with Physicians' Drug Orders. Each hospice inpatient facility shall have a procedure for at least quarterly monitoring of medication administration. This monitoring may be accomplished by a registered nurse or a pharmacist, to assure accurate administration and recording of all medications.

1. Each hospice shall establish procedures for release of patient's own medications upon discharge or transfer of the patient.

2. Medications shall be released upon discharge or transfer only upon written authorization of the attending physician.

3. An entry of such release shall be entered in the medical record to include drugs released, amounts, who received the drugs and signature of the person carrying out the release.

H. Storage of Drugs and Biologicals. Procedures for storing and disposing of drugs and biologicals shall be established and implemented by the inpatient hospice facility.

1. In accordance with State and Federal laws, all drugs and biologicals are stored in locked compartments under proper temperature controls and only authorized personnel have access to the keys. Separately locked compartments are provided for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other drugs subject to abuse, except under single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

2. Controlled drugs no longer needed by the patient are disposed of in compliance with State requirements. In the absence of State requirements, the pharmacist and a registered

urse dispose of the drugs and prepare a record of the disposal.

3. There shall be a drug or medicine room/drug preparation area at each nurses' station of sufficient size for the orderly storage of drugs, both liquid and solid dosage forms and for the preparation of medications for patient administration within the unit. In the event that a drug cart is used for storage and administration of drugs, the room shall be of sufficient size to accommodate placement of the cart.

4. There shall be a separate area or cubicle for the storage of each patient's medication, except where a cart is used for the administration of drugs and biologicals.

5. There shall be an operable sink provided with hot and cold water within the medicine room or medication preparation area for washing hands or cleaning containers used in medicine preparation. Paper towels and soap dispenser shall be provided.

6. Sufficient artificial lighting shall be provided and the temperature of the medicine storage area shall not be lower than 48 degrees F or above 85 degrees F and the room must be provided with adequate ventilation.

7. Drugs and biologicals, including those requiring refrigeration, shall be stored within the medicine room or shall have separate locks if outside the medicine room. The refrigeration shall have a thermometer and be capable of maintaining drugs at the temperature recommended by the manufacturer of the drug.

8. No foods may be stored in the same storage area (i.e., cupboard, refrigerator, or drawer) with drugs and biologicals. The areas designated for drug and biological storage should be clearly marked.

9. Medication refrigerators shall not be used to store laboratory solutions or materials awaiting laboratory pickup.

10. The drug or medicine rooms shall be provided with safeguards to prevent entrance of unauthorized persons including locks on doors and bars on accessible windows.

a. Only authorized, designated personnel shall have access to the medicine storage area.

b. External use only drugs must be plainly labeled and stored separate from drugs and biologicals. No poisonous substance shall be kept in the kitchen, dining area, or any public spaces or rooms. This section shall not prohibit storage within the drug or medicine room of approved poisonous substances intended for legitimate medicinal use, provided that such substances are properly labeled in accordance with applicable federal and state law.

11. First aid supplies shall be kept in a place readily accessible to the person or persons providing care in the inpatient hospice.

12. Each hospice may maintain one "STAT" medicine cabinet for the purpose of keeping a minimum amount of stock medications that may be needed quickly or after regular duty hours. The following rules apply to such a cabinet.

a. The contents of the "STAT" medicine cabinet shall be approved by the hospice pharmacist and members of the medical and clinical staff responsible for the development of policies and procedures.

b. There shall be a minimum number of doses of any medication in the "STAT" cabinet based upon the established needs of the hospice.

c. There shall be a list of the contents of the "STAT" medicine cabinet, including the name and strength of the drug and the quantity of each.

d. There shall be records available to show amount received, name of patient and amount used, prescribing physician, time of administration, name of individual removing and using the medication, and the balance on hand.

e. There shall be written procedures for utilization of the "STAT" medicine cabinet with provisions for prompt replacement of used items.

f. The pharmacist shall inspect the "STAT" medicine cabinet at least monthly, replacing outdated drugs and reconciliation of its prior usage. Information obtained shall be included in a monthly report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR:15:482 (June 1989), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 24:

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, 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 Friday, September 25, 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: Licensure Standards for Hospices

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 \$1,440 in one-time administrative expenses in SFY 1998-99 to promulgate this rule.

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

There is no effect on revenue collections, other than the state's collection of \$1,440 in SFY 1998-99, the federal share of the cost for promulgating this rule.

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

This rule establishes the minimum licensing standards required for all hospices. Any existing hospice that cannot meet these standards will have its license revoked. Adoption of these

standards will assure the quality of care provided by hospice agencies and terminally ill patients should benefit from this effort. There is insufficient data available on hospices operating in Louisiana to project a fiscal impact.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed minimum licensure standards may cause some providers to choose to discontinue providing hospice care, resulting in a reduction in the number of current operating providers. However, it is anticipated that new hospice agencies may be licensed, thereby increasing employment opportunities for Louisiana residents as the agencies hire qualified staff. There is insufficient data available on hospices operating in Louisiana to project a fiscal impact.

Thomas D. Collins
Director
9808#080

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Rule 8—Annuity Mortality Table for Determining Reserve Liabilities

In accordance with the provisions of LSA-R.S. 22:3 and R.S. 49:950 et seq., the Commissioner of Insurance hereby gives notice of his intent to amend Rule 8. The purpose of the revised rule is to recognize new mortality tables for use in determining the minimum standard of evaluation for annuity and pure endowment contracts.

The purpose of this revised rule is to recognize new mortality tables, Annuity 2000 Mortality Table and the 1994 Group Annuity Reserving (1994 GAR) Table, for use in determining the minimum standard of valuation for annuity and pure endowment contracts.

The expectation of life continues to increase and studies continue to show general mortality improvements among annuitants of 1 to 2 percent per year. One result of the improved mortality is that annuity reserves must be increased to adequately measure an insurer's liability to provide benefits over an annuitant's longer life expectancy. To provide a statutory basis for these higher reserves, the Society of Actuaries developed and recommended a new Annuity 2000 Mortality Table for valuing individual annuities and the 1994 Group Annuity Reserving (1994 GAR) Table for valuing group annuities.

The proposed effective date of the revised rule is January 1, 1999.

Proposed Revised Rule 8

A New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities

Section 1. Authority

This rule is promulgated by the Commissioner of Insurance pursuant to R.S. 22:163 of the *Insurance Code*.

Section 2. Purpose

The purpose of this rule is to recognize the following

mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table "a," the 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, and the 1994 Group Annuity Reserving (1994 GAR) Table.

Section 3. Definitions

1983 Table 'a' (as used in this rule)—that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

1983 GAM Table (as used in this rule)—that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

1994 GAR Table (as used in this rule)—that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force. The 1994 GAR Table is included in the report on pages 865-919 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

Annuity 2000 Mortality Table (as used in this rule)—that mortality table developed by the Society of Actuaries Committee on Life Insurance Research. The Annuity 2000 Table is included in the report on pages 211-249 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

Section 4. Individual Annuity or Pure Endowment Contracts

Except as provided in Subsections B and C of this section, the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after September 7, 1979.

B. Except as provided in Subsection C of this section, either the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1987.

C. Except as provided in Subsection D of this section, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1999.

D. The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1999, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

1. settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;
2. settlements involving similar actions such as worker's compensation claims; or
3. settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

ection 5. Group Annuity or Pure Endowment Contracts

A. Except as provided in Subsections B and C of this section, the 1983 GAM Table, the 1983 Table "a" and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for an annuity or pure endowment purchased on or after September 7, 1979 under a group annuity or pure endowment contract.

B. Except as provided in Subsection C of this section, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1987 under a group annuity or pure endowment contract.

C. The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1999 under a group annuity or pure endowment contract.

Section 6. Application of the 1994 GAR Table

In using the 1994 GAR Table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1 - AA_x)^n$$

where the q_x^{1994} and AA_x s are as specified in the 1994 GAR Table.

Section 7. Separability

If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of its provisions to other persons or circumstances shall not be affected.

Section 8. Effective Date

The effective date of this rule is January 1, 1999.

A public hearing on this proposed rule will be held on September 28, 1998 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana, at 9 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Rodney Friedy, Director of Life Actuarial Services, Department of Insurance, 950 North Fifth Street, Baton Rouge, LA 70804-9214, telephone (504)342-1631. Comments will be accepted through the close of business at 4:30 p.m., September 28, 1998.

James H. "Jim" Brown
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rule 8—Annuity Mortality Table for
Determining Reserve Liabilities**

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

It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing the proposed action.

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

Adoption of this proposed revision to Rule 8 will not have any effect on revenue collections by state or local governmental units.

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

There would be no impact to policyholders/insureds. Insurers may experience some slight federal tax benefit as a result of higher reserves held based on slightly longer life expectancies of policyholders, but it is impossible to determine how much the positive impact on companies would be.

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

It is not anticipated that this proposed action would have any effect on employment or competition.

Donald J. McLean
Assistant Commissioner
9808#060

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of Workforce Development**

Workforce Development Training Fund
(LAC 40:XVI.101-111)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana Department of Labor, pursuant to authority vested in the Department by R.S. 23:1514 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to adopt rules governing the workforce development training account, LAC 40:XVI.101-111, to provide for eligibility and requirements for submission of applications.

**Title 40
LABOR AND EMPLOYMENT
Part XVI. Customized Training**

**Chapter 1. Workforce Development Training Fund
§101. Definitions**

Account—the Workforce Development Training Account.

Applicant—the business requesting training assistance from LDOL under this program.

Award—funding approved under this program for eligible training activities.

Awardee—an applicant (and/or company(ies)) receiving a training award under this program.

Contract—a legally enforceable agreement between LDOL, the awardee and a training provider governing the terms and conditions of the training award.

Contractee—the awardee and training provider that are party to a training award contract with LDOL under this program.

LDOL—the Louisiana Department of Labor.

Monitoring Entity—a public entity contracted to monitor the compliance of an awardee with the terms and conditions of a training award contract.

Secretary—the secretary of the Department of Labor.

Training Provider—the entity providing the customized training for the awardee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 24:

§103. Eligibility

A. An applicant shall be eligible for customized training if it is one of the following:

1. an individual employer that seeks to provide customized training for his present employees to prevent job loss caused by obsolete skills, technological change, or national or global competition;

2. an individual employer that seeks to provide customized training to create, update, or retain jobs in a labor demand occupation;

3. an individual employer that seeks to provide customized training to update or retain jobs in an occupation which is not a labor demand occupation, if the administrator determines that the services are necessary to prevent the likely loss of jobs;

4. a labor or community-based organization that seeks to provide customized training for a labor demand occupation;

5. a consortium made up of one or more educational institutions and one or more eligible individual employers, labor, or community-based organizations that seeks to provide customized training in labor demand occupations;

6. A local economic development entity and one or more eligible individual employers that seek to provide customized training in a labor demand occupation.

B. All applications by eligible applicants for customized training shall be submitted in conjunction with the entity selected by the applicant to provide the customized training. All disbursements of funds for the training shall be made to the entity actually providing the customized training. To be eligible, the training provider selected by the applicant must demonstrate a history of:

1. successful training through its placement, retention, and satisfaction rates;

2. collaboration with the targeted industry in the development of the training program curriculum;

3. use of a current industry standard as the basis for programs utilized to train students for employment in the targeted industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 24:

§105. Criteria

A. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

B. During the first nine months of a fiscal year, not less than 25 percent of all funds available during a fiscal year shall be available for employers with 150 or fewer Louisiana-based employees. For the final three months of a fiscal year, the remaining available funds will be available to all eligible employers, without size restrictions.

C. No single employer shall receive training funds more than once in a 24-month time period. No single employer shall

receive more than 5 percent of the total funds available to the program during a fiscal year.

D. Employers receiving awards must provide evidence satisfactory to LDOL of their long-range commitment to employee training and that funds shall be used to supplement and not supplant existing training efforts.

E. Applicants must request training for at least 15 employees.

F. Special emphasis shall be placed on entry-level/incumbent training programs.

G. Preference will be given to employers that have:

1. selected a public training institution as the training provider;

2. donated materials, equipment, or instructors to public training providers, secondary and postsecondary vocational-technical schools, or community colleges within the state;

3. hired former welfare recipients through participation in the Welfare to Work Partnership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 24:

§107. Application Procedure

LDOL will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;

3. the specific training programs for which LDOL assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and

4. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 24:

§109. Submission and Review Procedure

A. Applicants must submit their completed application to LDOL. Submitted applications will be reviewed and evaluated by LDOL staff. Input may be required from the applicant, other divisions of the Department of Labor, and other state agencies as needed, in order to:

1. understand the labor market conditions the proposed training is seeking to mitigate;

2. evaluate the strategic importance of the proposed training to the economic well-being of the state and local communities;

3. determine whether the employer's specific needs are best met by training;

4. identify the availability of existing training programs which could be adapted to meet the employer's needs;

5. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;

6. identify or develop appropriate curricula; and

7. determine the most cost effective approach to meet the employer's training needs.

B. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, LDOL staff will then make a recommendation to the secretary of the Department of Labor. The application will then be reviewed and approved by the following entities in the following order:

1. the secretary of the Department of Labor;
2. the governor.

C. A copy of the application shall be sent to the executive director of the Louisiana Workforce Commission. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

D. The secretary will issue a Letter of Commitment to the applicant within five working days of the application approval by the governor.

E. If any application is rejected by any of the preceding entities, the application shall not be considered by the next succeeding entity unless first reconsidered and approved by the entity which initially rejected the application.

AUTHORITY NOTE: promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 24:

§111. General Award Provisions

A. Award Contract

1. A contract will be executed between LDOL, the awardee (and/or company(ies) receiving training) and the training provider. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training.

2. The monitoring entity will monitor the progress of the training.

3. LDOL will reimburse the training provider from invoices submitted by the training provider on a form approved by LDOL and disburse funds from invoices or certificates of work completed.

4. The cost associated with the contract between the monitoring entity and the awardee will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000, whichever is less.

5. Funds may be used for training programs extending up to two years in duration.

B. Use of Funds

1. The Louisiana Workforce Development Training Account offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include, inter alia, the following:

a. instruction costs—wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. travel costs (limited to 30 percent of the total training award)—travel for trainers and training coordinators (company and other), and travel for trainees; travel expenses reimbursable under this agreement will comply with State Travel Regulations, PPM 49;

c. materials and supplies costs—training texts and manuals, audio/visual materials, skills assessment (documents or services to determine training needs), raw materials (for manufacturing and new employee on-the-job training), Computer Based Training (CBT) software; and

d. other costs—facility rental, and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training.

3. Training costs ineligible for reimbursement include:

a. trainee wages and fringe benefits;

b. nonconsumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks;

e. scrap produced during training;

f. food, refreshments; and

g. awards.

C. Conditions for disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to LDOL. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. Invoices will be eligible for reimbursement at 90 percent until all contracted performance objectives have been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

3. All disbursements of funds shall be made to the training provider actually providing the customized training.

D. Compliance Requirements

1. Training providers shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with LDOL.

2. In the event the awardee fails to meet its performance objectives specified in its contract with LDOL, LDOL shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the awardee in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event the awardee or monitoring entity knowingly files a false statement in its application or in a progress report, the awardee or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

4. LDOL shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the awardee and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 24:

Inquiries concerning the proposed enactments may be directed to: Sujuan Boutté, Assistant Secretary for Workforce Development, Louisiana Department of Labor, Box 94094, Baton Rouge, LA 70804-9094.

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation
and
Department of Revenue and Taxation
Severance Tax Division**

Produced Water Injection Incentive
(LAC 43:XIX.Chapter 43)

Interested persons may submit data, views, arguments, information or comments on the proposed enactments in writing, to the Louisiana Department of Labor, Box 94094, Baton Rouge, LA 70804-9094, Attention: Sujuan Boutté, Assistant Secretary for Workforce Development. Written comments must be submitted to and received by the department within 10 days from the date 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 department within 20 days of the date of this notice.

Garey Forster
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Workforce Development Training Fund**

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

Act 1053 of the 1997 Regular Legislative Session established the Workforce Development Training Account. The legislature appropriated \$6,000,000 into this account to be used for customized training. Of this amount appropriated, 10 percent, of \$600,000 is dedicated to administrative expenses. The Department of Labor estimates that the cost of implementation will be \$600,000 and that such cost shall not exceed the amount provided for in the Act. The remaining amount in the fund will be dispersed as grants to eligible businesses.

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

There will be no direct effect on revenue collections of state or local governmental units.

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

Act 1053 dedicated \$6,000,000 for training employees of eligible applicants. It is anticipated that the full \$6,000,000, less administrative costs, will be distributed amongst eligible applicants which will include vocational-technical schools and community colleges along with interested employers who have operated in the state for at least three years. The direct economic benefit to the eligible applicants will be the actual amount of the grant and the indirect economic benefit will be those savings provided to the applicant through the state funded training program. Thus, an eligible applicant will be subsidized for a portion of the funding necessary to train its employees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Workforce Development Training Account should not significantly affect competition among those awarded grants for customized training, but would provide some incremental cost advantage to successful applicants compared to entities which do not receive the funding. Employees of organizations benefitting from the fund will receive industry standard training thereby allowing them to be more productive and efficient. Also, as incumbent workers are trained and promoted employment opportunities for existing employees as well as potential employees will increase.

Garey J. Forster
Secretary
9808#061

John R. Rombach
Legislative Fiscal Officer

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 and Taxation do hereby give notice of intent to adopt 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 and Taxation, Severance Tax Division, LR 24:

§4303. Application and Hearing to Qualify a Produced Water Injection Project

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), R.S. 30:6 and R.S. 47:633.5. 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 economic estimates necessary to support the feasibility and 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 and Taxation, Severance Tax Division, LR 24:

§4305. Commencement of Incremental Production

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 and Taxation, Severance Tax Division, LR 24:

Interested persons may submit written comments on this proposed rule to Philip N. Asprodites, Commissioner, Office of Conservation, Department of Natural Resources, Box 94275, Baton Rouge, LA 70804-9275.

A public hearing on this proposed rule will be held on September 29, 1998 at 9 a.m. at 625 North Fourth Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at this hearing.

Philip N. Asprodites
Commissioner

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

RULE TITLE: Produced Water Injection Incentive

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

There will be no implementation costs to the State or Local governmental units regarding these proposed new rules.

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

The rules require each applicant to have a public hearing before the commissioner of Conservation to obtain approval of a Produced Water Injection Project. The current cost of a public hearing before the commissioner is \$630. Approximately three new projects are expected in a given year. There might be some severance tax revenue loss from projects that would occur anyway and that would now pay a reduced tax rate. However,

here may also be some projects that would not have been created without the tax incentive. These projects will generate additional severance tax. In addition, to the extent that these projects occur on state lands or waterbottoms, some additional royalty payments would also be generated. Overall net revenue impacts are likely to be small.

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

Projects that receive a reduced severance tax rate will generate economic benefits for the entities involved. These benefits cannot be reasonably estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of these rules is not expected to have large effects on drilling activity. Thus, any effects on competition and employment are expected to be small.

Philip Asprodites
Commissioner
9808#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-R-98/99
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 hereby proposes to amend 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:

§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	10
Tier 2	1 - 5,000	50
Tier 3	5,001 - 15,000	150
Tier 4	15,001 - 30,000	250
Tier 5	30,001 - 60,000	400
Tier 6	60,001 - 110,000	550
Tier 7	110,001 - 9,999,999	675

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:

§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

f 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:

§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:

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Tuesday, October 6, 1998. Comments should be directed, in writing, to Philip N. Asprodites, Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9 a.m., Tuesday, September 29, 1998 in the Conservation Auditorium, located on the First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Philip N. Asprodites
Commissioner

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

**RULE TITLE: Statewide Order No. 29-R-98/99
Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Statewide Order No. 29-R-98/99 will result in collection of approximately \$2.7 million by the Office of Conservation. Local governmental units will not be affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Statewide Order No. 29-R-98/99 will result in the collections of \$2.7 million of production fees during FY 98/99. Fees will be paid by operators of capable oil and capable gas wells, Class I injection wells and nonexempt Class II injection wells.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Philip N. Asprodites
Commissioner and Assistant Secretary
9808#067

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Surface Mining (LAC 43:XV)

Under the authority of the Louisiana Surface Mining and Reclamation Act, particularly R.S. 30:901 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend LAC 43:XV, the Louisiana Surface Mining Regulations.

The federal Office of Surface Mining Reclamation and Enforcement, under the provisions of 30 CFR 732:17(d), has notified the Louisiana Office of Conservation, Injection and Mining Division of changes in Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and the federal regulations promulgated pursuant to SMCRA which make it necessary for Louisiana to modify its Surface Mining Regulatory Program to remain consistent with all federal regulations. The director of the Office of Surface Mining Reclamation and Enforcement approved the proposed amendments in *Federal Register*, vol. 63, no. 47, March 11, 1998, pp. 11829-11830, and vol. 63, no. 89, May 8, 1998, pp. 25391-25394.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

Title 43

NATURAL RESOURCES

Part XV. Office of Conservation—Surface Mining

Subpart 1. General Information

Chapter 1. General

§105. Definitions

* * *

Other Treatment Facilities—any chemical treatments, such as flocculation or neutralization, or mechanical structures, such as clarifiers or precipitators, that have a point-source discharge and that are utilized:

- a. to prevent additional contributions of dissolved or suspended solids to streamflow or runoff outside the permit area; or
- b. to comply with all applicable state and federal water-quality laws and regulations.

* * *

Previously Mined Area—land affected by surface coal mining operations prior to August 3, 1977, that has not been reclaimed to the standards of 30 CFR Chapter VII.

* * *

Qualified Laboratory—a designated public agency, private firm, institution, or analytical laboratory that can provide the required determination of probable hydrologic consequences or statement of results of test borings or core samplings or other services as specified at §3711 and that meets the standards of §3713.

* * *

Replacement of Water Supply—with respect to protected water supplies contaminated, diminished or interrupted by coal mining operations, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes provision of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies.

a. Upon agreement by the permittee and the water supply owner, the obligation to pay such operation and maintenance costs may be satisfied by a one-time payment in an amount which covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner.

b. If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the post-mining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441, (July 1988), LR 20:447 (April 1994), LR 24:

* * *

Subpart 3. Surface Coal Mining and Reclamation Operations Permits and Coal Exploration and Development Procedures Systems

Chapter 23. Surface Mining Permit Applications: Minimum Requirements for Legal, Financial, Compliance and Related Information

§2307. Compliance Information

A. Each application shall contain:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Chapter 25. Surface Mining Permit Applications: Minimum Requirements for Information on Environmental Resources

§2537. Cross-Sections, Maps and Plan

* * *

11. Repeal.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Chapter 27. Surface Mining Permit Applications: Minimum Requirements for Reclamation and Operation Plan

§2725. Reclamation Plan: Ponds, Impoundments, Bank, Dams and Embankments

A. General. Each application shall include a general plan and a detailed design plan for each proposed siltation structure, sedimentation pond, water impoundment, and coal processing waste bank, dam or embankment within the proposed mine plan area.

A.1. - A.1.e. ...

2. Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release Number 60 (210-VI-TR60, Oct. 1985), *Earth Dams and Reservoirs*, Technical Release Number 60 (TR-60) shall comply with the requirements of this section for structures that meet or exceed the size or other criteria of the Mine Safety and Health Administration (MSHA). The technical release is hereby incorporated by reference. This incorporation by reference was approved by the Director of the *Federal Register* in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, order Number PB 87-157509/AS. Copies can be inspected at the OSM Headquarters Office, Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 660, 800 North Capitol Street, Washington, D.C. or at the Office of the *Federal Register*, 800 North Capitol Street, NW, Suite 700, Washington, D.C. Each detailed design plan for a structure that meets or exceeds the size or other criteria of MSHA, Sec. 77.216(a) of this chapter shall:

2.a. - d. ...

3. Each detailed design plan for a structure not included in §2725.A.2 shall:

a. be prepared by, or under the direction of, and certified by a qualified registered professional engineer, experienced in the design of similar earth and waste structures; except that all coal processing waste dams and embankments covered by §§5375-5395 shall be certified by a qualified, registered, professional engineer;

A.3.b. - C. ...

1. For impoundments not included in §2725.A.2, engineering design standards shall ensure stability comparable to a 1.3 minimum static safety factor in lieu of engineering tests to establish compliance with the minimum static safety factor of 1.3 specified in §5333.

D. - E.4. ...

F. If the structure meets the Class B or C criteria for dams in TR-60 or meets the size or other criteria of 30 CFR 77.216(a) each plan under §§2725.B, C and E shall include a

stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternatively considered in selecting the specific design parameters and construction methods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Chapter 29. Requirements for Permits for Special Categories of Mining

§2907. Prime Farmlands

A. - C.4. ...

5. the aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining. Water bodies, if any, to be constructed during mining and reclamation operations must be located within the post-reclamation non-prime farmland portions of the permit area. The creation of any such water bodies must be approved by the regulatory authority and the consent of all affected property owners within the permit area must be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Chapter 37. Small Operator Assistance

§3711. Program Services and Data Requirements

A. To the extent possible with available funds, the commissioner shall select and pay a qualified laboratory to make the determination and statement and provide other services referenced in §3711.B for eligible operators who request assistance.

B. ...

1. the determination of the probable hydrologic consequences of the surface mining and reclamation operations in the proposed permit area and adjacent areas, including the engineering analyses and designs necessary for the determination in accordance with §2523 and any other applicable provisions of these regulations; and

2. the drilling and the statement of the results of test borings or core samplings for the proposed permit area in accordance with §2509.B. and any other applicable regulations;

3. the development of cross-section maps and plans required by §2537;

4. the collection of archaeological and historic information and related plans required by §§2505.A.2 and 2731 and any other archaeological and historic information required by the office;

5. pre-blast surveys required by §2707; and

6. the collection of site-specific resources information, the production of protection and enhancement plans for fish and wildlife habitats required by §2713, and information and plans for any other environmental values required by the office under the act.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 6:177 (May 1980), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

§3717. Applicant Liability

A. A coal operator shall reimburse the office for the cost of the services rendered pursuant to this Chapter if:

1. ...

2. the commissioner finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit; or

3. the permit is sold, transferred or assigned to another person and the transferee's total actual and attributed production exceeds the 300,000-ton annual production limit during the 12 months immediately following the date on which the permit was originally issued. Under this Paragraph the applicant and its successor are jointly and severally obligated to reimburse the office.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 6:177 (May 1980), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Subpart 4. Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations

Chapter 45. Procedures, Criteria and Schedule for Release of Performance Bond

§4501. Procedures for Seeking Release of Performance Bond

A. - A.2. ...

3. The permittee shall include in the application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the Act, the regulatory program, and the approved reclamation plan. Such certification shall be submitted for each application or phase of bond release.

4. Within 30 days after filing the application for release, the permittee shall submit proof of publication of the advertisement required by §4501.B. Such proof of publication shall be considered part of the bond release application.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 6:296 (June 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Subpart 5. Permanent Program Performance Standards

Chapter 53. Permanent Program Performance Standards: Surface Mining Activities

§5333. Hydrologic Balance: Impoundments

A. ...

1. Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation

ervice Technical Release Number 60 (210-VI-TR60, Oct. 1985), *Earth Dams and Reservoirs*, 1985 shall comply with "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60 and the requirements of this section. The technical release is hereby incorporated by reference. This incorporation by reference was approved by the Director of the *Federal Register* in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, order Number PB 87-157509/AS. Copies can be inspected at the OSM Headquarters Office, Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 660, 800 North Capitol Street, Washington, D.C., or at the Office of the *Federal Register*, 800 North Capitol Street, NW., Suite 700, Washington, D.C.

2. Impoundments meeting the criteria of 30 CFR 77.216(a) shall comply with the requirements of 30 CFR 77.216 and §5333.

3. Design Certification. The design of impoundments shall be certified in accordance with §2725.A as designed to meet the requirements of Chapter 53 using current prudent engineering practices and any design criteria established by the office. The qualified registered professional engineer shall be experienced in the design and construction of impoundments.

4. Stability

a. An impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a) shall have a minimum static safety factor of 1.5 for a normal pool with steady state seepage saturation conditions, and a seismic safety factor of at least 1.2.

b. Impoundments not included in §5333.A.4.a, except for a coal mine waste impounding structure, shall have a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions or meet the requirements of §2725.C.1.

5. Freeboard. Impoundments shall have adequate freeboard to resist overtopping by waves and by sudden increases in storage volume. Impoundments meeting the Class B or C criteria for dams in TR-60 shall comply with the freeboard hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60.

6. Foundation

a. Foundation and abutments for the impounding structure shall be designed to be stable under all phases of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed in order to determine the design requirements for foundation stability. For an impoundment meeting the Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability.

b. All vegetative and organic materials shall be removed and foundations excavated and prepared to resist failure. Cutoff trenches shall be installed if necessary to ensure stability.

7. Slope protection shall be provided to protect against surface erosion at the site and to protect against sudden drawdown.

8. Faces of embankments and surrounding areas shall be vegetated, except that faces where water is impounded may be riprapped or otherwise stabilized in accordance with accepted design practices.

9. Spillways. An impoundment shall include either a combination of principal and emergency spillways or a single spillway configured as specified in §5333.A.9.a, designed and constructed to safely pass the applicable design precipitation event specified in §5333.A.9.b, except as set forth in §5333.C.2.

a. The office may approve a single open-channel spillway that is:

i. of nonerodible construction and designed to carry sustained flows; or

ii. earth- or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected.

b. Except as specified in §5333.C.2, the required design precipitation event for an impoundment meeting the spillway requirements of §5333.A.9 is:

i. for an impoundment meeting the Class B or C criteria for dams in TR-60, the emergency spillway hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60, or greater event as specified by the office;

ii. for an impoundment meeting or exceeding the size or other criteria of 30 CFR 77.216(a), a 100-year 6-hour event, or greater event as specified by the office;

iii. for an impoundment not included in §5333.A.9.b.i and ii, a 25-year 6-hour or greater event as specified by the office.

10. The vertical portion of any remaining highwall shall be located far enough below the low-water line along the full extent of the highwall to provide adequate safety and access for the proposed water users.

11. Inspections. A qualified registered professional engineer or other qualified professional specialist, under the direction of the professional engineer, shall inspect the impoundment. The professional engineer or specialist shall be experienced in the construction of impoundments.

a. Inspections shall be made regularly during construction, upon completion of construction, and at least yearly until removal of the structure or release of the performance bond.

b. The qualified registered professional engineer, upon completion of construction, shall promptly provide to the office a certified report that the impoundment has been constructed as designed and in accordance with the approved plan and these regulations. In addition, the qualified registered professional engineer shall, after each annual inspection, promptly provide to the office a certified report that the impoundment has been maintained in accordance with the approved plan and these regulations. Each such report shall include discussion of any appearances of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded waters, existing storage capacity, any

xisting or required monitoring procedures and instrumentation, and any other aspects of the structure affecting stability.

c. A copy of the report shall be retained at or near the minesite.

12. Impoundments meeting the SCS Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216 must be examined in accordance with 30 CFR 77.216-3. Impoundments not meeting the SCS Class B or C criteria for dams in TR-60, or subject to 30 CFR 77.216, shall be examined at least quarterly. A qualified person designated by the operator shall examine impoundments for the appearance of structural weakness and other hazardous conditions.

13. Emergency Procedures. If any examination or inspection discloses that a potential hazard exists, the person who examined the impoundment shall promptly inform the office of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the office shall be notified immediately. The office shall then notify the appropriate agencies that other emergency procedures are required to protect the public.

B. - C.1. ...

2. In lieu of meeting the requirements in §5333.A.9.a, the office may approve an impoundment that relies primarily on storage to control the runoff from the design precipitation event when it is demonstrated by the operator and certified by a qualified registered professional engineer that the impoundment will safely control the design precipitation event, the water from which shall be safely removed in accordance with current, prudent, engineering practices. Such an impoundment shall be located where failure would not be expected to cause loss of life or serious property damage, except where:

a. impoundments meeting the SCS Class B or C criteria for dams in TR-60, or the size or other criteria of 30 CFR 77.216(a) shall be designed to control the precipitation of the probable maximum precipitation of a 6-hour event, or greater event specified by the office;

b. impoundments not included in §5333.C.2.a shall be designed to control the precipitation of the 100-year 6-hour event, or greater event specified by the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

§5411. Backfilling and Grading: Thin Overburden

A. *Thin Overburden*—insufficient spoil and other waste materials available from the entire permit area to restore the disturbed area to its approximate original contour.

Insufficient spoil and other waste materials occur where the overburden thickness times the swell factor, plus the thickness of other available waste materials, is less than the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfilling and grading the surface configuration of the reclaimed area would not:

a. closely resemble the surface configuration of the land prior to mining; or

b. blend into and complement the drainage pattern of the surrounding terrain.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

§5413. Backfilling and Grading: Thick Overburden

A. *Thick Overburden*—more than sufficient spoil and other waste materials available from the entire permit area to restore the disturbed area to its approximate original contour.

More than sufficient spoil and other waste materials occur where the overburden thickness times the swell factor exceeds the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfilling and grading the surface configuration of the reclaimed area would not:

a. closely resemble the surface configuration of the land prior to mining; or

b. blend into and complement the drainage pattern of the surrounding terrain.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Chapter 55. Special Permanent Program Performance Standards: Operations on Prime Farmland

§5503. Prime Farmland: Soil Removal

A. - A.1. ...

2. separately remove the B horizon of the soil, a combination of B horizon and underlying C horizon, or other suitable soil material to provide the thickness of suitable soil required by §5507.A.1 that will create a reconstructed soil of equal or greater productive capacity than that which existed before mining, except as approved by the regulatory authority where the B or C soil horizons would not otherwise be removed and where soil capabilities can be retained;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

§5507. Prime Farmland: Soil Replacement

A. - A.3. ...

4. Replace the B horizon, C horizon, or other suitable material specified in §5503.A.2 to the thickness needed to meet the requirements of §5507.A.1. In those areas where the B or C horizons were not removed but may have been compacted or otherwise damaged during the mining operation, the operator shall engage in deep tilling or other appropriate means to restore premining capabilities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Chapter 65. Enforcement

§6507. Service of Notices of Violation and Cessation Orders

A. - A.1. ...

2. as an alternative to §6507.A.1, service may be made by sending a copy of the notice or order by certified mail or by hand to the person to whom it is issued or his or her designated agent, or by any means consistent with the rules governing service of a summons and complaint under the Louisiana Rules of Civil Procedure. Service shall be complete upon tender of the notice or order or of the certified mail and shall not be deemed incomplete because of refusal to accept.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:177 (May 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Chapter 69. Civil Penalties

§6913. Procedures for Assessment of Civil Penalties

* * *

B. The office shall serve a copy of the proposed assessment and of the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued, by certified mail, or by any alternative means consistent with the rules governing service of a summons or complaint under the Louisiana Rules of Civil Procedure, within 30 days of the issuance of the notice or order. If the mail is tendered at the address of that person set forth in the sign required under §5301, or at any address at which that person is in fact located, and he or she refuses to accept delivery of or to collect such mail, the requirements of §6913.B shall be deemed to have been complied with upon such tender.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

§6915. Procedures for Assessment Conference

A. - B. ...

1. The office shall assign a conference officer to hold the assessment conference. The assessment conference shall not be governed by the Louisiana Administrative Procedure Act regarding requirements for formal adjudicatory hearings. The assessment conference shall be held within 60 days from the date the conference request is received or the end of the abatement period, whichever is later; provided, that a failure by the office to hold such conference within 60 days shall not be grounds for dismissal of all or part of an assessment unless the person against whom the proposed penalty has been assessed proves actual prejudice as a result of the delay.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

6917. Request for Hearing

A. The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty, to the commissioner (to be held in escrow as provided in §6917.B) within 30 days from receipt of the proposed assessment or 30 days from the date of service of the conference office's action, whichever is later. The fact of the violation may not be contested if it has been decided in a review proceeding commenced under §6511.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 5:395 (December 1979), amended LR 6:411 (August 1980), LR 6:734 (December 1980), LR 14:441 (July 1988), LR 20:447 (April 1994), LR 24:

Chapter 71. Individual Civil Penalties

§7105. Procedure for Assessment of Individual Civil Penalty

A. - B.2. ...

C. Service. For purposes of §7105, service is sufficient if it would satisfy the Louisiana Rules of Civil Procedure for service of a summons and complaint. Service shall be complete upon tender of the notice of proposed assessment and included information or of the certified mail and shall not be deemed incomplete because of refusal to accept.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:901-932.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 20:447 (April 1994), LR 24:

A public hearing will be held at 10 a.m., Thursday, September 24, 1998, in the Conservation Hearing Room located on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA at which time all interested persons will be afforded an opportunity to submit oral and written comments regarding the amendment to LAC 43:XV, the Louisiana Surface Mining Regulations.

All interested persons are invited to submit written comments on the proposed amendment. Such comments must be submitted no later than 5:00 p.m., September 24, 1998, to Carroll D. Wascom, Injection and Mining Division, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

Copies of the proposed amendment may be obtained or viewed at the Office of the State Register, 1051 North Third, Baton Rouge, LA 70802, phone (504) 342-5015 or through the Department of Natural Resources, Office of Conservation, 625 North Fourth Street, Baton Rouge, LA 70804.

Philip N. Asprodites
Commissioner of Conservation

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Surface Mining Regulations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or

ocal governmental units since Louisiana presently has surface mining rules in effect and the proposed change will keep Louisiana's Surface Mining Program in compliance with federal regulations.

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

Louisiana presently receives \$191,000 in federal funds and \$280,000 in state matching funds to administer the Surface Mining Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose this funding.

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

There will be negligible costs to directly affected persons or surface coal mine operators. Benefits will be realized by persons in the vicinity of the surface mining operations and the state's citizens generally due to the reclamation of the surface mining property according to state and federal standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment will bring the Louisiana Surface Mining Program into compliance with federal Surface Mining Control and Reclamation regulations and will insure the continued operation of surface mining in Louisiana.

Philip N. Asprodites
Commissioner of Conservation
9808#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Land-Based Casino (LAC 42:III.104) and
(Part IX.Chapters 21, 27, 29, and 33)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:III.104, IX.2105, 2701, 2703, 2707, 2723, 2729, 2901, 2903, 2905, 2907, 2909, 2911, 2913, 2915, 2917, 2921, 3301, 3303, 3305, 3307, 3309, and 3319 in accordance with the provisions of R.S. 27:15, R.S. 27:24, and R.S. 49:950 et seq.

Copies of this proposed rule may be obtained at the Office of the State Register, 1051 North Third St., Room 512, Baton Rouge, LA 70802 and also at the Attorney General's Gaming Division, 339 Florida Street, Suite 500, Baton Rouge, LA 70801. All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone number (504) 342-2465, and may submit written comments relative to these proposed rules, through September 9, 1998, to 339 Florida Boulevard, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

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

RULE TITLE: Delegation to Chairman

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

There are no implementation costs to state or local governmental units.

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

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

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

No significant costs and/or economic benefits to directly affected persons or nongovernmental groups is estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9808#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Video Draw Poker Devices
(LAC 42:XI.2407 and 2413)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2407 and 2413 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING
Part XI. Video Poker**

**Chapter 24. Video Draw Poker
§2407. Operation of Video Draw Poker Devices**

A.1. - 12. ...

13. All licensees or designated representatives of the licensees shall be present during all hours of operation of the licensed establishment in order to prevent the play of video draw poker devices by persons under the age of 21 and to prevent access to the gaming area by persons under the age of 18.

14. All licensees shall post signs on the premises of a licensed establishment which admits mixed patronage that

restricts the play of video draw poker devices by persons under the age of 21 and restricts the access to areas where gaming is conducted by persons under the age of 18.

15. All licensees shall label entrances to device areas with lettering, at least 3 inches in height, stating:

a. "NO PERSONS UNDER THE AGE OF 21 ALLOWED TO PLAY GAMING DEVICES";

b. "NO PERSONS UNDER THE AGE OF 18 ALLOWED INSIDE"; and

c. "GAMING DEVICES INSIDE."

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety, Gaming Control Board, LR 24:

§2413. Devices

A. Device Specifications

1.a. - e.i. ...

ii. The phrase "NO PERSON UNDER THE AGE OF 21 ALLOWED TO PLAY" shall be conspicuously displayed on the face of all devices.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety, Gaming Control Board, LR 24:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone number (504) 342-2465, and may submit written comments relative to these proposed rules, through September 9, 1998, to 339 Florida Boulevard, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Video Draw Poker Devices

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

There are no implementation costs to state or local governmental units estimated.

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

There is 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)

No measurable costs and/or economic benefits to directly affected persons or nongovernmental groups are estimated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9808#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

New Dealer Requirements; Pressure Test and Inspection
(LAC 55:IX.107 and 175)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, notice is hereby given that the commission proposes to amend its rules.

The proposed rule changes will:

1. change the requirement of notice to the director of the Liquefied Petroleum Gas Commission, by an insurance company of the intent to cancel an insurance policy or a certificate of insurance from 30 days to 10 days prior to the date of cancellation;

2. change the permit fees that are based on a percentage of gross annual sales of liquefied petroleum gases from .2500 of 1 percent to .2375 of 1 percent of gross annual sales of liquefied petroleum gases with a minimum of \$75;

3. change the reporting date for the monthly purchases and sales reports from the twentieth of the following month to the end of the following month and allow an additional five calendar days for mail delays;

4. clarify the requirement of an operating pressure test of the system of a new customer by removing ambiguous language.

The proposed rule changes comply with the statutory authority granted the commission under R.S. 40:1846.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A.1. - 2. ...

3. Must have on file in the office of the director a *certificate of insurance* signed by a Louisiana resident agent, showing kinds and amounts in force; said certificate shall be considered evidence of liability insurance coverage in the minimum sum of \$100,000; said certificate must bear the clause that in the event the insurance company intends to

cancel, the insurance company will notify the director of the Liquefied Petroleum Gas Commission 10 days prior to date of cancellation.

3.a. - 5.b. ...

6. Applicant must have paid a permit fee in the amount of \$75, except for a Class VIII, which shall be \$100, to the Liquefied Petroleum Gas Commission of the State of Louisiana. For succeeding years the permit fee shall be .2375 of 1 percent of annual gross sales of liquefied petroleum gases with a minimum of \$75. For classes not selling liquefied petroleum gas in succeeding years the permit fee shall be \$75. For registrations the permit fee shall be \$37.50 per year.

a. Each Class I and Class IV dealer shall submit to the commission by the end of the following month, a report in a form acceptable to the commission, the previous month's purchases and sales in gallons and total dollars. An additional five calendar days shall be granted for mail delays.

6.b. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:

Subchapter G. Systems Utilizing ASME Containers
§175. Pressure Test and Inspection Required

A.1. - 8. ...

9. Existing piping, tank and appliances, first time service of a system of a new customer:

a. - f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), LR 24:468 (March 1998), LR 24:

The commission will hold a public hearing September 24, 1998, 1723 Dallas Drive, Baton Rouge, LA, at 8:30 a.m. in regard to these changes.

Written comments will be accepted through September 18, 1998 and should be sent to Charles M. Fuller, Director, Liquefied Petroleum Gas Commission, Box 66209, Baton Rouge, LA 70896. All interested persons will be afforded an opportunity to be heard at the public hearing. A preamble has not been prepared for the intended action.

Charles M. Fuller
Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: New Dealers; Pressure Testing
and Inspection

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

There will be a small implementation cost to the state agency, which will be the cost of publication in the *Louisiana Register*.

This cost is estimated to be less than \$100. There will be no implementation cost to any local governmental unit.

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

There will be an estimated loss in revenues to the state governmental unit in the first fiscal year of approximately \$2,400 and in the second and each succeeding fiscal year of approximately \$15,500 per year. There will be no loss in revenues to any local governmental unit.

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

The affected group will experience a decrease in their cost by the same amount as estimated to be the loss in revenues by the state governmental unit, which is estimated to be approximately \$2,400 in the first fiscal year and in the second and each succeeding fiscal year of approximately \$15,500 per year. There will be no economic benefit to any group or person other than the affected group or person.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact or effect on competition and employment because of these rule changes.

Thomas H. Normile
Undersecretary
9808#059

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

Family Independence Temporary Assistance
Program (FITAP)—Adverse Action Notice
(LAC 67:III.1104)

The Department of Social Services, Office of Family Support, proposes to adopt LAC 67:III.1104 pertaining to the Family Independence Temporary Assistance Program (FITAP).

Prior to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, federal policy generally dictated the circumstances which required notices to recipients. Pursuant to the authority granted by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency proposes to define the requirements and exceptions of notices to FITAP recipients.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1104. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent

notice shall be sent to the client at the time of action in the following situation:

1. the agency has factual information confirming the death of the FITAP payee;
2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;
3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;
4. a client has been certified in another state and that fact has been established;
5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;
6. the client has been admitted or committed to an institution;
7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;
8. the agency disqualifies a household member because of an Intentional Program Violation and the benefits of the remaining household members are reduced or terminated because of the disqualification;
9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies. No notice is required to end benefits if the Notice of Expiration was properly sent and the client failed to timely reapply;
10. a case is closed effective the fourth month because a parent fails to comply, attain good cause or become exempt from FIND Work during the three-month sanction period imposed when the parent first failed to cooperate with the FIND Work program;
11. a case is closed effective the fourth month because a parent or other qualified relative fails to participate in the FITAP drug testing program during the three-month sanction period imposed when the member first failed to cooperate in the Drug Testing Program;
12. the case is closed due to the amount of child support collected through Support Enforcement Services;
13. the case is closed due to the 24-month time limit of FITAP benefits;
14. the client has been certified for Supplemental Security Income and that fact has been established.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support LR 24:

Interested persons may submit written comments by September 29, 1998 to the following address: Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065.

A public hearing on the proposed rule will be held on September 29, 1998 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals

at least seven working days in advance of the hearing. For assistance, call (504)342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Family Independence Temporary Assistance
Program (FITAP)—Adverse Action Notice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The immediate implementation cost to state government is the cost of publishing the rule and the related policy revisions for notices that require adverse actions. This cost is minimal and funds for such actions are included in the program's annual budget. There are no costs or savings to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action may affect a small number of recipients who would lose benefits if issuing an advance notice of adverse action would have made them eligible for an additional month of FITAP benefits. There are no costs or benefits to non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no impact on competition and employment.

Madlyn B. Bagneris
Secretary
9808#035

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Billfishes (LAC 76:VII.355)

The Wildlife and Fisheries Commission does hereby give notice of intent to adopt a rule (LAC 76:VII.355) providing for regulations on the harvest of billfishes, including marlins, sailfish and swordfish. Authority for adoption of this rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§355. Harvest Regulations—Billfishes**

A. The Louisiana Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the harvest of billfishes including marlins, sailfish and swordfish

within and without Louisiana's territorial waters. For purposes of this Section, the following words and phrases have the meaning ascribed to them in this Subsection, unless the context clearly shows a different meaning:

Carcass Length—curved measure from posterior edge of gill opening to anterior portion of caudal keel.

Dressed Weight—the weight of the carcass after it has been gutted, headed, and finned.

Lower Jaw Fork Length (LJFL)—straight-line length from the tip of the lower jaw to the fork of the tail.

Trip—a fishing trip, regardless of the number of days duration, that begins with departure from a dock, berth, beach, seawall or ramp and that terminates with return to a dock, berth, beach, seawall or ramp.

B. Minimum Size Limits. No person shall possess any fish smaller than the minimum size limit.

Species	Minimum Size Limit
1. Blue Marlin	96 inches Lower Jaw Fork Length (LJFL)
2. White Marlin	66 inches Lower Jaw Fork Length (LJFL)
3. Sailfish	57 inches Lower Jaw Fork Length (LJFL)
4. Swordfish	29 inches carcass length or 33 pounds dressed weight

C. Recreational Creel Limit. Recreational fishing vessels shall not possess more than five swordfish per vessel per trip. Swordfish taken under a recreational bag limit shall not be sold, purchased, exchanged, bartered, or attempted to be sold, purchased, exchanged or bartered.

D. Gamefish. Louisiana Revised Statutes Title 56 §327(A)(1)(b)(i) designates sailfish (*Istiophorus platypterus*), blue marlin (*Makaira nigricans*), black marlin (*Makaira indica*), striped marlin (*Tetrapturus audax*), hatchet marlin (*Tetrapturus* spp.), and white marlin (*Tetrapturus albidus*) as saltwater gamefish. This rule does not affect the designation of gamefish status, which is retained by the legislature [R.S. 56:6(25)(a)]. Vessels engaged in commercial fishing shall not possess any of these species.

E. Permits

1. Recreational

Tournament Operators—a person conducting a tournament involving scorekeeping or awards for Atlantic billfish (whether or not retained), must register with the National Marine Fisheries Service.

2. Commercial—Swordfish:

a. The owner of a vessel of the United States or a vessel that fishes for or possesses swordfish, or takes swordfish as incidental catch, regardless of whether retained, must possess a valid commercial permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Swordfish. This permit must be aboard the vessel and available for inspection by agents of the Department of Wildlife and Fisheries Enforcement Division. The captain of the vessel is also responsible to ensure the validity and possession of the permit aboard the vessel before retaining, possessing, selling or attempting to sell swordfish.

b. A wholesale/retail dealer who first receives swordfish must have been issued a valid dealer permit under the Federal Fishery Management Plan for Atlantic Swordfish. This dealer permit must be in possession of the wholesale/retail dealer and available for inspection by agents of the Department of Wildlife and Fisheries Enforcement Division.

F. All persons fishing for swordfish, or persons receiving any swordfish from fishermen, who do not possess a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Swordfish shall not sell, barter, trade, exchange or attempt to sell, barter, trade or exchange any swordfish, or possess any swordfish in excess of a recreational creel limit.

G. No person aboard any vessel shall transfer or cause the transfer of swordfish between vessels on state or federal waters.

H. No person shall purchase, sell, exchange, barter or attempt to purchase, sell, exchange, or barter any swordfish in excess of any possession limit for which a commercial permit was issued.

I. Seasonal Closures. The secretary of the Department of Wildlife and Fisheries is hereby authorized to close any recreational or commercial fishery for marlins or swordfish, 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 and fishery has been met. The closure order shall close the fishery until the date projected for the reopening of that fishery in the adjacent federal waters. The secretary is also hereby authorized to modify any such closure order to maintain consistency with reopening dates in the adjacent federal waters, should the federal closure dates be modified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:

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 statements, 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 submit comments relative to the proposed rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to October 1, 1998.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Billfishes**

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

There will be no state or local governmental implementation costs.

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

There will be no 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 rule is intended to provide consistent regulations for recreational fishers harvesting billfishes (marlins, sailfish, and swordfish) in state waters and in adjacent federal waters.

A portion of Louisiana's saltwater recreational anglers and charter boat businesses that target billfishes recreationally and commercial fisherman that harvest swordfish will be affected by the proposed rule. Additional fees, permits, paperwork and workload would occur as a result of federal permit applications and reports required under this rule. Since federal permits and reporting requirements are presently required for comparable fishing activities occurring in federal waters off of Louisiana and most of the fishing activity for these species occurs in federal waters, actual changes in costs, permits, fees, paperwork and workload should be very small.

Most of the effects of this rule would be due to better enforcement of existing rules in federal waters rather than State waters, as most fishing activity toward billfishes occurs in federal waters. Overall benefit reductions are not estimable at this time. Long-term benefits may accrue to fisherman in both recreational and commercial sectors as a result of possible increases in the stocks protected by the proposed limits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment in the public or private sector.

James L. Patton
Undersecretary
9808#062

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Turkey Hunting Season—1999

The Wildlife and Fisheries Commission at its August meeting does hereby give notice of its intent to promulgate rules and regulations governing the hunting of wild turkeys.

1999 Turkey Hunting Season Schedule

Daily limit is one gobbler, three gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than Number 2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

A *baited area* is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

The Department of Wildlife and Fisheries strongly discourages "feeding" agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game licenses.

Statewide Turkey Hunting Areas

Shooting Hours: one-half hour before sunrise to one-half hour after sunset.

1999 Turkey Hunting Season

Open Only in the Following Areas

Area A

March 27-April 25

All of the following parishes are open:

East Baton Rouge, East Feliciana, Grant (EXCEPTION: See Kisatchie National Forest hunting schedule for National Forest dates), Livingston, Natchitoches (EXCEPTION: See Kisatchie National Forest hunting schedule for National Forest dates), Rapides (EXCEPTION: See Kisatchie National Forest hunting schedule for National Forest dates), St. Helena, St. Tammany, Tangipahoa, Washington, West Baton Rouge, West Feliciana (including Raccourci Island).

Portions of the following parishes are also open:

Allen: North of La. 26 from DeRidder to the junction of La. 104 and north of La. 104.

Avoyelles: That portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by La. 452 from Brouillette to La. 1 eastward to Simmesport, *except* that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451.

Beauregard: North of La. 26 east of DeRidder, west of Hwy. 171 from the junction of Hwy. 26 south to Calcasieu Parish.

Calcasieu: West of U.S. 171 north of I-10 and north of I-10 from the junction of U.S. 171 to Texas state line.

Caldwell: West of Ouachita River southward to Catahoula Parish line, east and north of La. 126 and south and west of La. 127.

Catahoula: West of Ouachita River southward to La. 559 at Duty Ferry, north of La. 559 to La. 124, south and west of La. 124 from Duty Ferry to La. 8 at Harrisonburg and north of La. 8 to La. 126, north and east of La. 126. ALSO that portion lying east of La. 15.

Concordia: That portion east of Hwy. 15 and west of Hwy. 65 from its juncture with Hwy. 15 at Clayton.

Evangeline: North and west of La. 115, north of La. 106 from St. Landry to La. 13, west of La. 13 from Pine Prairie to Mamou and north of La. 104 west of Mamou.

Franklin: That portion lying east of Hwy. 17 and east of Hwy. 15 from its juncture with Hwy. 17 at Winnsboro.

Iberville: West of La. Hwy. 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

LaSalle: All lands lying west of La. 127 from the Caldwell Parish line to the junction of La. 124; south of La. 124 to the junction of La. 124 and 126; west of La. 126 to the junction with La. 503; north of La. 503 to Summerville; west of La. 127 from Summerville to Little River. Also that portion of land east of La. 126 from the Caldwell Parish line to the Catahoula Parish line.

Madison: That portion lying west of U.S. Hwy. 65 and south of U.S. Hwy. 80.

Pointe Coupee: All except that portion bounded on the west by La. 77 and La. 10, northward from U.S. 190 to La. 1 at Morganza, on the north and east by La. 1 to its junction with La. 78 and by La. 78 from Parlange to U.S. 190. FURTHER EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

Richland: That portion south of U.S. Hwy. 80 and east of Hwy. 17.

Sabine: That portion north of Hwy. 6 from Toledo Bend Lake to Many; east of Hwy. 171 from Many to the Vernon Parish line.

St. Landry: That portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee. ALSO that portion of the parish bounded on the north by La. 10 from the West Atchafalaya Basin Protection Levee to Burton's Lake, on the east by Burton's Lake, on the south by Petite Prairie Bayou to its junction with the old O.G. Railroad right-of-way then by the O.G.R.R. right-of-way westward to U.S. 71 and on the west by the West Atchafalaya Guide Levee to its junction with La. 10, EXCEPT the Indian Bayou tract owned by the U.S. Corps of Engineers.

Upper St. Martin: All within the Atchafalaya Basin. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

Tensas: That portion west of Hwy. 65 from the Concordia Parish line to its juncture with Hwy. 128, north of La. 128 to St. Joseph; west and north of La. 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands lying east of the main channel of the Mississippi River.

Vernon: That portion east of Hwy. 171 from the Sabine Parish line to the junction of Hwy. 111, south of Hwy. 111 westward to Hwy. 392, and south of Hwy. 392 westward to the Sabine Parish line.

EXCEPTION: See Kisatchie National Forest hunting schedule for season dates.

Winn: Only that portion within the boundaries of the National Catahoula Wildlife Management Preserve.

EXCEPTION: See Kisatchie National Forest hunting schedule for Catahoula Wildlife Management Preserve season dates.

Area B

April 3-April 18

All of the following parishes are open:

Bienville, Bossier, Claiborne, Lincoln, Red River, Webster, Including Caney Ranger District of Kisatchie National Forest.

Portions of the following parishes are open:

Caddo: That portion north of La. 2 from the Texas state line to U.S. 71, east of U.S. 71 from La. 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line.

DeSoto: That portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84.

Jackson: West of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to La. 144, west of La. 144 to La. 34, west of La. 34 to Chatham, north and west of La. 4 from Chatham to Weston, north and west of La. 505 from Weston to Wyatt, west of U.S. 167 from Wyatt to Winn Parish line.

Ouachita: East of La. 143 from Union Parish line to Bayou Darbonne, north of Bayou Darbonne to the Ouachita River, west of the Ouachita River from the mouth of Bayou Darbonne northward to the Union Parish line.

Morehouse: West of U.S. 165 from the Arkansas line to Bonita, north and west of La. 140 to junction of La. 830-4 (Cooper Lake Road), west of La. 830-4 to Bastrop, north of U.S. 165 from Bastrop to Ouachita Parish line.

Union: West of La. 15 from Ouachita Parish line to La. 33 west of Farmerville, north of La. 33 to La. 2 at Farmerville, north and east of La. 2 to La. 143 at Crossroads, east of La. 143 to the Ouachita Parish line.

Area C

March 27-April 4

Portions of the following parishes are open:

Ascension: All east of the Mississippi River.

Avoyelles: That portion surrounding Pomme de Terre WMA, bounded on the north, east and south by La. 451, on the west by the Big Bend Levee from its junction at the Bayou des Glaise structure east of Bordelonville southward to its junction with La. 451.

Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. Hwy. 84, south of U.S. Hwy. 84 eastward to La. Hwy. 15 (Ferriday), east of La. Hwy. 15 northward to U.S. Hwy. 65 (Clayton), east of U.S. Hwy. 65 northward to Tensas Parish line.

Iberville: All east of the Mississippi River.

St. Landry: That portion bounded on the south by La. 10, on the west by the West Atchafalaya Basin Protection Levee, on the east by La. 105, and on the north by the Avoyelles Parish line.

Tensas: East and south of U.S. Hwy. 65 from Concordia

arish line to Hwy. 128, south of Hwy. 128 to St. Joseph, east and south of La. Hwy. 605, 604 and 3078 northward to Port Gibson Ferry.

1999 Wildlife Management Area Turkey Hunting Regulations

General

The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

Only those Wildlife Management Areas listed are open to turkey hunting.

All trails and roads designated as ATV Only shall be closed to ATVs from March 1 through September 15. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted), unless opened by sign on trail.

Bag limits on WMAs are part of the season bag limit. The bag limit for turkeys on Wildlife Management Areas is one per area, not to exceed two per season for all WMAs. The bag limit for turkeys is one gobbler per day and three gobblers per season including those taken on WMAs.

Permits

Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and depositing it in the check-out box at a self-clearing station before exiting the WMA.

Lottery Hunts. Bayou Macon, Dewey Wills, Georgia-Pacific, Loggy Bayou, Sabine, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application lottery. Deadline for receiving applications is January 31, 1999. Application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA turkey lottery hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements.

Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1—P.O. Box 915, Minden, 71055; 318/371-3050]; [District 2—368 Century Park Drive, Monroe, 71203; 318/343-4044]; [District 3—1995 Shreveport Hwy., Pineville, 71360; 318/487-5885]; [District 4—P.O. Box 426, Ferriday, 71334; 318/757-4571]; [District 5—1213 N. Lakeshore Dr., Lake Charles, 70601; 318/491-2575]; [District 6—5652 Highway 182, Opelousas, 70570; 318/948-0255]; [District 7—P.O. Box 98000, Baton Rouge, 70898; 504/765-2360].

Wildlife Management Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	Apr 3-Apr 4	Self-clearing	April 3-4
Bens Creek†	Mar 27-Apr 18	Self-clearing	None
Big Lake	Mar 27-Apr 4	Self-clearing	None
Bodcau	Apr 3-Apr 18	Self-clearing	None
Boeuf	Mar 27-Apr 4	Self-clearing	None
Boise Vernon	Mar 27-Apr 18	Self-clearing	None
Camp Beaugard	Mar 27-Apr 10	Self-clearing	None
Dewey Wills	Mar 27-Apr 4	Self-clearing	Mar 27-28 Mar 29-31
Fort Polk	Mar 27-Apr 25	Self-clearing	None
Georgia-Pacific	Apr 3-Apr 11	Self-clearing	Apr 3-4
Grassy Lake	Mar 27-Apr 4	Self-clearing	None
Jackson-Bienville	Apr 3-Apr 18	Self-clearing	None
Little River	Mar 27-Apr 10	Self-clearing	None
Loggy Bayou	Apr 10-Apr 11 Apr 17-Apr 18	Self-clearing	Apr 10-11 Apr 17-18
Pearl River	Mar 27-Apr 11	Self-clearing	None
Peason Ridge	Mar 27-Apr 25	Self-clearing	None
Pomme de Terre	Mar 27-Apr 4	Self-clearing	None
Red River	Mar 27-Apr 4	Self-clearing	None
Sabine	Mar 27-Mar 28 Apr 3-Apr 4	Self-clearing	Mar 27-28 Apr 3-4
Sandy Hollow†	Mar 27-Apr 18	Self-clearing	None
Sherburne	Mar 27-Apr 4	Self-clearing	Mar 27-28 Mar 29-31
Sicily Island	Mar 27-Mar 28 Apr 3-Apr 4 Apr 10-Apr 11	Self-clearing	Mar 27-28 Apr 3-4 Apr 10-11
Three Rivers	Mar 27-Apr 4	Self-clearing	None
Tunica Hills	Mar 27-Mar 28 Apr 3-Apr 4 Apr 10-Apr 11	Self-clearing	Mar 27-28 Apr 3-4 Apr 10-11

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are CLOSED. For seasons on smaller lands managed by the Department of Wildlife and Fisheries, contact the local district office.

** The deadline for receiving applications for all turkey Lottery Hunts on WMAs is January 31, 1999.

† No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

Kisatchie National Forest Turkey Hunting Schedule: Caney Ranger District, April 3-18; Winn Ranger District closed except Catahoula Wildlife Management Preserve, March 27-April 18; all other Kisatchie National Forest Districts, March 27-April 18.

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 24:

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 correspondences to other agencies of government.

Additionally, interested persons may submit written comments relative to the proposed rule until October 23, 1998 to Hugh A. Bateman, Administrator, Wildlife Division, Box 98000, Baton Rouge, LA 70898.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Turkey Hunting Season—1999**

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

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules to the state, aside from staff time, is the production of the turkey regulation pamphlets and the turkey stamps estimated to cost \$6,500. The state agency currently has sufficient funds to implement the proposed action and no implementation costs or savings will be incurred by local governmental units resulting from the proposed rule.

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

License revenue from the sale of the turkey stamps is estimated to be about \$46,028. Failure to adopt this rule would result in no turkey hunting seasons being established and loss of state revenues from sale of turkey stamps. In addition loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.

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

Approximately 8,200 resident and nonresident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if no hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Both resident and nonresident turkey hunters will incur an additional cost of \$5.50 and \$10.50, respectively from the required purchase of a wild turkey stamp.

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

Hunting supports approximately 9,800 full- and part-time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also estimated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

James L. Patton
Undersecretary
9808#063

Richard W. England
Assistant to the
Legislative Fiscal Officer

Committee Reports

COMMITTEE REPORT

**House of Representatives
Subcommittee on Oversight of the House
Committee on Insurance
July 28, 1998**

Regulation 65—Licensing of Bounty Hunters

(Editor's Note: The full text of this emergency rule was published in the emergency rule section, pages 906-908, of the May 1998 *Louisiana Register*.)

Pursuant to the authority of R.S. 49:953(B) the Subcommittee on Oversight of the House Committee on Insurance conducted a hearing on July 27, 1998, to review Emergency Rule Number 65, relative to bail enforcement, adopted by the Department of Insurance on May 27, 1998.

The subcommittee received testimony from the department, law enforcement officials, bail bondsmen, bail enforcement agents, citizens, and others regarding the emergency rules to regulate the activities of bail enforcement agents.

The members of the subcommittee expressed concern as to whether there exist sufficient facts to constitute an emergency. Some members felt that since the same rules were being considered in the ordinary rule making process, there was no need to have emergency rules. Pursuant to these concerns, the subcommittee, by a unanimous vote (5-0), found Emergency Rule Number 65 to be unacceptable.

Jimmy N. Dimos
Chairman

9808#016

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Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given December 7-9, 1998 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: September 11, 1998

Re-Take Candidates: September 25, 1998

Reciprocity Candidates: November 13, 1998

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 11, 1998. Questions may be directed to (504) 925-7772.

Bob Odom
Commissioner

9808#033

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given October 19-23, 1998 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 September 4, 1998. No applications will be accepted after September 4, 1998.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to September 4, 1998. Questions may be directed to (504) 925-7772.

Bob Odom
Commissioner

9808#032

POTPOURRI

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

Stack Testing and Semiannual Tests for Internal Combustion Engines

The Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division gives notice that stack testing and semiannual tests for internal combustion engines will no longer be required when:

1. the engine is smaller than 500 maximum rated horsepower (regardless of emissions); or
2. operating time of the engine is less than 720 hours in a semiannual period.

No modifications to existing permits are required. Questions should be directed to Mr. Hilry Lantz by either calling (504)765-0197 or by writing to Mr. Lantz at: Air Quality Permits, Box 82135, Baton Rouge, LA 70884-2135.

Gustave Von Bodungen, P.E.
Assistant Secretary

9808#076

POTPOURRI

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

PM_{2.5} Monitor Siting Plan

The final rule for revised requirements for designation of reference and equivalent methods for PM_{2.5} (particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) and ambient air quality surveillance for particulate matter was published in the *Federal Register* on Friday, July 18, 1997. The Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection must participate in the development of a PM_{2.5} monitoring network. The purpose of this network is to collect data to determine the applicability of the new PM_{2.5} National Ambient Air Quality Standard (NAAQS) on any metropolitan statistical area in Louisiana.

A PM_{2.5} monitor siting plan is open for public comments beginning on August 20, 1998 and ending on September 24, 1998 at 4:30 p.m. A public hearing will be held at 1:30 p.m. on Thursday, September 24, 1998 in Room 326 of the Maynard Ketchum Building located at 7290 Bluebonnet Boulevard. Interested persons are invited to attend and submit oral or written comments on the proposed siting plan.

Written comments concerning the proposed siting plan may

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, December 13, 1997, at Delgado Community College, 615 City Park Avenue, 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

9808#005

also be submitted to Manop Vanichchagorn at any time during the public comment period. Those comments must be received no later than 4:30 p.m. on September 24, 1998. Please mail comments to Mr. Vanichchagorn at: Air Quality Analysis Section, 5222 Summa Court, Baton Rouge, LA, 70809. Mr. Vanichchagorn may be contacted at (504) 765-2595.

A copy of the PM_{2.5} monitor siting plan may be viewed at the Air Quality Division File Room from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays, at 7290 Bluebonnet, 2nd Floor, Baton Rouge, or at any of the regional offices located at the following addresses:

- 100 Asma Blvd., Suite 151, Lafayette, LA
- 804 31st Street, Suite D, Monroe, LA
- 1525 Fairfield, Room 11, Shreveport, LA
- 3501 Chateau Boulevard-West Wing, Kenner, LA
- 3519 Patrick Street, Room 265A, Lake Charles, LA
- 5222 Summa Court, Baton Rouge, LA

Gustave Von Bodungen, P.E.
Assistant Secretary

9808#043

POTPOURRI

**Department of Environmental Quality
Office of Water Resources
Water Quality Management Division**

List of Impaired Waterbodies—[Section 303(d)]

The Department of Environmental Quality, Office of Water Resources gives notice of the availability of the final list of impaired waterbodies (hereinafter referred to as "the 303 (d) list" or "the list"). The list has been submitted to the United States Environmental Protection Agency (EPA) for approval as required by the Clean Water Act.

The final list differs from the draft list that was publicly noticed on April 3, 1998 in several aspects. First, due to comments received concerning metals data (ambient water quality data), the Office re-evaluated the overall use support of waterbodies in light of that database. As a result, eighteen waterbody subsegments were added to the list due to exceedances of metals criteria. Second, two subsegments were added to the list due to new mercury-related fish consumption advisories. Third, some minor changes to the "suspected causes" category of the list were made. These changes related to the metals assessment discussed above, the hypoxic zone in the Gulf of Mexico, and a new fish consumption advisory on Bayou Plaquemine Brule.

The final 303(d) list, as well as all related documents referred to above, are available for inspection and copying from 8:00 a.m. to 4:30 p.m., Monday through Friday, at the Department of Environmental Quality, Office of Water Resources, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana. Copies will be provided for a nominal fee. Contact Mr. Albert Hindrichs, DEQ Office of Water Resources, P.O. Box 82215, Baton Rouge, Louisiana 70884-2215, phone (504) 765-0511.

Linda Korn Levy
Assistant Secretary

9808#077

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Nutrition Section**

**Women, Infants and Children
(WIC) State Plan—1997-1998**

In accordance with Public Law 99-500 and 99-591 the Louisiana Special Nutrition Program for Women, Infants and Children (WIC) is soliciting comments from the general public on the WIC program's State Plan for 1998-99. The plan describes in detail the goals and the planned activities of the WIC program for the next year. Interested persons may find copies of the State Plan at the Central Nutrition/WIC Office (address below) or they may apply directly to the Nutrition/WIC office for copies of the plan at 25 cents per page. Interested individuals should submit their requests for copies or their comments on the Plan to the following address:

State of Louisiana
Department of Health and Hospitals
Office of Public Health
Nutrition Section - Room 406
P. O. Box 60630
New Orleans, Louisiana 70160
Attn: State Plan

Additional information may be gathered by contacting Henry Klimek (504)568-5065.

Pamela P. McCandless, M.P.H.
Administrator

9808#082

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
W. E. Andrau Enterprises Inc.	East Cameron Block 4	SL 13336	001	209850
Ancco Petroleum Co., Inc.	Port Barre	Dezauche Realty Co	001	123127
Arxana Oil and Gas Company, LLC	Carterville	Wyche 26-11	001	202748
Barnwell Drilling Co. Inc.	Wildcat	Biedenharn	002	104811
E N Boyter et al	Caddo Pine Island	Skidmore-Stoer	002	057609
Robert Butland	Caddo Pine Island	Hobbs	001	135784
Dietrich Oil and Gas	Wildcat	Lutcher Moore Cypress Lbr Co	001	064084
Edgewater Oil Co., Inc.	Charenton	Boudreaux	013	070524
Energy Corp. of America, Inc.	Main Pass Block 25	State Lease 2511	003	068327
Energy Corp. of America, Inc.	Delta Farms	I R Price	002	029957
Energy Corp. of America, Inc.	Delta Farms	I R Price	005	030344
Energy Corp. of America, Inc.	Caillou Island	Daspit and Belanger	3A	060101
Energy Corp. of America, Inc.	Caillou Island	E S Broussard et al A	001	061092
Energy Corp. of America, Inc.	Caillou Island	E S Broussard Estate et al "A"	002	063513

Energy Corp. of America, Inc.	Bayou Pigeon	Peterman	003	113953
Energy Corp. of America, Inc.	Westwego	Salt Water Disposal	001	970374
Ethredge Oil Company	Caddo Pine Island	N A Blizzard Fee	001	050478
John R. Kennedy	Fort Jessup	Sonat Minerals C-15	001	211961
John R. Kennedy	Pendleton-Many	Buvens et al	001	175907
John R. Kennedy	Pendleton-Many	Brandon	001	199381
Guy N. Kinney	Caddo Pine Island	Crystal	002	025267
Simon Lebow	Caddo Pine Island	E E Hobbs	001	038741
T. G. Markley and Crosby Drilling Co.	University	Knox Amiss and Farnbacher	006	022917
Pel-Tex Petroleum Company, Inc.	South Lake Maurepas	Lutcher and Moore Lbr Co Ltd	002	104637
L. S. Powell	Zwolle	Martinez Est	001	068764
H. L. Richey	Caddo Pine Island	W E Hall	003	104289
H. L. Richey	Caddo Pine Island	W E Hall	008	108747
H. L. Richey	Caddo Pine Island	W E Hall	014	102146
Simplex Oil Company	Caddo Pine Island	Youree	010	019481
Strahan Oil and Gas Co., Inc.	Richland	Myrick-Tisdale	003	129773
Strahan Oil and Gas Co., Inc.	Richland	Rhymes	008	133712
Strahan Oil and Gas Co., Inc.	Richland	Yarbrough	007	127194
T. J. Operating Co., Inc.	Cheneyville	Weil Estate	001	125276
T. J. Operating Co., Inc.	Cheneyville	Weil Company Inc	012	145933
T. J. Operating Co., Inc.	Cheneyville	R Bauer SWD	001	194343

T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc A	006	023081
T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc A SWD	006	023372
T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc A	009	024100
T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc A	010	024259
T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc A	011	024400
T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc A	023	136589
T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc A	024	152017
T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc A	025	154366
T. J. Operating Co., Inc.	Cheneyville	Weil 53	001	209274
T. J. Operating Co., Inc.	Cheneyville	Weil 53	003	209600
T. J. Operating Co., Inc.	Cheneyville	Weil 53	004	209601

T. J. Operating Co., Inc.	Cheneyville	Weil 53	006	209902
T. J. Operating Co., Inc.	Cheneyville	Weil 54	002	209934
T. J. Operating Co., Inc.	Cheneyville	Weil 54	003	210194
T. J. Operating Co., Inc.	Cheneyville	Weil 53	009	210710
T. J. Operating Co., Inc.	Cheneyville	Weil 55	001	215384
Triangle Oil Company of Illinois, Inc.	Caspiana	Hutchinson	001	140286
Unknown	Caddo Pine Island	Caddo Levee Board	001	990415
Unknown	Gahagan	Hollingsworth	001	001622
Unknown	Caddo Pine Island	Star	005	990417
Unknown	Caddo Pine Island	Caddo Lake	001	990416
U.S. Capital Corp. of AM., Inc.	Pendleton-Many	SAR RA SUC;La Minerals Fee	001	212941

Philip N. Asprodites
Commissioner

9808#081

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