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Executive Orders

EXECUTIVE ORDER KBB 04-07

Vice-Chair of the Board of Parole

WHEREAS, Executive Order No. MJF 97-17, issued on March 11, 1997, created the position of Vice-chair within the Board of Parole (hereafter "the board") and authorized the Vice-chair to preside in the absence of the Chair, and in addition to such other duties assigned by the Governor, be responsible for developing and administering the schedule of parole hearings in accordance with R.S. 15:574.4(B)(1), and preparing for the board, for its adoption, such rules, regulations, and procedures deemed necessary and proper to facilitate the effective operation of the Board;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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SECTION 1: Executive Order No. MJF 97-17, issued on March 11, 1997, is rescinded.

SECTION 2: The provisions of this Order are effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 14th day of May, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0406#001

EXECUTIVE ORDER KBB 04-08

Governor's Statewide Independent Living Council

WHEREAS, the state of Louisiana supports the efforts of its citizens with disabilities to live independently;

WHEREAS, these Louisiana citizens benefit from specialized services delivered by a network of independent living centers that provides high quality services which support and assist Louisiana citizens with disabilities to live independently in the community of their choice, and promotes and advocates for independent living services in Louisiana;

WHEREAS, the federal Rehabilitation Act of 1973, 29 U.S.C.A. §701 et seq., includes provisions for financial assistance to promote independent living; and

WHEREAS, to receive the benefits of such services and assistance, the state of Louisiana must establish a statewide independent living council in accordance with federal guidelines, 29 U.S.C.A. §796(d);

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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 Governor's Statewide Independent Living Council (hereafter "Council") is reestablished and recreated within the executive department, Office of the Governor.

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

A. Jointly develop and sign, in conjunction with the Office of Louisiana Rehabilitation Services, Department of Social Services (hereafter "LRS"), a state plan for independent living services;

B. Monitor, review, and evaluate the implementation of the state plan;

C. Coordinate activities with the State Rehabilitation Council and other councils which address the needs of specific disability populations and issues under federal law;

D. Ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

E. Submit periodic reports to the federal government, as required by law, regulation, and/or rule.

SECTION 3: The Council shall be composed of a maximum of twenty-one members, who unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be as follows:

A. One (1) director of a Center for Independent Living, selected by the directors of Centers for Independent Living in the state of Louisiana;

B. One (1) director of a Section 121 project in the state of Louisiana;

C. Two (2) representatives of Centers for Independent Living;

D. Two (2) representatives of parents and/or guardians of individuals with disabilities;

E. Eight (8) representatives of advocates of and for individuals with disabilities;

F. Three (3) representatives of private businesses in the state of Louisiana;

G. Two (2) representatives of organizations providing services for individuals with disabilities; and

H. Two (2) ex-officio members representing a state agency that provides services for individuals with disabilities, with one representing LRS.

SECTION 4: Council members shall be selected from all areas of the state of Louisiana and shall be knowledgeable about Centers for Independent Living and independent living services. The majority of the membership of the Council shall be Louisiana citizens with disabilities who represent a broad range of disabilities and who are not employed by a Center for Independent Living or a state agency.

EXECUTIVE ORDER KBB 04-09

Louisiana NFL Stadium Advisory Commission
(Transferred To LSED)

SECTION 5: Council members shall serve a term of three (3) years, except members appointed to fill a vacancy. No member shall serve more than two (2) consecutive full terms.

SECTION 6: The Council shall not be an entity within any state agency, including LRS, and is independent of LRS and all other state agencies. The Council shall coordinate its activities with the Office of Disability Affairs, Office of the Governor. The executive director of the Office of Disability Affairs will provide administrative oversight to ensure that the Council is compliant with all rules and regulations of the state of Louisiana, including those concerning purchasing and procurement, hiring, firing, and evaluating staff, and ethical behavior and practices.

SECTION 7: The majority of the Council members shall not receive compensation, either directly or indirectly, for work performed on behalf of any Center for Independent Living or be employed by any state agency.

SECTION 8:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council;

B. Council members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office; and

C. Council members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 9: Support staff, facilities, and resources for the Council shall be provided by the Office of the Governor.

SECTION 10: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 11: This Order is effective upon signature and shall continue 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of May, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0406#078

WHEREAS, the Louisiana NFL Stadium Advisory Commission (hereafter "Commission") was established by Executive Order No. MJF 2001-28, issued on July 25, 2001, as an advisory commission charged with the duties of compiling and evaluating factual data on the development of a new National Football League stadium, or re-engineering or renovating the Louisiana Superdome for a competitive home stadium environment for the New Orleans Saints, (collectively hereafter "stadium options") and identifying funding sources to cover the cost of each of the stadium options, identifying the terms, conditions, and funding sources of short and long-term inducement packages to accompany the stadium options, and submitting a report and recommendation to the governor and the Louisiana Legislature on the stadium options no later than January 15, 2003;

WHEREAS, Executive Order No. MJF 2001-28, issued on July 25, 2001, was amended by Executive Order No. MJF 2001-32, issued on August 21, 2001, to include members of the Board of Commissioners of the Louisiana Stadium and Exposition District in its composition; and

WHEREAS, the best interests of the citizens of the state of Louisiana would be served by transferring the duties, functions, and responsibilities of the Commission to the Board of Commissioners of the Louisiana Stadium and Exposition District in its capacity as statutory advisor to the governor and the state of Louisiana with respect to the Louisiana Superdome;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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 duties, functions, and responsibilities of the Commission are hereby transferred to the Board of Commissioners of the Louisiana Stadium and Exposition District and all references to the Commission shall refer to the Louisiana Stadium and Exposition District (hereafter "LSED").

SECTION 2: Section 2(E) of Executive Order No. MJF 2001-28, issued on July 25, 2001, as amended by Executive Order No. MJF 2001-32, issued on August 21, 2001, is amended to provide as follows:

On or before June 1, 2004, the LSED shall submit a report and recommendations to the governor and the Louisiana legislature on the stadium options and inducement packages and other matters as contemplated by the Memorandum of Understanding dated September 25, 2001, between the state of Louisiana and the New Orleans Saints.

SECTION 3: Sections 3 through 7 of Executive Order No. MJF 2001-28, as amended by Executive Order No. MJF 2001-32, are hereby rescinded and terminated.

SECTION 4: All other sections, subsections, and/or paragraphs of Executive Order No. MJF 2001-28, as amended by Executive Order No. MJF 2001-32, shall remain in full force and effect.

SECTION 5: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the LSED in implementing the provisions of this Order.

SECTION 6: This Order is effective upon signature and shall continue 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 18th day of May, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0406#079

EXECUTIVE ORDER KBB 04-10

Governor's Advisory Council on Safe and
Drug-Free Schools and Communities

WHEREAS, the use of illicit drugs and firearms remains a serious and intractable problem in our society;

WHEREAS, the United States of America has the highest rate of teenage drug use of any industrialized nation;

WHEREAS, the tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the nation;

WHEREAS, the U.S. Congress finds that one of the National Education Goals is to provide that every school in the United States of America will be free of drugs, violence, and the unauthorized presence of firearms and alcohol, and will offer a disciplined environment conducive to learning;

WHEREAS, the U.S. Congress passed the Elementary and Secondary Education Act of 1965 as generally amended by the No Child Left Behind Act of 2001, which provides state funding in order to mobilize schools and local organizations in communities throughout the nation in a coordinated program of prevention, to bring closer the goal of a drug-free generation, and a drug-free society; and

WHEREAS, it is in the best interests of the citizens of the state of Louisiana to continue the coordinated effort of compliance with the Elementary and Secondary Education Act of 1965 as generally amended by the No Child Left Behind Act of 2001, through the continuance of the Governor's Advisory Council on Safe and Drug-Free Schools and Communities;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, 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 Governor's Advisory Council on Safe and Drug-Free Schools and Communities (hereafter "Council") is hereby reestablished and recreated within the executive department, Office of Safe and Drug Free Schools, Office of the Governor.

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

A. Assisting in setting priorities for the Safe and Drug-Free Schools and Communities Act program for the state of Louisiana;

B. Contributing to the design of, and requests for, proposals and/or grants;

C. Reviewing and making recommendations on proposals and/or grants; and

D. Recommending dispositions on contracts in the case of non-complying agencies.

SECTION 3: The Council shall be composed of thirteen (13) at-large members, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall appoint the chair of the Council, all other officers, if any, shall be selected from the membership of the Council.

SECTION 4:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

B. Council members who are employees or elected public officials of the state of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Council members who are also members of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 5: Support staff, facilities, and resources for the Council shall be provided by the Office of Safe and Drug-Free Schools, Office of the Governor.

SECTION 6: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 7: This Order is effective upon signature and shall continue 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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of June, 2004.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0406#080

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of State Travel

General Travel C PPM 49
(LAC 4:V.Chapter 15)

The following PPM 49 supersedes all prior issues of PPM 49 published in the Louisiana Register. This revised PPM 49 also supersedes and replaces PPM 49 which had been designated as LAC 4:V.Chapter 15.

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations C PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the commissioner of administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2004. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

B. Legal Basis C L.R.S. 39:231. "The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004).

§1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons C

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

Conference/Convention C as herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, or program, or Letter of Invitation, or registration fee. Participation as an exhibiting vendor in an exhibit/trade show also qualifies as a conference. (For a hotel to qualify for conference rate lodging, requires that the hotel is hosting or is in "conjunction with hosting" the meeting.)

Emergency Travel C under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact by the commissioner of administration may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

Extended Stays C of any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

In-State Travel C all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel C all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands.

Official Domicile C every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile.

a. Except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

b. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence.

c. The official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

Out-of-State Travel Travel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands.

Per Diem A flat rate paid in lieu of travel reimbursement for people on extended stays.

Receipts/Document Requirements Supporting documentation must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

State Employee Employees below the level of state officer

State Officer

- a. state elected officials;
- b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, under secretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

Temporary Assignment Any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period A period of time between the time of departure and the time of return.

Travel Routes The most direct and usually traveled route must be used by official state travelers.

Traveler A state officer, state employee, or authorized person when performing authorized travel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004).

§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the commissioner of administration. Three copies of such regulations shall be submitted for prior review and approval by the commissioner of administration. One of the copies shall highlight any exceptions /deviations to PPM 49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the

Division of Administration prior to travel. The state also encourages the use of the contracted travel agency to make reservations for hotel and vehicles accommodations, but hotel and vehicles are not a mandatory requirement.

4. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

5. Authorization to Travel

a. All travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the commissioner of administration. A file shall be maintained on all approved travel authorizations.

b. An annual authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to non-routine meetings such as conferences and conventions.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that cannot be covered by the corporate credit card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

2. Exemptions. At the Agency's discretion, cash advances may be allowed for:

a. employees whose salary is less than \$30,000/year;

b. employees who applied for the state-sponsored corporate credit card program but were rejected (proof of rejection must be available in agency travel file);

c. employees who accompany and/or are responsible for students on group or client travel;

d. new employees who are infrequent travelers or have not had time to apply for and receive the card;

e. employees traveling for extended periods, defined as 31 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. advanced ticket/lodging purchase;

h. registration for seminars, conferences, and conventions;

i. incidental costs not covered by the corporate credit card, i.e., taxi fares, tolls, registration fees; conference fees may be submitted on a preliminary request for reimbursement when paid in advance;

j. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

k. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures.

3. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses

necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

4. State Credit Cards (Issued in the Name of the Agency Only). Credit cards issued in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the commissioner of administration.

5. No Reimbursement When No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the commissioner of administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

2. Excepting where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger receipt is required.

3. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the Division of Administration.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

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HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004).

§1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc.

B. Air

1. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

2. Before travel by privately-owned or by chartered aircraft is authorized by a department head, the traveler shall certify that at least one hour of working time will be saved by such travel; and no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately-owned aircraft must be in accordance with the Procurement Code.

b. Reimbursement for use of a chartered or unchartered privately-owned aircraft under the above guidelines will be made on the following basis:

i. at the rate of 34 cents per mile; or

ii. at the lesser of state contract rate or coach economy airfare.

If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the commissioner of administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

3. Commercial air travel will not be reimbursed in excess of state contract air rates when available, or coach/economy class rates when contract rates are not available (receipts required). The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification is required for travel reimbursement.

a. The state encourages but does not require use of lowest priced airfares where circumstances which can be documented dictate otherwise. Lowest logical fares are penalty tickets that can have restrictions and charge penalty fees for changing/canceling ticket purchases. Lowest logical tickets must be purchased from the state's contracted travel

agency unless prior approval is granted by the State Travel Office.

b. Where a stopover is required to qualify for a low-priced airfare, the state will pay additional lodging and meals expense subject to applicable limits where a net savings in total trip expenses results from use of the low-priced airfare. For determining whether there is a savings, the state contract airfare should be used for comparison, or coach/economy fare if there is no contract rate. If additional work time will be lost, then the cost of the traveler's time is to be used in the calculation. The comparison must be shown on the travel voucher.

c. The policy regarding airfare penalties is the state will pay the penalty incurred for a change in plans or cancellation only when the change or cancellation is required by the state. Certification of the requirement for the change or cancellation by the traveler's department head is required on the travel voucher.

d. For international travel only, when an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

4. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

5. If companion fares are purchased for a state employee and non-state employee, the reimbursement to the state employee will be the amount of the lowest logical fare.

6. Contract airfares are to be purchased only through the state's contracted travel agencies and are to be used for official state business. State contract airfares are non-penalty tickets. Therefore no penalty fees are charged for changes/cancellations, and no restrictions are imposed on flight schedules. The state contract airfares cannot be used for personal/companion or spouse travel. This is a requirement of the airlines and our failure to monitor the use of these contract airfares could cause their cancellation. (Therefore, persons booking tickets for non-official business using contract rates will be subject to disciplinary action as well as payment of the difference between contract fare and full coach fare.)

7. Traveler is to use the lowest logical airfare/state contract whether the plane is a prop or a jet.

8. Employees may retain promotional items, including frequent flyer miles, earned on official state travel. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive promotional items/points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

9. In order for the state to continue to receive state contracted airfares, it is necessary that the contract carrier be utilized when electing to use state contract rates. When using the Contract Airfares there are no restrictions or penalties. In many cases, airlines that did not win an award for a certain

city will now offer the same discounted price that was awarded to the contract vendor. This is known as a matched carrier. Matched carriers are not to be used unless there is two or more hours difference in the departure or arrival time. The state does not have a contract with the matched fare carriers; therefore, we do not have last seat availability and certain rules including cancellation penalties will apply to these fares. Once the decision is made not to use the contract fare you are giving up your option for the non-penalty ticket, and must use the lowest logical fare available.

10. When making airline reservations for a conference, inform the travel agency that you are attending a conference giving the name of the conference and the airline that is offering the discount rate, if available. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates. If so, giving this information to our contracted agencies could result in them securing that rate for your travel.

11. Use of Corporate Card

a. The State Travel Office contracts an official state corporate travel card to form one source of payment for travel. All travelers or agencies shall make application through their agency travel program administrator.

b. An employee's corporate travel card or agency CBA (Controlled Billed Accounts) must be used to purchase contract airfare. This is a mandatory requirement by the airlines in order to continue to receive discount, non penalty state contract airline tickets.

c. The corporate travel card is the liability of the employee and not the state.

d. The Department/Agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring state service.

C. Motor Vehicle

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license.

2. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

3. State-Owned Vehicles

a. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number, the unit price, and quantity of the commodity purchased must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, a copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the monthly

report mentioned in this subsection. State-owned credit cards will not be issued to travelers for use in the operation of privately-owned vehicles.

b. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and location of vendors by contacting the Purchasing Office, Division of Administration.

c. The travel coordinator/officer/user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer reading, credit card charges, dates, and places visited.

d. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

e. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interest of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

4. Personally-Owned Vehicles

a. When two or more persons travel in the same personally-owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of 34 cents per mile.

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc. Employee is to print the page indicating mileage and attach it with their travel expense form.

d. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence.

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties;

this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. Within the city limits where his/her office is located, the employee may be reimbursed for mileage only.

f. Reimbursements will be allowed on the basis of 34 cents per mile to travel between a common carrier/terminal and the employee's point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience, the traveler will be reimbursed for in-route expenses on the basis of 34 cents per mile only. The total cost of the mileage may not exceed the cost of travel by State Contract air rate or lowest logical if no contract rate is available. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take their personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses. File should be justified accordingly.

h. When a traveler is required to regularly use his/her personally-owned vehicle for agency activities, the agency head may request authorization from the commissioner of administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

i. The traveler shall be required to pay all operating expenses of the vehicle including fuel, repairs, and insurance.

5. Rented Motor Vehicles (Receipts Required)

a. Written approval of the department head prior to departure is required for the rental of vehicles. Such approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the reimbursement files. This authority shall not be delegated to any other person.

b. Only the cost of rental of a compact model is reimbursable, unless:

- i. non-availability is documented;
- ii. the vehicle will be used to transport more than two persons; or
- iii. the cost of a larger vehicle is no more than the rental rate for a compact.

c. Insurance billed by car rental companies is not reimbursable for domestic travel. At the discretion of the department head, CDW costs only may be reimbursed for international travel. Following are some of the insurance packages available by rental vehicle companies that are not reimbursable.

i. Collision Damage Waiver (CDW). Should a collision occur while on official state business, the cost of the deductible should be paid by traveler and reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management.

ii. Loss Damage Waiver (LDW)

iii. Personal Accident Insurance (PAC) Employees are covered under workmen's compensation while on official state business.

iv. Auto Tow Protection (ATP)

v. Emergency Sickness Protection (ESP)

vi. Supplement Liability Insurance (SLI)

d. Any personal mileage or rental days on a vehicle rented for official state business is not reimbursable and shall be deducted.

e. Reasonable gasoline cost is reimbursable, but not mileage on a rental vehicle.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport limousines, and taxis is reimbursable when the expenses are incurred as part of approved state travel. Taxi reimbursement is limited to \$15 per day without receipts; claims in excess of \$15 per day require receipts to account for total daily amount claimed. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for an amount less than \$15 per day.

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§1505. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 31 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 31 day period has been previously secured from the commissioner of administration.

2. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the State is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each Department Head or their designees are to determine the reasonableness of when an over night stay is justified.

b. However, the Department Head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a Department Head or their designee determines that Single Day Meals will be provided for, they must follow the following allowances.

i. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours. The maximum allowance for meal reimbursement for single day travel will be \$20.

(a). Breakfast and Lunch: (\$14). The 12 hour travel duration must begin at or before 6 a.m.

(b). Lunch: (\$8). Requires 12 hours duration in travel status.

(c). Lunch and Dinner: (\$20). The 12 hour travel duration must end at or after 8 p.m.

3. Travel with Over Night Stay. Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast. When travel begins at/or before 6 a.m. on the first day of travel or extends beyond 9 a.m. on the last day of travel, or for any intervening days.

b. Lunch. When travel begins at/or before 10 a.m. on the first day of travel or extends beyond 2 p.m. on the last day of travel, or for any intervening days.

c. Dinner. When travel begins at/or before 4 p.m. on the first day of travel or extends beyond 8 p.m. on the last day of travel, or for any intervening days.

4. Alcohol. Reimbursement for alcohol is prohibited.

B. Exceptions

1. Twenty Five Percent over Allowances. Department heads may allow prior approval for their employees to exceed the lodging and meals provisions of these regulations by no more than 25 percent on a case-by-case basis. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person. Receipts are required for reimbursement.

2. Actual Expenses for State Officers. State officers and others so authorized by statute (See Definitions under Authorized Persons) or individual exception will be reimbursed on an actual expenses basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Receipts or other supporting documents are required for each item claimed. Request shall not be extravagant and will be reasonable in relationship to the purpose of travel. State officers entitled to actual expense reimbursements are only exempted from meals and lodging rates; they are subject to the time frames and all other requirements as listed in the travel regulations.

C. Traveler's Meals (Including Tax and Tips)

1. Travelers may be reimbursed up to the following amounts for meals.

	Tier I	Tier II	Tier III	Tier IV
Breakfast	\$ 6	\$ 6	\$ 8	\$ 9
Lunch	\$ 8	\$ 9	\$10	\$11
Dinner	\$12	\$14	\$19	\$20
	\$26	\$29	\$37	\$40

Tier I In-State cities; with the exception of New Orleans
 Tier II New Orleans and Out-of-State cities; with the exception of the cities listed in Tier III and Tier IV.

Tier III **C**Atlanta, Cleveland, Dallas/Fort Worth, Denver, Detroit, Hartford, Houston, Los Angeles, Miami, Minneapolis/St. Paul, Nashville, Oakland, CA., Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, ME, Portland, OR., San Antonio, San Diego, St. Louis, Tampa, FL, Wilmington, De., Puerto Rico, Virgin Islands, all of Alaska and Hawaii
 Tier IV **C**Baltimore, Boston, Chicago, New York City, San Francisco, Seattle, Washington, DC

2. Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. Partial meals such as continental breakfasts or airline meals are not considered meals. If meals of state officials exceed these allowances, receipts are required.

D. Conference Meals

1. Cost allowance for meals direct billed to agency in conjunction with state-sponsored in-state conferences, plus tax and mandated gratuity.

Lunch in-State excluding New Orleans	\$12
Lunch C New Orleans	\$15

2. Conference Refreshment Expenditures. Cost for a meeting, conference or convention are to be within the following rates: (Note: refreshment expenses are not applicable to an individual traveler) served on agency's property: not to exceed \$2 per person, per morning and/or afternoon sessions served on offsite properties that require catered services: not to exceed \$3.50 plus tax and mandated gratuity per person, per morning and/or afternoon sessions

E. Lodging. Employees will be reimbursed lodging rate, plus tax, Receipt Required.

\$55	In-state (except as listed)
\$60	Lafayette, Slidell
\$65	Bossier City, Shreveport
\$70	Baton Rouge, Lake Charles, Gretna, Kenner, Metairie (Sulphur will be considered a suburb of Lake Charles)
\$90	New Orleans
\$65	Out-of-State (except those listed)
\$105	High cost (Atlanta, Cleveland, Dallas/Fort Worth, Denver, Detroit, Hartford, Houston, Los Angeles, Miami, Minneapolis/St. Paul, Nashville, Oakland, CA, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, ME, Portland, OR, San Antonio, San Diego, St. Louis, Tampa, FL, Wilmington, DE, all of Alaska or Hawaii)
\$140	Baltimore, Boston, Chicago, San Francisco, Seattle, Washington, DC
\$165	New York City
The inclusion of suburbs shall be determined by the department head on a case-by-case basis.	

F. Conference Lodging. Employees will be reimbursed lodging rate, plus tax, Receipt Required.

1. Travelers may be reimbursed expenses for conference hotel lodging per the following rates, if the reservations are made at the actual conference hotel. When reservations are not available at the conference hotel and multi-hotels are offered in conjunction with a conference, traveler shall seek prices and utilize the least expensive. In the event all conference hotels are unavailable, then the traveler is subject to making reservations within the hotel rates as allowed in Section E, above.

\$65	In-state (except as listed)
\$70	Bossier City, Shreveport
\$75	Baton Rouge, Lake Charles, Gretna, Kenner, Metairie
\$110	New Orleans, state sponsored conferences
\$140	Out-of-state and New Orleans for non-state sponsored conferences
\$165	New York City
The inclusion of suburbs shall be determined by the department head on a case-by-case basis	

2. State Sponsored Conferences. An agency must solicit three competitive quotes in accordance with the Governor's Executive Order for Small Purchase.

3. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

G. Extended Stays. For travel assignment involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

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§1506. Parking and Related Parking Expenses

A. Parking for the Baton Rouge Airport. The state's current contract rate is \$3.50 per day (no receipts required) for parking in the outside, fenced parking lot at the airport. Documentation required to receive the contract price is either a parking coupon or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business". At the agency discretion an employee may be paid actual expenses up to \$4.75 per day with a receipt.

B. Parking for the New Orleans Airport. The state's current contract rate is \$5.50 per day and \$32.50 weekly at Park 'N Fly (no receipts required). Documentation required to receive the contract price is your agency issued photo ID, a business card, state issued corporate card or a travel itinerary issued by the state contracted travel agency designating the employee is on "official state business." At the agency discretion an employee may be paid actual expenses up to \$8 per day with a receipt.

C. Travelers using motor vehicles on official state business will be reimbursed for reasonable storage fees, for all other parking, including airport parking except as listed in Paragraphs 1 and 2 above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed \$1 per in and \$1 per out, per day.

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§1507. Reimbursement for Other Expenses

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. For Official State Business Call costs (receipts required for over \$3).

b. For Domestic Overnight Travel Cup to \$3 in personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days.

c. For International Travel Cup to \$10 in personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of internet charges.

2. Charges for Storage and Handling of State Equipment

3. Baggage Tips

a. Hotel Allowances Not to exceed \$1 per bag for a maximum of three bags. Tips may be paid one time upon each hotel check-in and one time upon each hotel check-out, if applicable.

b. Airport Allowances Not to exceed \$1 per bag for a maximum of three bags. Tips may be paid one time for the airport outbound departure trip and one time for the inbound departure trip.

4. Registration Fees at Conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

5. Laundry Services. Employees on travel for more than seven days up to 14 days are eligible for \$20 of laundry services, and for more than 14 days up to 21 days an additional \$20 of laundry services, and so on. Receipts are required for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June 2004).

§1508. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public

funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a 12-hour weekday or six-hour weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the commissioner of administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in C, as follows.

C. A department head may authorize a special meal within allowable rates to be served in conjunction with a working meeting of departmental staff.

D. In such cases, the department will report on a semi-annual basis to the commissioner of administration all special meal reimbursements made during the previous six months. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the commissioner of administration to exceed this reimbursement limitation.

E. All of the following must be reviewed and approved by the department head or their designee prior to reimbursement:

1. detailed breakdown of all expenses incurred, with appropriate receipts(s);

2. subtraction of cost of any alcoholic beverages;

3. copy of prior written approval from the commissioner of administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004).

§1509. International Travel

A. All international travel must be approved by the commissioner of administration prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for lodging and meals, unless U.S. State Department rates are requested and authorized by the commissioner of administration prior to departure. Receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October

1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004).

§1510. Waivers

A. The commissioner of administration may waive in writing any provision in these regulations when the best interest of the state will be served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, promulgated LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1259 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004).

Jerry Luke LeBlanc
Commissioner

0406#076

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Crabs and Crabmeat Testing and Sale
(LAC 7:XXXV.143 and 145)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of crab or crabmeat in Louisiana. This Rule is being adopted in accordance with R.S. 3:2(A), 3:3(B), R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to Chloramphenicol in crab or crabmeat that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All crab or crabmeat sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, FDA, the states of Alabama and Louisiana have found chloramphenicol in crab or crabmeat imported from other countries. The department has found chloramphenicol in crab or crabmeat imported from Vietnam, Thailand and China. The possibility exists that other countries may export chloramphenicol-contaminated crab or crabmeat to the U.S.A.

The sale of such imported crab or crabmeat in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health

hazard. The sale, in Louisiana, of crab or crabmeat containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying crab or crabmeat from any source, including Louisiana. If consumers cease to buy, or substantially reduce, their purchases of Louisiana crab or crabmeat then Louisiana's crab industry will be faced with substantial economic losses. Any economic losses suffered by Louisiana's crab industry will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary to immediately implement testing of crab or crabmeat for Chloramphenicol, to provide for the sale of crab or crabmeat and any products containing crab or crabmeat that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature, May 21, 2004, and will remain in effect 120 days, unless renewed by the Commissioner or until a permanent Rule is promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§143. Chloramphenicol in crab and crabmeat prohibited; testing and sale of

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, such as seafood, that produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Packaged Crab Any crab or crabmeat, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Crab Any such animals, whether whole, portioned, processed, shelled, and any product containing any crab or crabmeat.

B. No crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana if such crab or crabmeat contains Chloramphenicol.

C. No crab or crabmeat that is harvested from or produced, processed or packed in a geographic area, that the Commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No crab or crabmeat from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals or in products from such animals, based upon information that would lead a

reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Crab or crabmeat that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling:

a. The numbers of samples that shall be taken are as follows:

i. two samples are to be taken of crab or crabmeat that are in lots of fifty pounds or less.

ii. four samples are to be taken of crab or crabmeat that are in lots of fifty-one to one hundred pounds.

iii. twelve samples are to be taken of crab or crabmeat that are in lots of one hundred and one pounds up to fifty tons.

iv. twelve samples for each fifty tons are to be taken of crab or crabmeat that are in lots of over fifty tons.

b. For packaged crab or crabmeat, each sample shall be at least six ounces, (170.1 grams), in size and shall be taken at random throughout each lot of crab or crabmeat. For all other crab or crabmeat, obtain approximately one pound, (454 grams), of crab or crabmeat per sample from randomly selected areas.

c. If the crab or crabmeat to be sampled consists of packages of crab or crabmeat grouped together, but labeled under two or more trade or brand names, then the crab or crabmeat packaged under each trade or brand name shall be sampled separately. If the crab or crabmeat to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of crab or crabmeat. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of crab or crabmeat up to and including one pound, use the entire sample. Shell the crabs, exercising care to exclude all shells

from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the crab or crabmeat being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the crab or crabmeat.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such crab or crabmeat sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

H. Any person who is seeking to bring crab or crabmeat that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such crab or crabmeat in Louisiana shall be responsible for having such crab or crabmeat sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

I. The commissioner may reject the test results for any crab or crabmeat if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

J. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the crab or crabmeat will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the crab or crabmeat retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the crab or crabmeat are certified as being free of Chloramphenicol.

K. The department may inspect, and take samples for testing, any crab or crabmeat, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

L. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any crab or crabmeat that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

M. The department may take physical possession and control of any crab or crabmeat that violate the requirements of this Section if the commissioner finds that the crab or crabmeat presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

N. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the countries of Vietnam, Thailand, Mexico, Malaysia and China.

2. All crab and crabmeat harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

O. All records and information regarding the distribution, purchase and sale of crabs or crabmeat or any food containing crab or crabmeat shall be maintained for two years and shall be open to inspection by the department.

P. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

Q. The effective date of this Section is March 14, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

§145. Labeling of foreign crab and crabmeat by country of origin

A. Definitions.

Foreign Crab or Crabmeat Any crab or crabmeat, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Crab or Crabmeat Any crab or crabmeat, whether whole, portioned, processed or shelled and any product containing any crab or crabmeat.

B. All foreign crab or crabmeat, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign crab or crabmeat, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the crab or crabmeat with the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such crab or crabmeat are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign crab or crabmeat are combined with domestic crab or crabmeat, or products made from or containing domestic crab or crabmeat, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign crab or crabmeat.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign crab or crabmeat, or any sign advertising such foreign crab or crabmeat for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the crab or crabmeat, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the crab or crabmeat is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the crab or crabmeat is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign crab or crabmeat shall not have to be marked or labeled with the country of origin if such crab or crabmeat is included as components in a product manufactured in the

United States and the crab or crabmeat is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic crab or crabmeat shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of crab or crabmeat mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0406#017

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Honey Testing and Sale (LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. This Rule is being adopted in accordance with R.S. 3:2(A), 3:3(B), R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The commissioner has promulgated these rules and regulations to implement standards relating to Chloramphenicol in honey that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All honey sold in Louisiana must meet the standards adopted by the commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, including bees (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is

essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, Canada, the United Kingdom, the European Union, and Japan have found chloramphenicol in honey imported from China. The department has found chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 percent of the samples are positive for chloramphenicol. The possibility exists that other countries may export chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary to immediately implement testing of honey for Chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature, May 21, 2004, and will remain in effect 120 days, unless renewed by the commissioner or until a permanent Rule is promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§141. Chloramphenicol in Honey Prohibited; Testing and Sale of

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, including bees, which produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Honey Any honey, whether raw or processed.

B. No honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana if such honey or food containing honey contains Chloramphenicol.

C. No honey that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, including bees, or in products from such animals, may be held, offered or exposed for sale, or sold in

Louisiana without first meeting the requirements of Subsection E. No honey from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, including bees or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals, including bees, in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Honey that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, including bees, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana:

1. Sampling

a. The numbers of samples that shall be taken are as follows:

i. two samples are to be taken of honey that is in lots of fifty pounds or less.

ii. four samples are to be taken of honey that is in lots of fifty-one to one hundred pounds.

iii. twelve samples are to be taken of honey that is in lots of one hundred and one pounds up to fifty tons.

b. For honey in bulk wholesale containers, each sample shall be at least one pound or twelve fluid ounces and must be pulled at random throughout each lot.

c. For packaged honey, each sample shall be at least eight ounces in size and shall be taken at random throughout each lot.

d. If the honey to be sampled consists of packages of honey grouped together, but labeled under two or more trade or brand names, then the honey packaged under each trade or brand name shall be sampled separately. If the honey to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

e. A composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of honey and shall be tested individually.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of honey up to and including eight ounces, use the entire sample. If honey sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results above 1 ppb must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless it is located in a geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the honey or food containing honey being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the honey.

8. Upon the department's actual receipt of a copy of the certified test results and written documentation required to accompany the certified test results, the honey or food containing honey may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment of such honey or food containing honey, and be attached to the documentation submitted with every shipment sent to each location in Louisiana, or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring honey, or any food containing honey, that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such honey or food containing honey in Louisiana shall be responsible for having the honey, sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any honey if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. If any certified test results are rejected by the commissioner then any person shipping or holding the honey or food containing honey will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, any such person shall abide by such order until the commissioner lifts the order in writing. Any such person may have the honey retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the honey is certified as being free of Chloramphenicol.

I. The department may inspect any honey and any food containing honey, found in Louisiana, and take samples for testing.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any honey or any food containing honey that does not meet the requirements of this Section. Any such order shall remain in place until lifted, in writing, by the commissioner.

K. The department may take physical possession and control of any honey or any food containing honey that violate the requirements of this Section if the commissioner finds that the honey or food containing honey presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals including bees, or in products from such animals, in certain geographic area(s):

1. The geographic area or areas are:
 - a. the country of the People's Republic of China.
 - b. the country of Thailand.

2. All honey harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

M. All records and information regarding the distribution, purchase and sale of honey or any food

containing honey shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0406#016

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Shrimp and Crawfish Testing and Sale
(LAC 7:XXXV.137 and 139)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. This Rule is being adopted in accordance with R.S. 3:2(A), 3:3(B), R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act.

The Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to Chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The legislature has also urged and requested the commissioner to promulgate rules and regulations necessary to implement the standards relating to Chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of Chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for Chloramphenicol in food.

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of

an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, European Union inspectors found chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to Chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are known to use antibiotics, such as Chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because Chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese Shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary to immediately implement testing of shrimp and crawfish for Chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with Chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. This Rule becomes effective upon signature, May 21, 2004, and will remain in effect 120 days, unless renewed by the commissioner or until a permanent Rule is promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§137. Chloramphenicol in shrimp and crawfish prohibited; testing and sale of

A. Definitions

Food Producing Animals Both animals that are produced or used for food and animals, such as dairy cows, that produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Packaged Shrimp or Crawfish Any shrimp or crawfish, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

Shrimp or Crawfish Any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain Chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English:

1. The records and information required are:

a. The quantity and species of shrimp and crawfish acquired or sold;

b. The date the shrimp or crawfish was acquired or sold;

c. The name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;

d. The geographic area where the shrimp or crawfish was harvested;

e. The geographic area where the shrimp or crawfish was produced processed or packed;

f. The trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and

g. The size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of Chloramphenicol, or the commissioner determines that the shrimp or crawfish does not come from a geographic area where Chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish that is harvested from or produced, processed or packed in a geographic area, that the Commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, may

be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

E. The commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

F. Shrimp or crawfish, that comes from a geographic area declared by the commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals, or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana:

1. Sampling

a. The numbers of samples that shall be taken are as follows:

- i. two samples are to be taken of shrimp or crawfish that are in lots of fifty pounds or less;
- ii. four samples are to be taken of shrimp or crawfish that are in lots of fifty-one to one hundred pounds;
- iii. twelve samples are to be taken of shrimp or crawfish that are in lots of one hundred and one pounds up to fifty tons;
- iv. twelve samples for each fifty tons are to be taken of shrimp or crawfish that are in lots of over fifty tons.

b. For packaged shrimp or crawfish, each sample shall be at least eight ounces, (226.79 grams), in size and shall be taken at random throughout each lot of shrimp or crawfish. For all other shrimp or crawfish, obtain approximately one pound, (454 grams), of shrimp or crawfish per sample from randomly selected areas.

c. If the shrimp or crawfish to be sampled consists of packages of shrimp or crawfish grouped together, but labeled under two or more trade or brand names, then the shrimp or crawfish packaged under each trade or brand name shall be sampled separately. If the shrimp or crawfish to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of shrimp or crawfish. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

- a. any package label;
- b. any lot or batch numbers;
- c. the country, province and city of origin;
- d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of shrimp or crawfish up to and including one pound, use the entire sample. Shell the shrimp or crawfish, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The Commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the Commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the shrimp or crawfish being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the shrimp or crawfish.

8. Upon actual receipt by the Department of a copy of the certified test results and written documentation required to accompany the certified test results then the shrimp or crawfish may be held, offered or exposed for sale, or sold in

Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such shrimp or crawfish sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

G. Any person who is seeking to bring shrimp or crawfish that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such shrimp or crawfish in Louisiana shall be responsible for having such shrimp or crawfish sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

H. The commissioner may reject the test results for any shrimp or crawfish if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the shrimp or crawfish will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the shrimp or crawfish retested in accordance with this Section and apply for a lifting of the Commissioner's order upon a showing that the provisions of this Section have been complied with and that the shrimp or crawfish are certified as being free of Chloramphenicol.

J. The department may inspect, and take samples for testing, any shrimp or crawfish, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

K. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any shrimp or crawfish that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

L. The department may take physical possession and control of any shrimp or crawfish that violate the requirements of this Section if the commissioner finds that the shrimp or crawfish presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

M. The commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:
 - a. the country of the People's Republic of China.
 2. All shrimp and crawfish harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the department.

O. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions.

Foreign Shrimp or Crawfish Any shrimp or crawfish, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

Shrimp or Crawfish Any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. All foreign shrimp or crawfish, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign shrimp or crawfish, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the shrimp or crawfish the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such shrimp or crawfish are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign shrimp or crawfish are combined with domestic shrimp or crawfish, or products made from or containing domestic shrimp or crawfish, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign shrimp or crawfish.

E. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign shrimp or crawfish, or any sign advertising such foreign shrimp or crawfish for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the shrimp or crawfish, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the shrimp or crawfish is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the shrimp or crawfish is a product of the United States in a legible, indelible and permanent manner. No provision of

this Section is intended to or is to be construed as authorizing the use of the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign shrimp or crawfish shall not have to be marked or labeled with the country of origin if such shrimp or crawfish are included as components in a product manufactured in the United States and the shrimp or crawfish is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, de-heading, de-veining, peeling, partially cooking or combining with domestic shrimp or crawfish shall not be considered to be a substantial transformation.

G. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of shrimp or crawfish mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0406#015

DECLARATION OF EMERGENCY

Office of Student Financial Assistance Tuition Trust Authority

Student Tuition and Revenue Trust (START Saving)
Program Allocation of Earnings Enhancements
(LAC 28:VI.307)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This Emergency Rule is necessary to allow the Louisiana Office of Student Financial Assistance and educational institutions to effectively administer these programs. A delay in promulgating a Rule would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LATTA has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective May 23, 2004, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part VI. Student Financial Assistance Higher Education Savings

Chapter 3. Education Savings Account

§307. Allocation of Earnings Enhancements

A. - G.2. ...

H. Frequency of Allocation of Earnings Enhancements to Education Savings Accounts. Earnings enhancements will be allocated annually, posted to the accounts as of December 31 of the year earned and reported to account owners before March 31 following the allocation.

I. - J.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Office of Student Financial Assistance, Tuition Trust Authority LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:

George Badge Eldredge
General Counsel

0406#018

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 3)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register*, Volume 25, Number 5). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register*, Volume 29, Number 1).

The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in

the Medicaid State Plan how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by Senate Bill No. 883 of the 2001 Regular Session. Nothing shall be construed to impede or preclude the Department of Health and Hospitals from implementing the provisions in the Rural Hospital Preservation Act. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center-Shreveport to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register*, Volume 29, Number 6). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the bureau amended the July 1, 2003 Emergency Rule (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2003 rule. This action is being taken to enhance federal revenue.

Effective June 28, 2004 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals and replaces all rules governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part V. Medical Assistance Program Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate

share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The Department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §305-313 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Any Medicaid profit shall be used to offset the cost of treating the uninsured in determining the hospital specific DHH limits. High Medicaid hospitals can also qualify as other uninsured hospitals. Public hospitals included in §313 shall receive DSH payments up to 175 percent of the hospital's net uncompensated costs.

4. Qualification is based on the hospital's latest filed cost report as of March 31 of the current state fiscal year and related uncompensated cost data as required by the Department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals shall be notified by letter at least 60 days in advance of calculation of DSH payment to submit documentation required to establish DSH qualification. Only hospitals that timely return DSH qualification documentation will be considered for DSH payments. The required documents are:

- a. obstetrical qualification criteria;
- b. low income utilization revenue calculation;
- c. Medicaid cost report; and
- d. uncompensated cost calculation.

6. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

c. hospitals shall be deemed disproportionate share providers eligible for reimbursement for inpatient services if their inpatient uninsured utilization rates are in excess of 3 percent.

i. Inpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for inpatient services furnished to all persons for the period; or

d. hospitals shall be deemed disproportionate share providers eligible for reimbursement for outpatient services if their outpatient uninsured utilization rates are in excess of 3 percent.

i. Outpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for outpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for outpatient services furnished to all persons for the period; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. in addition to the qualification criteria outlined in §303.A.1-5, effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§305. High Uninsured Hospitals

A. Definitions

High Uninsured Utilization Rate Hospital—a hospital that has an uninsured utilization rate in excess of the mean, plus one standard deviation of the uninsured utilization rates for all hospitals.

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. DSH payments to individual high uninsured hospitals shall be calculated as follows:

1. Inpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision below in Subsection E.; and/or

2. Outpatient High Uninsured. Payments shall be equal to 100 percent of the hospital's cost of furnishing outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients. DSH payments calculated under this payment methodology shall be subject to the adjustment provision below in Subsection E.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the

department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an annual attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the Department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's net uncompensated costs and subject to the adjustment provision in §301.B.

E. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§307. Other Uninsured Hospitals

A. Definitions

Net Uncompensated Cost The cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

Other Uninsured Utilization Rate Hospital A qualifying hospital that is not included in §305, §311, §313 or §315.

B. DSH payments to an individual other uninsured hospital shall be calculated as follows:

1. Inpatient Other Uninsured. All qualifying hospitals shall be arrayed from lowest to highest rate according to their inpatient uninsured utilization rate. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients and subject to the adjustment provision below. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's cost of furnishing inpatient

hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients, respectively and subject to the adjustment provision below in Subsection E.

2. Outpatient Other Uninsured. All qualifying hospitals shall be arrayed from lowest to highest rate according to their outpatient uninsured utilization rate. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients and subject to the adjustment provision below. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's cost of furnishing inpatient hospital services to uninsured persons, supported by patient-specific data, net of payments received from such patients, respectively and subject to the adjustment provision below in Subsection E.

C. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the Department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the Department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

D. DSH payments to an individual other uninsured hospital shall be based on the hospital's uninsured utilization rate and the distribution of all other uninsured hospitals uninsured utilization rates. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's net uncompensated costs and subject to the adjustment provision in §301.B. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's net uncompensated cost, respectively.

E. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the Department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying other uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal

disproportionate allotment or state DSH-appropriated amount.

F. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§309. High Medicaid Hospitals

A. Definition. *High Medicaid Utilization Rate Hospital*—A hospital that has a Medicaid utilization rate in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments and that is not included in §305.

1. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost-reporting period.

B. DSH payments to individual high Medicaid hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual high Medicaid hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying high Medicaid hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified high Medicaid hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for high Medicaid hospitals to be determined by the director of the Bureau of Health Services Financing.

D. A pro rata decrease necessitated by conditions specified in §301.B. for high Medicaid hospitals will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying high Medicaid hospitals; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—The cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. Any uncompensated costs of providing health care services in a rural health clinic licensed as part of a small rural hospital as defined below shall be considered outpatient hospital services in the calculation of uncompensated costs.

Small Rural Hospital—A hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994, and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the Department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the Department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the Department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003, of its intent to reduce its number of hospital beds to no more than 60; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. is located, as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. is located within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 90,000.

B. Payment based on uncompensated cost for qualifying small rural hospitals shall be in accordance with the following three pools:

1. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in §311.A.1, which are owned by a local government.

2. *Private Small Rural Hospitals*—small rural hospitals as defined in §311.A.1, that are privately owned.

3. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.1.i - §311.A.1.k.

C. Payment to hospitals included in §311.B.1, §311.B.2, and §311.B.3 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B. for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the Department. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a small rural hospital contained in §311.A.1. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share

payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the State of Louisiana.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 175 percent of the hospital's net uncompensated costs. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the Department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

D. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from net uncompensated cost are any costs for the care of persons eligible for Medicaid at the time of registration. Acute hospitals must maintain a log documenting the provision of uninsured care as directed by the Department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' net uncompensated cost are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the Department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§315. Psychiatric Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Psychiatric Hospital—a free standing psychiatric hospital that is not included in §313.

B. DSH payments to individual free standing psychiatric hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual free standing psychiatric hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying free standing psychiatric hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified free standing psychiatric hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for free standing psychiatric to be determined by the director of the Bureau of Health Services Financing

D. A pro rata decrease necessitated by conditions specified in §301.B. for hospitals in §315 will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in §315; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the following address: 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#065

DECLARATION OF EMERGENCY

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

Experimental or Investigational
Medical Procedures or Devices

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule on September 20, 1996 governing the coverage of experimental or investigational medical procedures. Coverage was provided only for non-experimental or non-investigational procedures as identified by the American Medical Association, the Federal Drug Administration or recognized experts in the practice of medicine who could lend guidance or judgment regarding the development of new procedures (*Louisiana Register*, Volume 22, Number 9). The bureau has promulgated a rule to amend the September 20, 1996 Rule to revise the criteria governing the coverage of experimental or investigational medical procedures and devices. (*Louisiana Register*, Volume 30, Number 3). This Emergency Rule is being promulgated to continue the provisions contained in the March 2, 2004 Rule. This action is being taken to protect the health and welfare of Medicaid recipients.

Emergency Rule

Effective for dates of service on or after July 1, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the September 20, 1996 Rule governing the coverage of experimental or investigational medical procedures and devices.

Louisiana Medicaid does not cover any Federal Drug Administration (FDA) designated experimental or investigational medical procedures or devices until those procedures or devices have received final FDA approval or when a procedure or device is specifically approved for coverage by the Medicaid Director.

Interested persons may submit written comments to Ben A. Bearden at the 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#063

DECLARATION OF EMERGENCY

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

Facility Need Review
Additional Beds for Certain ICF-MRs
(LAC 48:I.12503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends LAC 48:I.12503, Determination of Bed Need, as authorized by R.S. 40:2116. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) 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 adopted a Rule governing Facility Need Review in August 1995 (*Louisiana Register*, Volume 21, Number 8). The August 1995 Rule was amended in July 1999 to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, Volume 25, Number 7). It was further amended in October 2002 to adopt new provisions creating the Emergency Community Home Bed Pool for nonstate-operated community homes (*Louisiana Register*, Volume 28, Number 10).

Act 900 of the 2003 Regular Session of the Louisiana Legislature enacted R.S. 40:2116(G) which grants an exemption from the usual requirements of the Facility Need Review process as set forth in R.S. 40:2116 and in the department's rules and regulations. Any intermediate care facility for the mentally retarded which serves children or adults suffering from mental retardation, autism, or behavioral problems, with no less than 150 and no more than 180 beds, is eligible for the exemption which is granted for a maximum of 50 additional beds. The Legislature did not appropriate any funds to the department to cover the increased expenses it will incur for Medicaid payments for the residents who will occupy the additional beds. The department promulgated an Emergency Rule amending the August 1995 Rule governing the Facility Need Review Process in order to implement the provisions of Act 900 (*Louisiana Register*, Volume 29, Number 11). The department subsequently promulgated another emergency rule to amend the December 1, 2003 Emergency Rule to waive the deadline for enrolling the additional beds after approval. This action is being taken to promote the health and welfare of Louisiana citizens by assuring that adequate community home beds are available for Medicaid recipients (*Louisiana Register*, Volume 30, Number 2). This emergency rule is being promulgated to continue the provisions contained in the February 20, 2004 rule.

Effective June 20, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing, amends the December 1, 2003 Emergency Rule on Facility Need Review.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12503. Determination of Bed Need

A. - A.7.h. ...

8. Exception for Additional Beds for Certain ICF-MRs. Any ICF-MR which serves children or adults suffering from mental retardation, autism, or behavioral problems, and which had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the Department, be granted approval for up to 50 additional beds without being required to meet the standards set forth in Paragraphs A.1-6 above, §12501.F.2 or §12505.

B. - B.11 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available at the parish Medicaid office for review by interested parties.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#064

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services
Public State-Owned or Operated Hospitals
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) 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 which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This Rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the

reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

The bureau rebased the reimbursement rates paid to public state owned or operated hospitals for inpatient psychiatric hospital services to the 50th percentile of costs per day for services based on cost reports ending in state fiscal year 2002 (*Louisiana Register*, Volume 29, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2003 Emergency Rule. This action is being taken to protect the health and welfare of Medicaid recipients by encouraging the continued participation of hospitals that furnish psychiatric services in the Medicaid Program.

Emergency Rule

Effective for dates of service June 18, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for inpatient psychiatric hospital services provided in a state owned or operated free-standing psychiatric hospital or distinct part psychiatric unit to a per diem rate based on the 50th percentile facility for costs as reported on the cost report for the year ending between July 1, 2001 and June 30, 2002. The costs utilized to determine the 50th percentile facility will include all free-standing psychiatric hospitals and distinct part psychiatric units providing services to Medicaid recipients in the state. Costs will be trended to the midpoint of the rate year using the Medicare PPS Market Basket Index. The application of inflationary adjustments in subsequent years shall be contingent on the appropriation of funds by the Legislature.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to the Ben A. Bearden at the 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.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#004

DECLARATION OF EMERGENCY

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

**Private Hospitals Inpatient Services
Reimbursement Reduction**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act, which states, **A**he secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level

approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (nonstate) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6). The June 20, 1994 Rule was subsequently amended to establish a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). This Rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

Section 11B of Act 14 of the 2003 Regular Session of the Louisiana Legislature directed the Commissioner of Administration to reduce discretionary state general fund (direct) appropriations contained in the Act by .8 percent across-the-board, or so much thereof more or less as may be necessary, to effect savings of \$17,300,000. Subsequently, the commissioner directed the department to reduce its discretionary expenditures by .8 percent for state fiscal year 2003-2004. In response to the budgetary shortfall, the bureau reduced the reimbursement paid to private (non-state) hospitals for inpatient services to 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003. However, in order to generate the amount of savings necessary to comply with the directives of Act 14, the reimbursement paid in state fiscal year 2003-2004 to private (non-state) hospitals for inpatient services shall be 98.75 percent (a 1.25 percent reduction) of the per diem rates in effect on September 30, 2003. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) are excluded from this reimbursement reduction. Also, inpatient services provided to fragile newborns or critically ill children in either a Level III Regional Neonatal Intensive Care Unit or a Level I Pediatric Intensive Care Unit, which units have been recognized by the department on or before January 1, 2003, shall be excluded from this reimbursement reduction (*Louisiana Register*, Volume 29, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2003 Emergency Rule. This action is being taken in order to avoid a budget deficit in the medical assistance programs. Taking the reduction in per diem rates in state fiscal year 2003-2004 into consideration, the department has carefully reviewed the proposed 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 (nonstate) inpatient hospital services under the state plan are available at least to the extent that they are available to the general population in the state.

Emergency Rule

Effective for dates of service May 30, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid for inpatient services rendered in private (nonstate) acute hospitals, including long term hospitals. The reimbursement paid for inpatient services to private (non-state) hospitals with a Medicaid inpatient days utilization rate of less than 25 percent shall be as follows: in state fiscal year 2003-2004 only, 98.75 percent (a 1.25 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, a 99.2 percent (a .8 percent reduction) of the per diem rates in effect on September 30, 2003 for private hospitals.

The Medicaid inpatient days utilization rate shall be calculated based on the filed cost report for the period ending in state fiscal year 2002 and received by the Department prior to April 30, 2003. Only Medicaid covered days for inpatient hospital services, which include newborn days and distinct part psychiatric units, are included in this calculation. Inpatient stays covered by Medicare Part A can not be included in the determination of the Medicaid inpatient days utilization rate. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction. Also, inpatient services provided to fragile newborns or critically ill children in either a Level III Regional Neonatal Intensive Care Unit or a Level I Pediatric Intensive Care Unit, which units have been recognized by the department on or before January 1, 2003, shall be excluded from this reimbursement reduction.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#003

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Self-Exclusion (LAC 42:III.304)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), and R.S. 27:15 and 24, the Gaming Control Board finds that this emergency amendment to the rules regulating casino licensees, the casino manager and casino operator regarding self-excluded persons is necessary to prevent imminent peril to the public health, safety and welfare.

R.S. 27:27.1 D.4 mandates that the board's rules provide that the list of self-excluded persons not be open to public inspection and that the Board, Division, any licensee, permittee or casino gaming operator or any employee or agent thereof shall not be liable for damages for disclosure of the identity of any self-excluded person other than a willful unlawful disclosure. LAC 42:III.304 D.6. prohibits disclosure of the name or any information concerning a self-excluded person. Certain administrative actions are pending regarding casino licensees and involving self-excluded persons, which may result in administrative hearings.

It is necessary therefore that this amendment be adopted on an emergency basis in order to protect the identity of self-excluded persons by requiring that administrative hearings involving self-excluded persons be closed to the public and that the administrative record created and evidence introduced in conjunction with such hearings be maintained confidential and not open to public inspection.

This Rule change is hereby adopted (May 17, 2004) and shall remain in effect for 120 days.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 3. Compulsive and Problem Gambling

§304. Self-Exclusion

A. - C.5. ...

D. Self-Exclusion List

1. - 5. ...

6a. Neither the Casino Operator, Casino Manager, nor any casino gaming licensee or any employee or agent thereof shall disclose the self-exclusion list or the name of, or any information about, any person who has requested self-exclusion to anyone other than employees and agents of the Casino Operator or Casino Manager or casino gaming licensee whose duties and functions require access to such information. Notwithstanding the foregoing, the Casino Operator or Casino Manager and each casino licensee may disclose the name of and information about a self-excluded person to appropriate employees of other casino licensees in Louisiana for the purpose of alerting other casinos that a self-excluded person has tried to gamble or obtain gaming related privileges or benefits in a casino gaming establishment. Nothing herein shall be construed to prohibit the licensee from disclosing the identity of self-excluded persons to affiliated entities in Louisiana and other gaming jurisdictions for the limited purpose of assisting in the proper administration of compulsive and problem gaming programs operated by such affiliated entities.

b. Administrative hearings regarding or related to self-excluded persons shall be closed to the public and any record created or evidence introduced in conjunction with such hearings shall be maintained confidential and not made available for public inspection.

E. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:1990 (September 2002), LR 30:

H. Charles Gaudin
Chairman

0406#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Iatt Lake Fishing Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, and under the authority of R.S. 56:317, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Iatt Lake will be closed to all fishing beginning on July 5, 2004 and continue until the department officially announces the reopening of the lake to fishing, sometime after October 31, 2004 when the lake reaches pool stage (83 feet MSL). Effective with the closure, no person shall take or possess or attempt to take any species of fish while on the waters of Iatt Lake or take or possess or attempt to take any fish from the waters of Iatt Lake. No person shall possess while on the waters of Iatt Lake any fishing gear capable of taking fish.

The reasons for the promulgation of this Declaration of Emergency are as follows: the Aquatic Plant Section of the Department of Wildlife and Fisheries conducts annual vegetative samples on water bodies in late summer, when aquatic vegetation infestations are most severe. Management plans, if necessary, are then written, approved by the department and presented to local citizens. This year's management plan for Iatt Lake in Grant Parish calls for an eight-foot drawdown. This will reduce the surface acreage of Iatt Lake by 80 percent and increase the vulnerability of fish to anglers. The department feels it in the best interest of the resource to prohibit fishing while the lake is drawn down to prevent the over-harvest of fish. Poor fish populations in subsequent years would negatively impact the welfare of businesses catering to Iatt Lake fishermen, some individuals living on the lake and the fishermen using the lake. Because it is necessary to conduct vegetation sampling in late summer, and the lakes which are candidates for drawdowns cannot be determined until after sampling has been completed, there is insufficient time to file a Notice of Intent.

Dwight Landreneau
Secretary

0406#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Saline Lake Fishing Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, and under the authority of R.S. 56:317, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Saline Lake (Winn and Natchitoches Parishes) will be closed to all fishing beginning on July 5, 2004 and continue until the department officially announces the reopening of the lake to fishing, sometime after October 31, 2004 when the lake reaches pool stage (103 feet MSL). Effective with the closure, no person shall take or possess or attempt to take any species of fish while on the waters of Saline Lake or take or possess or attempt to take any fish from the waters of Saline Lake. No person shall possess while on the waters of Saline Lake any fishing gear capable of taking fish.

The reasons for the promulgation of this Declaration of Emergency are as follows: the Aquatic Plant Section of the Department of Wildlife and Fisheries conducts annual vegetative samples on water bodies in late summer, when aquatic vegetation infestations are most severe. Management plans, if necessary, are then written, approved by the department and presented to local citizens. This year's management plan for Saline Lake in Winn and Natchitoches Parishes calls for a six-foot drawdown. This will reduce the surface acreage of Saline Lake by 50 percent and increase the vulnerability of fish to anglers. The department feels it in the best interest of the resource to prohibit fishing while the lake is drawn down to prevent the over-harvest of fish. Poor fish populations in subsequent years would negatively impact the welfare of businesses catering to Saline Lake fishermen, some individuals living on the lake and the fishermen using the lake. Because it is necessary to conduct vegetation sampling in late summer, and the lakes which are candidates for drawdowns cannot be determined until after sampling has been completed, there is insufficient time to file a Notice of Intent.

Dwight Landreneau
Secretary

0406#021

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons and all Rules and regulations pursuant thereto, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set size limits for saltwater finfish, and R.S. 56:325.1(A)2 and B; the Wildlife and Fisheries Commission hereby adds the following Declaration of Emergency for the recreational harvest of spotted seatrout to be effective June 20, 2004:

A final Rule modifying the spotted seatrout Rule establishing a maximum number of fish that can be

harvested recreationally greater than 25 inches to 2 for the Calcasieu Lake, Sabine Lake, and surrounding areas was ratified by the Wildlife and Fisheries Commission at its June 8, 2004 meeting. The Declaration of Emergency regarding "Spotted Seatrout Regulations ~~C~~Recreational Size and Bag Limit-Calcasieu Lake, Sabine Lake and Surrounding Areas" promulgated by this commission April 1, 2004, shall be rescinded upon the publication of this Final Rule on June 20, 2004. All other applicable rules regarding the harvest of spotted seatrout, established by the commission shall be in effect.

Bill A. Busbice, Jr.
Chairman

0406#044

Rules

RULE

Department of Agriculture and Forestry Livestock Sanitary Board

Mycoplasma Mastitis in Dairy Cattle (LAC 7:XXI.333, 335 and 337)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Livestock Sanitary Board, adopted regulations regarding Mycoplasma mastitis in dairy cattle.

Mastitis, particularly in dairy cattle, is a debilitating, occasionally fatal disease, which causes greatly decreased milk production in dairy cattle and may cause damage to the mammary tissue such that milk production in subsequent lactations is significantly decreased. Production loss caused by mastitis is the largest single economic loss to dairy farmers.

These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2094, and R.S. 3:2095.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 3. Cattle

§333. Routine Testing of Dairy Herds

A. All dairy herds in Louisiana shall be tested for *Mycoplasma bovis*, ("Mycoplasma"), which causes an incurable form of mastitis in dairy cattle, in accordance with the following provisions.

1. The Louisiana Department of Agriculture and Forestry, ("department"), shall collect milk samples from a bulk tank sample collected by the milk hauler.

2. The department shall forward the samples to the Mastitis Lab at the Hill Farm Research Station ("HFRS") in Homer, Louisiana for testing.

3. HFRS shall forward the test report for each dairy herd to the department and to the owner of the dairy herd.

B. If a sample from a dairy herd tests positive for Mycoplasma mastitis the department shall collect a second sample directly from the bulk tank holding the dairy herd's milk and send the sample to HFRS for testing. HFRS will send the test result directly to the department, who will then notify the dairy herd's owner of the test results.

C. All dairy herds shall be tested monthly for 12 months. Any dairy herd that tests negative each month for 12 months will then be tested quarterly so long as each test is negative for Mycoplasma mastitis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 30:1141 (June 2004).

§335. Restrictions on Dairy Herds Testing Positive for Mycoplasma mastitis

A. If the second sample from a dairy herd tests positive for Mycoplasma mastitis then that dairy herd shall be placed on a "Mycoplasma Restricted List."

1. Individual members, male and female, of any dairy herd placed on the Mycoplasma Restricted List shall be tested to identify infected animals.

2. Any animal found to be infected with Mycoplasma shall be either immediately sold for slaughter or branded with a mark acceptable to the department to show that the animal can only be sold for slaughter. If any such animal is sold at a livestock auction market it shall be kept in quarantine separate from any other cattle.

3. No animal from a dairy herd that is on the Mycoplasma Restricted List shall be sold or moved for any purpose other than slaughter unless accompanied by a health certificate showing that the animal has had a negative test for Mycoplasma within the 30 days prior to the date of sale or movement.

B. Any dairy herd found to be infected with Mycoplasma shall remain on the Mycoplasma Restricted List until all infected animals are removed and bulk tank samples test negative for six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 30:1141 (June 2004).

§337. Fees

A. The department shall collect from each owner of a dairy herd a fee of no more than \$15 per milk sample to defray the cost of the testing and quarantine programs necessary to prevent, control or eradicate Mycoplasma in dairy cattle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 30:1141 (June 2004).

Bob Odom
Commissioner

0406#058

RULE

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

Program Participation, Fee Payment and Penalties (LAC 7:XV.321)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry has amended regulations regarding annual assessment fees and late fees for the Boll Weevil Eradication Program.

The Department of Agriculture and Forestry has amended these rules and regulations for the purpose of reducing the annual assessment fee of \$10 an acre to \$6 an acre and to also reduce the late fee for failure to pay all assessments from \$3 an acre to \$1.50 an acre. The operating costs for the

Boll Weevil Eradication Program has fallen due to the program entering the maintenance phase for eradicating boll weevils and therefore costs less to maintain.

These Rules are enabled by R.S. 3:1607 and 1609.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 3. Boll Weevil

§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 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 \$6 per acre for each acre of certified cotton acreage on file with ASCS.

2. In the Louisiana Eradication Zone cotton producers shall each year 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 \$6 per acre for each acre of certified cotton acreage on file with ASCS.

B.3. - D. ...

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 \$1.50 per acre.

F. - I. ...

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 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 30:1142 (June 2004).

Bob Odom
Commissioner

0406#057

RULE

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

Calibration and Registration of Taxi Meters (LAC 7:XXXV.125)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:4608, the Department of Agriculture and Forestry, Weights and Measures Commission, amended regulations governing the calibration and registration of taxi meters.

The Louisiana Department of Agriculture and Forestry is the only governmental agency that checks on the accuracy of taxi meters in the state of Louisiana. The fee for registering and inspecting taxi meters has been set at \$15. This fee, however, falls far short of the cost incurred by the department in ensuring the accuracy of taxi meters. The registration and testing of taxi meters is vital and important to the citizens of Louisiana because the registering and testing of taxi meters insures that the public who utilizes taxis are not subjected to fraud and illegal and excessive fares. The people who use taxis are individuals who cannot either afford to own a vehicle of their own or are businessmen and tourists coming into the state.

The department, as a result of state budget deficits and cuts to the department's appropriations, is forced to look for ways to bring its budget in line with current appropriations. Therefore, the department is forced to either cut services, such as calibration of taxi meters or to increase fees to cover the cost of services provided.

These Rules comply with and are enabled by R.S. 3:4608.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§125. Metrology Laboratory Fee Structure

A. - E. ...

F. The annual fee for registration of taxi meters is \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:1142 (June 2004).

Bob Odom
Commissioner

0406#059

RULE

Department of Agriculture and Forestry Office of the Commissioner Office of the Louisiana Seed Commission

Sugarcane (Tissue Culture) Certification Standards (LAC 7:XIII.207)

Editor's Note: This Notice of Intent was promulgated in the January 20, 2004 issue of the *Louisiana Register* on pages 104-105 and is being repromulgated for corrections.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, adopts regulations governing sugarcane (tissue culture) certification standards.

The Louisiana Seed Commission, at the request of the sugarcane industry, has amended the Rules regarding sugarcane (tissue culture) certification standards to include Sugarcane Ratoon Stunting Disease (RSD) and Sugarcane Yellow Leaf Virus testing to prevent the introduction and spread of these potential harmful diseases into Louisiana sugarcane. These rules have also been amended to reduce the tolerances for other varieties, Sugarcane Borer and Johnson

grass within a certified seed cane field, to bring these tolerances in line with current acceptable industry levels.

This Rule is enabled by R.S. 3:1433.

Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds

Chapter 1. Louisiana Seed Law

§207. Sugarcane (Tissue Culture) Certification

Standards

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center or USDA-ARS Sugarcane Research Unit sugarcane variety selection programs that has been processed through the LSUAC sugarcane quarantine program.

a. Foundation stock shall be tested on a yearly basis for Sugarcane Ratoon Stunting Disease by the LSU Ag Center Sugarcane Disease Detection Lab based on the protocol provided by the lab. The applicant for certification shall provide to the Louisiana Department of Agriculture and Forestry verification that foundation stock has been tested for Sugarcane Ratoon Stunting Disease (RSD)

2. - 4.b ...

B. Field Inspections. At least four field inspections shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

a. The third inspection to be conducted in June by Louisiana Department of Agriculture and Forestry inspectors will include the collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus.

b. Individual fields shall be sampled by Louisiana Department of Agriculture and Forestry inspectors for the detection of Sugarcane Yellow Leaf Virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

c. Tissue samples shall be submitted to the LSU Ag Center Sugarcane Disease Detection Lab for analysis.

d. The department shall have the right to re-inspect, re-sample and re-test fields that are out of tolerance for sugarcane yellow leaf virus prior to certification.

C. Land Requirements. The land shall be fallowed one summer from the previous crop.

D. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnsongrass	None	5 Plants/Acre	5 Plants/Acre
Itchgrass	None	1 Plant/Acre	1 Plant/Acre
Other Weeds:			
Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/Acre
Harmful Diseases:			
Sugarcane Yellow Leaf Virus*	None	10.00%	10.00%
Sugarcane Mosaic Virus**	None	10.00%	10.00%
Sugarcane Smut**	None	0.50%	0.50%

Harmful Insects:			
Sugarcane Borer***	None	5.00%	5.00%
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab.			
**Plants exhibiting symptoms.			
***Determined by percentage of internodes bored.			

E. - F.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Office of the Louisiana Seed Commission, LR 30:1143 (June 2004).

Bob Odom
Commissioner

0406#056

RULE

**Department of Agriculture and Forestry
Structural Pest Control Commission**

**Termite Minimum Specification Standards
(LAC 7:XXV.101, 119 and 141)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, has amended regulations regarding definitions, contract addendum for monitoring stations, minimum specifications for pre-treatments and re-treatments.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to provide for uniform minimum treatment specifications for pre-treatments regarding the perimeter application and re-treatment of structures under existing termite contract. The Rule better defines a pre-treat and the requirements for the perimeter application. Pest control operators (PCO) are using termite monitors without baits to monitor for termites. This Rule insures that the PCO contracts, installs and monitors for subterranean termites to at least a minimum set of requirements. This Rule allows the department to regulate termite pre-treat perimeters, re-treat requirements and monitoring systems consistently and insure that the state's citizens are getting the services for which they are paying.

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

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control
Chapter 1. Structural Pest Control Commission
§101. Definitions

* * *

Certified Fumigation Technician A qualified technician to perform the following:

1. **Structural Fumigation** Apply and clear fumigants from structures under the supervision of a licensed fumigator.

2. **Ship Fumigation** Only add additional gas to a ship fumigation after the initial amount of gas has been applied, under the supervision of a licensed fumigator.

3. *Commodity Fumigation* Any and clear fumigants commodities under the supervision of a licensed fumigator. This provision will not apply until two years from date of enforcement.

Chain Wall Any wall constructed of any material that supports or skirts a structure.

Commission The Structural Pest Control Commission.

* * *

Commodity Fumigation The fumigation of food or non-food items stored in stacks, rail cars, containers, trucks, barges, boxes, bins, etc. that are not normally occupied by humans. No living quarters should be in any of the above.

Construction During the building of a structure and up to the time the structure is ready to be inhabited.

Contract A written agreement executed by a licensed pest control operator services for the provision of specific pest control services.

* * *

Restricted-Use Pesticide A pesticide that is classified for restricted use by the administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act and/or by the Louisiana Department of Agriculture and Forestry.

Retreat A liquid termiticide treatment to a structure that is under a current contract.

Rodent Any of several mammals, such as rats and mice, commonly associated with man-made structures characterized by constantly growing incisors adapted for gnawing or nibbling.

* * *

Ship Fumigation The fumigation of a vessel capable of transporting or housing people and/or products. It is normally self-powered and must have a crew or living quarters.

Spot Treatment (when used in reference to termite control work) A localized application of chemicals or other substances to control, prevent or eradicate termites in a residence or other structure that is not under a current contract.

Structural Fumigation The fumigation by covering or sealing churches, schools, homes or any other buildings in which people are normally housed or work or is frequented by people. This also includes the covering or sealing of small boats or ships under 100 feet.

* * *

Violation Any act which is prohibited by the Act or any of these rules and regulations. Violations shall be classified in accordance with degree of severity, as follows.

1. *Minor Violation* Any act prohibited by the Act or these rule and regulations which does not result in danger to human health or damage to personal property, including, but not limited to, clerical error failure to make timely reports to the commission.

2. *Moderate Violation* Any act of negligence in meeting the guarantees of an agreement for structural pest control work in the licensure phase where the violation occurs, such as failure to apply chemicals in accordance with label and labeling requirements and minimum specifications.

3. *Major Violation* Any act which may adversely affect human health and safety. Any act performed without having the proper permit, license, or registration; any intentional misrepresentation of any matter involved in or

related to structural pest control work; or any false or misleading statement knowingly make in a wood-destroying insect report or any failure to timely pay any civil penalty imposed by the commission or any failure to timely pay any fee collected by the Louisiana Department of Agriculture and Forestry.

* * *

Wood-Destroying Insect Report Any document approved by the Structural Pest Control Commission issued by a pest control operator which pertains to wood-destroying insects, but not including a bid, a proposal or a contract for any structural pest control services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:594 (November 1989), LR 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004).

§119. Contracts for Termite Control Work

A. The licensee must enter into a written agreement for termite work with the property owner employing him, which agreement must:

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than one year after the treatment is made;
3. guarantee treatment of the structure(s) in accordance with minimum specifications for termite control work set forth in §141 hereof; and provide for at least one inspection of all unobstructed or accessible areas outside of the structure(s) prior to expiration of the agreement;
4. each contract must include an inspection diagram;
5. contracts shall provide for the treatment of all subterranean termites.

B. - F. ...

G. Contracts as described in LAC 7:XXV.119.A. that include termite monitoring stations shall include a contract addendum that provides the number of monitoring station(s) and the frequency of inspection(s). The contract addendum shall be approved by the commission prior to its use.

H. The licensee or any technician working under the licensee's supervision shall enter into a written agreement for monitoring for subterranean termites with the structure owner\agent employing him\her, which agreement must:

1. be in a form approved by the commission;
2. provide for the frequency of inspections that shall include at least one inspection of the structure prior to expiration of the agreement;
3. provide for the number of subterranean termite monitoring station(s);
4. provide for the owner name, address, city, state, zip of the structure;
5. provide the name, address, city, state, zip of the pest control company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3370

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR

§141. Minimum Specifications for Termite Control

Work

A. - D.3.c. ...

E. Pre-Treatment of Slabs

1. Pre-treatment means any treatment, as required by label and labeling, of any structure prior to or during construction.

2. The licensee shall report the completion of the application to the outside of the foundation to the Louisiana Department of Agriculture and Forestry on the Termite Perimeter application form. Within 12 months after initial treatment, the outside perimeter of the foundation, will be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches must be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through any slab(s) adjoining or abutting the initial pre-treated slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes must be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

3. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for any reason prior to the completion of the application as specified in §141.E.1 above, the operator must prominently display a poster, to be furnished by the Louisiana Department of Agriculture and Forestry, which states that the treatment of the area under the slab is not complete.

4. All pre-treatment of slabs must be called or faxed to the Department of Agriculture and Forestry District Office in which the pretreat occurs, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include a street address, city, parish, directions to the property being pre-treated, and time of beginning the application of termiticides to the property. All pest control operators must keep a log of all pretreats including the information noted. The following is a list of parishes in which the seven Department of Agriculture and Forestry Districts operate. Pre-treatments in those parishes shall be called into the corresponding District Office.

a. Shreveport District **C**Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b. Monroe District **C**Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District **C**Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District **C**Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District **C**Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermillion, and Lafayette.

f. Baton Rouge District **C**Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District **C**St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

F. - H.2. ...

I. Waiver of Requirements of Minimum Specifications for Termite Control Work

1. A pest control operator may request from the owner\agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for initial treatment. The waiver shall be signed by the owner\agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner\agent and shall be sent to the department with the company's monthly eradication report. The waiver shall include, but not be limited to, the following information:

a. graph identifying the structure and the specific area(s) where treatment is waived;

b. a description of each area where treatment is waived; and

c. for each area, the reason treatment is being waived.

2. A pest control operator may request, from the owner\agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for Retreat(s). The waiver shall be signed by the owner\agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner\agent and shall be made available to the department upon reasonable request. The waiver shall include, but not be limited to, the following information:

a. a graph identifying the structure and the specific area(s) where treatment is waived;

b. a description of each area where treatment is waived; and

c. for each area, the reason treatment is being waived.

J. - J.8.h. ...

K. Requirements for Retreats

1. Retreatment of existing slab-type construction shall treat following the label and labeling and the following minimum specifications.

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) and/or a breach(s) in the treated zone around the perimeter of the structure, adjacent to the foundation wall. All trenches must be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (minimum 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as

required in LAC 7:XXV.141.K.1.a. When the abutting slab is drilled, the holes must be no more than 18 inches apart along the above stated areas unless the label requires closer distance.

c. Treat bath trap(s) as per label and labeling when live subterranean termites or a breach(s) in the treated zone occur. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap must be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap must also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pour, it must be drilled and treated as close as practical to the bathtub plumbing.

2. Retreatments of existing pier-type construction with a live subterranean termite infestation(s) and/or a breach(s) in the treated zone shall liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of a breach(s) in the treated zone or an infestation site(s) on chain wall(s) and all piers within 10 feet of an infested or breached pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

3. Minimum specification treatments shall not include areas properly waived in initial treatment contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 30:1145 (June 2004).

Bob Odom
Commissioner

0406#060

RULE

Board of Elementary and Secondary Education

Bulletin 741 **C**Louisiana Handbook for School Administrators **C**High School Diploma and Endorsements (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741* **C***The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE) at its October, 2003 meeting approved revisions to Standard 2.099.02 of the *Louisiana Handbook for School Administrators: Bulletin 741* to add two additional courses to the list of courses meeting the requirement for one unit in Computer Technology. These courses are Computer Technology I and Computer Technology II. Also, the policy

is corrected to add a line of text that was inadvertently left off the last time this policy was revised.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:1146 (June 2004).

2.099.02 High School Diploma and Endorsements Standard Diploma

Incoming freshmen 2003-2004 and thereafter meeting the Minimum Requirements for High School Graduation listed below and the requirements listed in 2.099.00 and 2.099.01, and completing four Carnegie units in an area of concentration, including one course that incorporates computer applications, shall be eligible for a standard diploma. An area of concentration shall be courses selected to prepare students for postsecondary education and/or a career.

The 23 units required for graduation shall include 16 required units and 7 elective units; the elective units can be earned at technical colleges as provided in Standard 2.103.35.

Academic Endorsement

Students meeting the requirements for a standard diploma, and satisfying the following performance indicators shall be eligible for an academic endorsement to a standard diploma:

1. Students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award.

2. Students shall complete one additional Carnegie unit in mathematics, science, or social studies.

3. Students shall pass all four components of the GEE 21 with a score of Basic or above, or one of the following combinations of scores with the English Language Arts score at basic or above:

- One Approaching Basic, 1 Mastery or Advanced, Basic or above in the remaining two
- Two Approaching Basic, 2 Mastery or above.

4. Students shall complete one of the following requirements:

- Senior Project
- One Carnegie unit in an AP course with a score of 3 or higher on the AP exam
- One Carnegie unit in an IB course with a score of 4 or higher on the IB exam
- Three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English Language Arts.

5. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.

6. Students shall achieve an ACT Composite Score of 23.

Career/Technical Endorsement

Students meeting the requirements for a standard diploma, and satisfying the following performance indicators shall be eligible for a career/technical endorsement to a standard diploma:

1. Students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award or the TOPS Tech Award.

2. Students shall pass the English Language Arts, mathematics, science, and social studies components of the GEE 21 at the Approaching Basic level or above.

3. Students shall complete a minimum of ninety work hours of work-based learning experience (as defined in the SDE Diploma Endorsement Guidebook) and complete one of the following requirements:

- Industry-based certification from the list of industry-based certifications approved by BESE
- Three Carnegie credits in a Career/Technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waved from having to take such hours.

Industry-based certification is a portable, recognized credential (tangible evidence) that an individual has successfully demonstrated skill competencies on a core set of content and performance standards in a specific set of work-related tasks, single occupational area, or a cluster of related occupational areas.

Articulated credit/dual enrollment is a program of study allowing high school students to earn credits toward a high school diploma and a postsecondary degree or certification simultaneously. Written agreements formalize programs of study, the transfer of academic and vocational credits among institutions, and the role of secondary and postsecondary instructors.

4. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award or the TOPS Tech Award.

5. Students shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award.

Minimum Requirements for High School Graduation
(Effective for Incoming Freshmen 2003-2004 and thereafter)

ENGLISH 4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English.

MATHEMATICS 3 units
Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics

SCIENCE 3 units
Shall be 1 unit of Biology I;

1 unit of Physical Science or Integrated Science (but not both), or Chemistry I, Physics I, or Physics of Technology I;
1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience I, Agriscience II, or any other course not already taken from the Physical Science cluster, or a locally designed elective.

- If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as the required science course. If a student takes Chemistry I, Physics I, or Physics of Technology I to fulfill the Physical Science requirement, s/he may not then take Physical Science or Integrated Science as the third required science course but may take such courses as one of the eight allowed elective graduation requirements.
- Both Agriscience I and II must be completed for one unit of science credit.

All Advanced Placement Science Courses will be accepted for credit.

SOCIAL STUDIES 3 units
Shall be American History, one-half unit of Civics, one-half unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization.

HEALTH EDUCATION 1/2 unit

PHYSICAL EDUCATION 1 1/2 units
Shall be Physical Education I and Physical Education II, or Adaptive Physical Education for eligible special education students.

NOTE: The substitution of JROTC is permissible. A maximum of four units may be used toward graduation.

COMPUTER TECHNOLOGY 1 unit
Shall be taken from the following:

- Computer/Technology Literacy (1/2 credit)
- Computer Applications or Business Computer Applications (1 credit)
- Computer Architecture (1 credit)
- Computer Science I, II (1 credit each)
- Computer Systems and Networking I, II (1 credit each)
- Desktop Publishing (1/2 credit)
- Digital Graphics & Animation (1/2 credit)
- Multimedia Presentations (1 credit)
- Web Mastering or Web Design (1/2 credit)
- Independent Study in Technology Applications (1 credit)
- Word Processing (1 credit)
- Telecommunications (1/2 credit)
- Introduction to Business Computer Applications (1 credit)
- Technology Education Computer Applications (1 credit)
- Advanced Technical Drafting (1 credit)
- Computer Electronics I (1 credit)
- Computer Electronics II (1 credit)

ELECTIVES 7 units
TOTAL 23 units

Refer to Standards 2.037.02 and 2.058.02 relative to appropriate student scheduling and counseling.

Weegie Peabody
Executive Director

0406#013

RULE

Board of Elementary and Secondary Education

Bulletin 741 **C**Louisiana Handbook for School Administrators **C**Membership in Teachers' Retirement System of Louisiana **C**Part-Time, Seasonal, or Temporary Classroom Teacher (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, Board of Elementary and Secondary Education amended *Bulletin 741* **C***The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE) at its meeting in December, 2003 approved a definition of a classroom teacher for the purposes of membership in Teachers' Retirement System of Louisiana. This change was required by Act 640 of the 2003 Regular Legislative Session and signed by the governor.

**Title 28
EDUCATION**

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

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:1148 (June 2004).

* * *

2.018.00 Membership in Teachers' Retirement System of Louisiana - Part-Time, Seasonal, or Temporary Classroom Teacher

A. R.S. 11:162(C) provides that membership in Teachers' Retirement System of Louisiana shall be required of part-time, seasonal, or temporary employees, as defined in 26 CFR 31.3121 (b)(7)-2, who are classroom teachers and who have or earn five or more years of creditable service in the Teachers' Retirement System of Louisiana.

B. Classroom Teacher

1. For the purposes of R.S. 11:162(C), classroom teacher shall mean:

An employee of a city, parish, or other local public school board or special school under the control of the State Board of Elementary and Secondary Education or any educational institution supported by and under the control of the State Board of Elementary and Secondary Education, or any city or parish school board:

a. Whose job description and assigned duties include the instruction of pupils in courses in traditional or nontraditional classroom situations for which daily pupil attendance figures for the school system are kept; and

b. Who is classified under Object Code 112, as provided in Bulletin 1929, Louisiana Administrative Code Title 28, Part XLI, §901.B.1.b, or is performing the

functions, on a substitute basis, of an individual classified under Object Code 112.

2. Instruction of pupils, as used in Subparagraph (B)(1)(a), shall include activities dealing directly with the interaction between teachers and pupils. Instruction may be provided for pupils in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. Instruction may also be provided through some other approved medium such as television, radio, telephone, and correspondence.

3. Classroom teachers shall include, but not be limited to, traditional subject area, special education, library media, resource, itinerant, music, band, chorus, physical education, home economics, agriculture, industrial arts, computer science, and business teachers.

4. A teacher's status as an "employee," as used in Paragraph (B)(1), shall be consistent with the employment classification made by his or her employing agency, pursuant to applicable law.

* * *

Weegie Peabody
Executive Director

0406#012

RULE

Board of Elementary and Secondary Education

Bulletin 741 **C**Louisiana Handbook for School Administrators **C**Record of Suspensions or Expulsions (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741* **C***The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The change adds the words "suspended" or "suspension" in each reference related to the transfer of a student's school disciplinary records. The changes bring the Board of Elementary and Secondary Education Policy in line with the new provision under *No Child Left Behind* that require states to put procedures in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, when a student enrolls in another public or private school.

**Title 28
EDUCATION**

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

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:1148 (June 2004).

System Policies and Standards

Record of Suspensions or Expulsions

1.060.07 Any student who has been suspended or expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission information on the dates of any suspension or expulsion and the reason(s) for which the student was suspended or expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled.

Refer to R.S. 17:416 (B)(3).

School Policies and Standards

Record of Suspensions or Expulsions

2.060.07 Any student who has been suspended or expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission information on the dates of any suspension or expulsion and the reason(s) for which the student was suspended or expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled.

Weegie Peabody
Executive Director

0406#009

RULE

Board of Elementary and Secondary Education

Bulletin 741 **L**ouisiana Handbook for
School Administrators **S**ocial Studies
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 741* **L**ouisiana Handbook for School Administrators, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The State Board of Elementary and Secondary Education (SBESE) at its October 2003 meeting approved revisions to Standard 2.105.21 of the *Louisiana Handbook for School Administrators: Bulletin 741* to add the requirement that the course of Free Enterprise include instruction in personal financial literacy. This change was required by Louisiana

Senate Bill 38 which was passed in 2003 and signed by the governor.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269-271 (February 2002), LR 28:272-273 (February 2002), LR 28:991-993 (May 2002), LR 28:1187 (June 2002), LR 30:1149 (June 2004).

Social Studies

2.105.21 Three units of social studies shall be required for graduation. They shall be American History; 1/2 unit of Civics and 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization. The social studies course offerings shall be as follows:

Course Title	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise System	1
Law Studies	1
Psychology	1
Sociology	1
Western Civilization	1
World Geography	1
World History	1
Economics may be taught by a teacher certified in business education.	

Beginning with the 2004-2005 school year, Free Enterprise shall include instruction in personal finance. Such instruction shall include but shall not be limited to the following components:

- Income
- Money management
- Spending and credit
- Savings and investing.

Weegie Peabody
Executive Director

0406#014

RULE

Board of Elementary and Secondary Education

Bulletin 746 **C**Louisiana Standards for State Certification of School Personnel **C**Mild/Moderate Special Education Certification Structure for Undergraduate Programs (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746 C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy provides a new undergraduate certification program structure for Special Education Mild to Moderate Disabilities. The structure is a result of Blue Ribbon Commission teacher quality initiatives and aligns policy with the No Child Left Behind Act of 2001. This action aligns the Twelve-Hour Rule Policy with the No Child Left Behind Act of 2001 and continues the state's Blue Ribbon Commission for Teacher Quality initiatives.

Title 28 EDUCATION

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

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505-2508 (December 2002), LR 29:117-119 (February 2003), LR 29:119-121 (February 2003), LR 29:121-123 (February 2003), LR 30:1150 (June 2004).

* * *

New Certification Structure Recommended Changes For Mild/Moderate Programs Level 1 (Initial) Certification

1. Ensure that all teacher education programs address the attached competencies (See Appendix A) within each pathway to certification in mild/moderate disabilities.

2. Use a performance-based model that aligns Council of Exceptional Children (CEC), National Council for Accreditation of Teacher Education (NCATE), Louisiana Teacher Assistance and Assessment Program (LATAAP), and Louisiana Components of Effective Teaching (LCET) standards in special education certification with the ten Interstate New Teacher Assessment and Support Consortium (INTASC) Core Principles for all special education teacher candidates.

3. Require the local education agency to partner with cooperating universities to support and provide certification efforts including supervision of clinical/applied and/or

school-based hours; technical assistance, induction, and evaluation for employed teachers on provision licenses.

4. Hold universities accountable for the competencies/standards and outcomes, but allow flexibility in the design, implementation, and scheduling of certification programs.

5. Piggyback/integrate general/special education sooner. Articulation between/among the departments in colleges of education (example: behavior management could be taught across the curriculum).

6. Develop a mentor model that would begin early in the preparation program to model "good teaching practices" for special education pre-service level students.

7. Ensure that higher education faculty communicate or pass on the "culture" of active learning/retraining IHE professionals. Include teaching using universal design technology and modeling new technical methods.

8. Support teacher education programs to use data related to reflections on practice to assist revision of the program of study.

9. Have the universities recommend that teachers be issued Level 1 Teaching Certificates when they have met state certification requirements and hold the universities accountable for the success of the teachers that they recommend for certification. This would eliminate the need for the Louisiana Department of Education to count hours on transcripts and allow the department to become more involved in providing support to universities to improve the quality of teacher preparation programs. (Note: The Louisiana Department of Education would still continue to review transcripts and issue certificates to out-of-state teachers.)

Level 2 Certification

1. Require all new teachers to receive mentoring during their first year of the Louisiana Teacher Assistance and Assessment Program and have them undergo the assessment during the second year with a person certified in the specialized area of certification.

2. Require all teachers to pass the teacher assessment and teach for a total of three years before being issued a Level 2 teaching certificate. During this time teachers will develop a professional development plan to continue the lifelong learning process. The hours/courses taken during this time should expand the knowledge of the teachers in a specific targeted area related to their area of certification.

3. Do not allow for the addition of an area of special education certification based upon the passage of the content Praxis examination alone.

4. Require all new teachers to undergo a predetermined amount of professional development during a five year time period in order to have their teaching certificates renewed for 5 years. Have the Louisiana Department of Education develop the details for the professional development system during 2002-2003.

Mild/Moderate Special Education Undergraduate Program For Grades Pk-3, Grades 1-5, Grades 4-8, Grades 6-12
Effective August 1, 2005

Mild/Moderate Special Education Undergraduate Program Structure		Mild/Moderate Special Education Grades PK-3	Mild/Moderate Special Education Grades 1-5	Mild/Moderate Special Education Grades 4-8	Mild/Moderate Special Education Grades 6-12
General Education Coursework	English	12 hours	12 hours	12 hours	6 hours
	Mathematics	9 hours	12 hours	12 hours	6 hours
	Sciences	9 hours	15 hours	15 hours	9 hours
	Social Studies	6 hours	12 hours	12 hours	6 hours
	Arts	3 hours	3 hours	3 hours	3 hours
FOCUS AREA SPECIAL EDUCATION & CONTENT		Special Education & Young Child	Special Education & Reading/Language Arts & Mathematics	Special Education & One Middle School Content Area	Special Education & One High School Content Area
		Special Education Focus Area: A total of 18 hours of special education coursework.* Reading/Language Arts Focus Area: A total of 12 hours of content/methodology. Mathematics Focus Area: A total of 9 hours of content/methodology. Early Childhood Focus Area: A total of 12 hours in nursery school and kindergarten.	Special Education Focus Area: A total of 18 hours of special education coursework.* Reading/Language Arts Focus Area: A total of 12 hours of content/methodology. Mathematics Focus Area: A total of 9 hours of content/methodology	Special Education Focus Area: A total of 18 hours of special education coursework.* One Middle School Content Focus Area: A total of 19 hours in one of the following content areas: Mathematics, English, Science, or Social Studies. (Note: General Education coursework may be used to create the 19 hours.)	Special Education Focus Area: A total of 18 hours of special education coursework.* One High School Content Focus Area: A total of 31 hours in one content area (Note: General Education coursework may be used to create the 31 hours.)
Knowledge of the Learner and the Learning Environment	Child Development/Psychology, Adolescent Psychology, Educational Psychology, The Learner with Special Needs, Classroom Organization and Management, and Multicultural Education	15 hours	15 hours	15 hours	15 hours
	Reading			6 hours	3 hours
Methodology and Teaching	Teaching Methodology and Strategies	6 hours (Science & Social Studies must be addressed.)	6 hours (Science & Social Studies must be addressed.)	6 hours	6 hours
	Student teaching**	9 hours	9 hours	9 hours	9 hours
Flexible Hours for the University's Use***		4 hours	1 hour	9-12 hours	12-21 hours
TOTAL HOURS		124 hours	124 hours	124 hours	124 hours

Note: If students do not possess basic technology skills, they should be provided coursework or opportunities to develop those skills early in their program.

* Program must address the mild/moderate special education competencies identified in Appendix A.

** Students must spend a minimum of 270 clock hours in student teaching, with at least 180 of such hours spent in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis.

*** In addition to the student teaching experience, students should be provided actual teaching experience (in addition to observations) in classroom settings during sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

Appendix A

Competencies: Mild/Moderate Disabilities

Reference: CEC Performance Based Standards and Review Procedures

Standard 1: Foundations

Special educators understand the field as an evolving and changing discipline based on philosophies, evidence-based principles and theories, relevant laws and policies, diverse and historical points of view, and human issues that have historically influenced and continue to influence the field of special education and the education and treatment of individuals with exceptional needs both in school and society. Special educators understand how these influence professional practice, including assessment, instructional planning, implementation, and program evaluation. Special educators understand how issues of human diversity can impact families, cultures, and schools, and how these complex human issues can interact with issues in the delivery of special education services. They understand the relationships of organizations of special education to the organizations and functions of schools, school systems, and other agencies. Special educators use this knowledge as a ground upon which to construct their own personal understandings and philosophies of special education.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure the knowledge and skills of connection and crossover between general education and special education personnel preparation.

Standard 2: Development and Characteristics of Learners

Special educators know and demonstrate respect for their students first as unique human beings. Special educators understand the similarities and differences in human development and the characteristics between and among individuals with and without exceptional learning needs (ELN)¹. Moreover, special educators understand how exceptional conditions can interact with the domains of human development and they use this knowledge to respond to the varying abilities and behaviors of individual's with ELN. Special educators understand how the experiences of individuals with ELN can impact families, as well as the individual's ability to learn, interact socially, and live as fulfilled contributing members of the community.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Extend the knowledge and skills of the Individualized Family Service Planning as students age to begin earlier transition planning. Ensure knowledge and skills of transition planning for each school change (e.g., preschool to elementary, elementary to middle/junior high, junior high to high school).

Standard 3: Individual Learning Differences

Special educators understand the effects that an exceptional condition² can have on an individual's learning in school and throughout life. Special educators understand that the beliefs, traditions, and values across and within cultures can affect relationships among and between students, their families, and the school community. Moreover, special educators are active and resourceful in seeking to understand how primary language, culture, and familial backgrounds interact with the individual's exceptional condition to impact the individual's academic and social abilities, attitudes, values, interests, and career options. The understanding of these learning differences and their possible interactions provide the foundation upon which special educators individualize instruction to provide meaningful and challenging learning for individuals with ELN.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge and use of the *General Education Access Guide*. Also ensure use of instructional technology for all students. Include skills and knowledge of diversity issues as a critical part of individual learning differences.

Standard 4: Instructional Strategies

Special educators possess a repertoire of evidence-based instructional strategies to individualize instruction for individuals with ELN. Special educators select, adapt, and use these instructional strategies to promote challenging learning results in general and special curricula³ and to appropriately modify learning environments for individuals with ELN. They enhance the learning of critical thinking, problem solving, and performance skills of individuals with ELN, and increase their self-awareness, self-management, self-control, self-reliance, and self-esteem. Moreover, special educators emphasize the development, maintenance, and generalization of knowledge and skills across environments, settings, and the lifespan.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge and skills of research-based diagnostic and prescriptive approaches to teaching reading and mathematics.

Standard 5: Learning Environments and Social Interactions

Special educators actively create learning environments for individuals with ELN that foster cultural understanding, safety and emotional well being, positive social interactions, and active engagement of individuals with ELN. In addition, special educators foster environments in which diversity is valued and individuals are taught to live harmoniously and productively in a culturally diverse world. Special educators shape environments to encourage the independence, self-

motivation, self-direction, personal empowerment, and self-advocacy of individuals with ELN. Special educators help their general education colleagues integrate individuals with ELN in regular environments and engage them in meaningful learning activities and interactions. Special educators use direct motivational and instructional interventions with individuals with ELN to teach them to respond effectively to current expectations. When necessary, special educators can safely intervene with individuals with ELN in crisis. Special educators coordinate all these efforts and provide guidance and direction to paraeducators and others, such as classroom volunteers and tutors.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge and use of technology/assistive technology and universal design.

Standard 6: Language

Special educators understand typical and atypical language development and the ways in which exceptional conditions can interact with an individual's experience with and use of language. Special educators use individualized strategies to enhance language development and teach communication skills to individuals with ELN. Special educators are familiar with augmentative, alternative, and assistive technologies to support and enhance communication of individuals with exceptional needs. Special educators match their communication methods to an individual's language proficiency and cultural and linguistic differences. Special educators provide effective language models, and they use communication strategies and resources to facilitate understanding of subject matter for individuals with ELN whose primary language is not English.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge of typical and atypical language development, language models, and communication strategies.

Standard 7: Instructional Planning

Individualized decision-making and instruction is at the center of special education practice. Special educators develop long-range individualized instructional plans anchored in both general and special curricula. In addition, special educators systematically translate these individualized plans into carefully selected shorter-range goals and objectives taking into consideration an individual's abilities and needs, the learning environment, and a myriad of cultural and linguistic factors. Individualized instructional plans emphasize explicit modeling and efficient guided practice to assure acquisition and fluency through maintenance and generalization. Understanding of these factors as well as the implications of an individual's exceptional condition, guides the special educator's

selection, adaptation, and creation of materials, and the use of powerful instructional variables. Instructional plans are modified based on ongoing analysis of the individual's learning progress. Moreover, special educators facilitate this instructional planning in a collaborative context including the individuals with exceptionalities, families, professional colleagues, and personnel from other agencies as appropriate. Special educators also develop a variety of individualized transition plans, such as transitions from preschool to elementary school and from secondary settings to a variety of postsecondary work and learning contexts. Special educators are comfortable using appropriate technologies to support instructional planning and individualized instruction.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special Emphasis: Ensure knowledge and skills of student-centered planning and instruction.

Standard 8: Assessment

Assessment is integral to the decision-making and teaching of special educators and special educators use multiple types of assessment information for a variety of educational decisions. Special educators use the results of assessments to help identify exceptional learning needs and to develop and implement individualized instructional programs, as well as to adjust instruction in response to ongoing learning progress. Special educators understand the legal policies and ethical principles of measurement and assessment related to referral, eligibility, program planning, instruction, and placement for individuals with ELN, including those from culturally and linguistically diverse backgrounds. Special educators understand measurement theory and practices for addressing issues of validity, reliability, norms, bias, and interpretation of assessment results. In addition, special educators understand the appropriate use and limitations of various types of assessments. Special educators collaborate with families and other colleagues to assure non-biased, meaningful assessments and decision-making. Special educators conduct formal and informal assessments of behavior, learning, achievement, and environments to design learning experiences that support the growth and development of individuals with ELN. Special educators use assessment information to identify supports and adaptations required for individuals with ELN to access the general curriculum and to participate in school, system, and statewide assessment programs. Special educators regularly monitor the progress of individuals with ELN in general and special curricula. Special educators use appropriate technologies to support their assessments.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special emphasis: None added

Standard 9: Professional and Ethical Practice

Special educators are guided by the profession's ethical and professional practice standards. Special educators practice in multiple roles and complex situations across wide age and developmental ranges. Their practice requires ongoing attention to legal matters along with serious professional and ethical considerations. Special educators engage in professional activities and participate in learning communities that benefit individuals with ELN, their families, colleagues, and their own professional growth. Special educators view themselves as lifelong learners and regularly reflect on and adjust their practice. Special educators are aware of how their own and others attitudes, behaviors, and ways of communicating can influence their practice. Special educators understand that culture and language can interact with exceptionalities, and are sensitive to the many aspects of diversity of individuals with ELN and their families. Special educators actively plan and engage in activities that foster their professional growth and keep them current with evidence-based best practices. Special educators know their own limits of practice and practice within them.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special emphasis: Require a professional development plan for teacher candidates with a yearly professional growth target that will focus on specific competencies of the needs of students with mild/moderate disabilities (e.g., intensive levels of support for students with moderate disabilities, emotional behavioral disabilities, sensory disabilities, severe learning disabilities, technology/assistive technology).

Standard 10: Collaboration

Special educators routinely and effectively collaborate with families, other educators, related service providers, and personnel from community agencies in culturally responsive ways. This collaboration assures that the needs of individuals with ELN are addressed throughout schooling. Moreover, special educators embrace their special role as advocate for individuals with ELN. Special educators promote and advocate the learning and well being of individuals with ELN across a wide range of settings and a range of different learning experiences. Special educators are viewed as specialists by a myriad of people who actively seek their collaboration to effectively include and teach individuals with ELN. Special educators are a resource to their colleagues in understanding the laws and policies relevant to Individuals with ELN. Special educators use collaboration to facilitate the successful transitions of individuals with ELN across settings and services.

Beginning special educators demonstrate their mastery of this standard through the mastery of the CEC Common Core Knowledge and Skills, as well as through the CEC Specialty areas of Learning Disabilities, Mental Retardation, and Individualized General Curriculum Knowledge and Skills for which the program is preparing candidates.

Special emphasis: Ensure knowledge and skills of collaboration and advocacy with families. Ensure the university, LEA, and teacher candidate know and understand how students with disabilities can access and make progress

within the general education curriculum with instructional strategies/adaptations/accommodations/modifications.

1. "Individual with exceptional learning needs" is used throughout to include individuals with disabilities and individuals with exceptional gifts and talents.
2. "Exceptional Condition" is used throughout to include both single and co-existing conditions. These may be two or more disabling conditions or exceptional gifts or talents coexisting with one or more disabling condition.
3. "Special Curricula" is used throughout to denote curricular areas not routinely emphasized or addressed in general curricula, e.g., social, communication, motor, independence, self-advocacy.

Weegie Peabody
Executive Director

0406#010

RULE

Board of Elementary and Secondary Education

Bulletin 746 **L**ouisiana Standards for State Certification of School Personnel **R**eading Competencies Policy for Alternate Certification Programs (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This new Bulletin 746 policy adds a requirement for demonstration of reading competencies by alternate teacher certification program completers, as required by Act 28 of the 2003 Legislative Session.

Title 28

EDUCATION

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

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505-2508 (December 2002), LR 29:117, 119 (February 2003), LR 29:119-121 (February 2003), LR 29:121, 23 (February 2003), LR 30:1154 (June 2004).

Louisiana Alternate Certification Programs

Practitioner Teacher Program

Alternative Path to Certification

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

1. Admission to the Program. Program providers will work with district personnel to identify Practitioner Teacher

Program candidates who will be employed by districts during the fall and spring. To be admitted, individuals should:

a. possess a baccalaureate degree from a regionally accredited university.

b. have a 2.50 GPA on undergraduate work. Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider. However, in no case may the GPA be less than 2.20. (Note: State law requires that upon completion of the program, the teacher candidate has a 2.50 GPA for certification.)

c. Pass the PRAXIS Pre-Professional Skills Test (e.g., reading, writing, and mathematics). (Individuals who already possess a graduate degree will be exempted from this requirement.)

d. Pass the PRAXIS content specific examinations:

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

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

(3). Candidates for Grades 7-12 (regular and special education): pass the PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

(4). Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

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

2. Teaching Preparation (Summer)

9 credit hours (or equivalent 135 contact hours)

All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).

Grades 1-6, 4-8, and 7-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships.

Mild/Moderate Special Education 1-12 practitioner teachers will successfully complete courses (or equivalent contact hours) that focus on special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.

All-Level K-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to

child and adolescent psychology, the diverse learner, classroom management and organization, assessment; instructional design, and instructional strategies across grade levels K-12 before starting their teaching internships.

3. Teaching Internship and First-Year Support

12 credit hours (or equivalent 180 contact hours)

Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers provided by the Louisiana Teacher Assistance and Assessment Program (LaTAAP) and principals. Note: For all-level areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

4. Teaching Performance Review (End of First Year)

Program providers, principals, mentors, and practitioner teachers will form teams to review first-year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the assessment part of the Louisiana Teacher Assistance and Assessment Program.)

If weaknesses are cited, teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15 to 135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, teams will determine whether practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.

5. Prescriptive Plan Implementation (Second Year)

1-9 credit hours (15 to 135 contact hours)

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

6. Louisiana Assessment Program (Second Year)

Practitioner teachers will be assessed during the fall or later, depending upon their teaching proficiencies.

7. PRAXIS Review (Second Year)

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

8. Certification Requirements

(Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met with these three years.)

Private providers and colleges or universities will submit signed statements to the Louisiana Department of Education that indicate that the student completing the *Practitioner*

Teacher Program alternative certification path met the following requirements:

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

B. Completed the Teaching Preparation and Teaching Internship segments of the program with an overall 2.50 or higher GPA.'

C. Passed the Louisiana Teacher Assistance and Assessment Program.

D. Completed prescriptive plans (if weaknesses were demonstrated).

E. Passed the specialty examination (PRAXIS) for the area(s) of certification. (Note: This test was required for admission.)

1). Grades 1-6 (regular and special education): Elementary Education: Content Knowledge Examination #0014

2). Grades 4-8 (regular and special education): *Middle School: Content Knowledge* specialty examination

3). Grades 7-12 (regular and special education): PRAXIS *content specialty examination(s)* in the content area(s) in which they intend to teach. (Note: This examination was required for admission. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.)

4). All-Level K-12 areas (art, dance, foreign language, health and physical education, and music): Content specialty examination in area(s) in which candidate intends to teach. (Note: This examination was required for admission. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.) Provider must develop a process to assure that candidates for all-level certification demonstrate necessary performance skills in the area of certification.

F. Passed the *pedagogy* examination (PRAXIS)

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

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

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

d. Grades 7-12 and All-Level K-12 Certification: *Principles of Learning and Teaching 7-12*

e. Mild/Moderate Special Education 1-12: special education examinations (to be determined)

G. All candidates entering an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

9. Ongoing Support (Second and Third Year)

Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.

10. Professional License (Practitioner License to Level 2)
Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching, they will be eligible for a Level 2 license.

Undergraduate/Graduate Courses and Graduate Programs

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

Masters Degree Program Alternative Path to Certification

A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. The college or university may choose to offer the masters degree program as either a Master of Education or a Master of Arts in Teaching. Masters Degree Programs may offer certification in Grades PK-3, 1-6, 4-8, 7-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education.

Admission to the Program

To be admitted, individuals should:

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

2. Have a 2.50 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS (Individuals who already possess a graduate degree will be exempted from this requirement.)

4. Pass the PRAXIS content-specific subject area examination:

a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

b. Candidates for Grades 1-6 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

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

d. Candidates for Grades 7-12 (regular and special education): pass the PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

e. Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

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

Program Requirements

1. Knowledge of Learner and the Learning Environment

15 credit hours

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

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

All-Level (grades K-12): Child and adolescent psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies, across grade levels K-12

2. Methodology and Teaching

12-15 credit hours

Methods courses and field experiences. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

3. Student Teaching or Internship

6-9 credit hours

NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

Total: 33-39 credit hours

Certification Requirements

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

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

2. Completed coursework (undergraduate and masters program) with an overall 2.50 or higher GPA.

3. Passed the specialty examination (PRAXIS) for the area of certification. (Note: This test was required for admission.)

- a. Grades PK-3 (regular and special education): *Elementary Education: Content Knowledge (#0014)* specialty examination

- b. Grades 1-6 (regular and special education): *Elementary Education: Content Knowledge (#0014)* specialty examination

- c. Grades 4-8 (regular and special education): *Middle School: Content Knowledge* specialty examination

- d. Grades 7-12 (regular and special education) and All-Level K-12 Certification: *Specialty content examination in areas to be certified.* (Note: This examination was required for admission.) If no examination was adopted for Louisiana in the certification area, for admission purposes, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area.

4. Passed the *pedagogy* examination (PRAXIS)

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

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

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

- d. Grades 7-12 and All-Level K-12 Certification: *Principles of Learning and Teaching 7-12*

- e. Mild/Moderate Special Education 1-12: special education examinations (to be determined)

5. All candidates entering an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

Non-Masters/Certification-Only Program Alternative Path to Certification

This program is designed to serve those candidates who may not elect participation in or be eligible for certification under either the Practitioner Teacher Alternate Certification Program or the Master's Degree Alternate Certification Program. The program may also be accessible in some areas of the state in which the other alternate certification programs are not available. A college or university may offer this program only in those certification areas in which that institution has a state-approved teacher education program. Non-Master's/Certification-Only Programs may offer certification in PK-3, 1-6, 4-8, and 7-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education.

Admission to the Program

To be admitted, individuals should:

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

2. Have a 2.20 GPA, or higher, on undergraduate coursework. [An overall 2.50 GPA is required for certification; those candidates with a GPA lower than 2.50 may have to take additional courses in the program to achieve a 2.50 GPA];

3. Pass the PRAXIS Pre-Professional Skills Test (PPST) (Individuals who already possess a graduate degree will be exempted from this requirement.); and

4. Pass the PRAXIS content-specific subject area examination:

- a. Candidates for PK-3 (regular and special education): pass the *Elementary Education: Content Knowledge (#0014)* specialty examination;

- b. Candidates for Grades 1-6 (regular and special education): pass the *Elementary Education: Content Knowledge (#0014)* specialty examination;

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

- d. Candidates for Grades 7-12 (regular and special education): pass the PRAXIS content specialty examination(s) in the content area(s) in which they intend to teach. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

- e. Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the content specialty examination. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate

necessary performance skills in the all-level certification area.

Program Requirements

This program will provide the same rigor as other certification routes provided by aligning with such empirically-based standards as National Council for the Accreditation of Teacher Education (NCATE), Interstate New Teacher Assessment and Support Consortium (INTASC), Louisiana Components of Effective Teaching (LCET), and the Louisiana Content Standards. This program will also emphasize collaboration between the university and the school districts in order to share and exchange strategies, techniques, and methodologies; and integrate field-based experiences into the curriculum.

Program Structure

1. Knowledge of Learner and the Learning Environment*

12 hours

Grades PK-3, 1-6, 4-8, and 7-12: Child or adolescent development/psychology, the diverse learner, classroom management/organization/environment, assessment, instructional design, and reading/instructional strategies that are content- and level-appropriate.

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

All-Level K-12 Areas: Child psychology and adolescent psychology; the diverse learner; classroom management/organization/environment; assessment; instructional design, and reading/instructional strategies across grade levels K-12.

*All courses for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course.

2. Methodology and Teaching

6 hours

Methods courses to include case studies and field experiences. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

3. Internship or Student Teaching

6 hours

Will include methodology seminars that are participant-oriented. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), internship or student teaching experiences should be provided across grades K-12.

4. Prescriptive Plan

1-9 hours

The prescriptive plan can be pre-planned courses for individual programs or can be individualized courses for the candidate who demonstrates areas of need, not to exceed 9 semester hours.

Total 24-33 hours

Certification Requirements

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

1. Passed the PPST components of the PRAXIS. (*Note: This test was required for admission.*) (Individuals who already possess a graduate degree will be exempted from this requirement).

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

3. Passed the specialty examination (PRAXIS) for the area(s) of certification. (*Note: This test was required for admission.*)

a. Grades PK-3: Elementary Education: Content Knowledge (#0014) specialty examination

b. Grades 1-6: Elementary Education: Content Knowledge (#0014) specialty examination

c. Grades 4-8: Middle School: *Content Knowledge* specialty examination

d. Grades 7-12 and All-Level K-12 Certification: *Specialty content examination in areas to be certified.* (*Note: This test was required for admission. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.*)

4. Passed the *pedagogy* examination (PRAXIS)

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

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

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

d. Grades 7-12 and All-Level K-12 Certification: *Principles of Learning and Teaching 7-12*

e. Mild/Moderate Special Education 1-12: special education examinations.

5. All candidates entering an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

Deadline Dates For Louisiana Alternate Programs

No students should be accepted into an old post-baccalaureate alternate certification program in the areas of PK-3, 1-5, 4-8, 6-12, and mild/moderate special education after Spring Semester 2003. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2006, to complete their programs.

No students should be accepted into an old post-baccalaureate alternate certification program in the all-level (K-12) areas of art, dance, foreign language, H&PE, and music after Spring Semester 2004. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2007, to complete their programs.

Weegie Peabody
Executive Director

0406#011

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV. 301, 507, 509, 701, 703, 705, 803,
805, 1701, 1703, 1705, 1903, 2103, and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant Rules (R.S. 17:3021-3025, 3041.10-15, 17:3042.1, and 17:3048.1).

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

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

A. Where the masculine is used, in these Rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Award Amount Can amount equal to tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "Cost of Attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows.

a. - f. ...

g. For students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less or the Weighted Average Award Amount, depending upon whether the Louisiana professional school is a public or private school.

h. For students with the TOPS Opportunity, Performance and Honors Award enrolled in a Louisiana graduate degree program, the amount shall be equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less.

Court Ordered Custodian Can adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor.

Dependent Student A student who is dependent on his parents for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Eligible Noncitizen Can individual who can provide documentation from the Bureau of Citizenship and Immigration Services (BCIS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants,

temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the BCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an *eligible noncitizen* shall be treated as meeting the citizenship requirements for an award under this Part.

Full-Time Student

a. - d. ...

e. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree;

f. correspondence courses may not be used to establish full time status;

g. ...

Honors Curriculum Courses Any course designated by the respective school district as advanced placement, honors or gifted.

Louisiana Resident

a. any independent student or any *dependent student* with at least one parent or *court ordered custodian* who has resided in the state for a minimum of 24 consecutive months immediately preceding the month of high school graduation or the month of May in the Academic Year (High School) that a student completes a home study program or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these Rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or *court ordered custodian* of a *dependent student* applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or *court ordered custodian* of the *dependent student* applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

i. if registered to vote, a Louisiana voters registration card; and

ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and

iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and

iv. if earning a reportable income, a Louisiana tax return;

b. any member of the Armed Forces on active duty whose official state of legal residence is Louisiana as demonstrated by the member's DD Form 2058 validated by the member's military personnel officer or other documentary proof and who has filed a Louisiana tax return

for the most recent two years in compliance with Clause a.iv, above;

c. any member of the Armed Forces who is stationed in Louisiana under permanent change of station orders and who, not later than 180 days after reporting to such station, changes his military DD Form 2058 to reflect Louisiana as his state of legal residence, and complies with all Louisiana income tax laws and regulations while stationed in Louisiana. A copy of the Permanent Change of Station (PCS) Orders and a DD Form 2058 validated by the member's military personnel officer and showing Louisiana as the member's state of legal residence must be submitted to the Louisiana Office of Student Financial Assistance (LOSFA) at the time the service member's dependent applies for TOPS. The DD Form 2058 must reflect that it was filed within 180 days after the member reported to duty at a duty station in Louisiana;

d. - d.iii. ...

e. effective for high school graduates beginning with Academic Year (high school) 2002-2003, any independent or *dependent student* who actually resides in Louisiana during his last two full years of high school. In order to qualify pursuant to this subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school;

f. effective for high school graduates beginning with Academic Year (high school) 2000-2001, any *dependent student* who actually resided in Louisiana during his last two full years of high school and whose parent is a member of the United States Armed Forces living in Louisiana under permanent change of station orders, but who does not claim Louisiana as his official state of legal residence. In order to qualify pursuant to this subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school;

g. effective for high school graduates beginning with Academic Year (high school) 2001-2002, any *dependent student* who was continuously enrolled in a Louisiana public high school or nonpublic high school that is approved by BESE during his last two full years of high school whose parent or *court ordered custodian*:

i. is a resident of a state that adjoins Louisiana; and

ii. actually resides in a municipality having geographical boundaries that include a portion of Louisiana; and

iii. has filed a Louisiana state income tax return and has complied with state income tax laws and regulations; or

iv. is assessed ad valorem taxes on property owned in Louisiana.

In order to qualify pursuant to this subsection, the student's high school transcript must reflect that the student earned credit for the last four semesters of high school immediately prior to graduation and graduated from an approved Louisiana high school.

* * *

Orphan Ca person who does not live with either parent because the parent(s) is/are dead or has/have abandoned him

or the parental rights of the parent(s) has/have been severed by competent authority.

* * *

Returning Student Ca student who graduated from high school beginning with Academic Year (High School) 2001-2002, met all the requirements for a TOPS Award and was notified of his TOPS eligibility by LOSFA, but who enrolled for the first time as a full time student no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full time student in an eligible college or university.

* * *

TOPS Cumulative High School Grade Point Average C

a. effective for high school graduates beginning with Academic Year (high school) 2002-2003, the grade point average calculated by LOSFA including only the grades achieved in those courses that were used to satisfy core curriculum requirements. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the *TOPS Cumulative High School Grade Point Average* shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the cumulative grade point average shall be determined by using only the course in which the student has received the highest grade;

b. effective for high school graduates beginning with Academic Year (high school) 2002-2003, the grade point average for students qualifying for a Performance Award using a minimum ACT score of 24 and a minimum grade point average of 3.00 must include at least 10 units of honors curriculum courses (See § 703.A.5.f.ii.);

c. effective for high school graduates beginning with Academic Year (high school) 2007-2008, the grade point average shall be calculated on 17.5 hours of courses that are included in the core curriculum;

d. For those high schools that utilize other than a 4.00 scale, all grade values shall be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

For example, if a school awards a maximum of 5 points for honors courses, the school must use the following formula to convert an honors course grade of "C":

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003) , LR 29:879 (June 2003), LR 30:1159 (June 2004).

Chapter 5. Application; Application Deadlines and Proof of Compliance

§507. Final Deadline for Submitting Documentation of Eligibility

A. - B. ...

C.1. Returning students, who graduated high school prior to or during the 2002-2003 Academic Year (high school) must apply for reinstatement no later than May 1, 2004.

2. Returning students who graduate during the 2003-2004 Academic Year (high school) or later must apply for reinstatement no later than May 1 of the Academic Year (college) the student seeks reinstatement. For example, a student who graduates in May 2004 and seeks to return to an Eligible College or University for the spring semester of 2005 must submit his application for reinstatement no later than May 1, 2005.

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 Academic Year (college) and wishes to receive his remaining award eligibility to attend a graduate or professional school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 Academic Year (college) or later and wishes to receive his remaining award eligibility to attend a graduate or professional school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the Academic Year (college) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 Academic Year (college), the student must submit the required documents no later than May 1, 2004.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001) amended LR 28:447 (March 2002), LR 30:1161 (June 2004).

§509. ACT Testing Deadline

A. - B. ...

C. Final ACT Testing Deadline for Reduced Awards

1.a. Beginning with awards made to applicants graduating in Academic Year (high school) 2000 through 2003, if an applicant does not achieve a qualifying score on the ACT or on the SAT for the TOPS Opportunity Award by

the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS Award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS Award.

b. Beginning with awards made to applicants graduating in Academic Year (high school) 2004, if an applicant does not achieve a qualifying score on the ACT or on the SAT for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS Award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS Award.

c. For the purpose of the Subsection, the "April national ACT test date" shall be defined as the month of April.

2. Students who fail to achieve an ACT or SAT qualifying score prior to July 1 of the year of high school graduation shall not be considered for an award.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:1995, amended LR 26:2000 (September 2000), amended LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1847 (November 2001), repromulgated LR 27:1847 (November 2001), LR 30:1161 (June 2004).

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

§701. General Provisions

A. - E.11.c. ...

12. A student who successfully completes an undergraduate degree without having exhausted his period of

award eligibility shall receive an award for the remainder of his eligible college or university no later than the fall semester following the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

F. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999) LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26: 1995, 2000 (September 2000). Repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29, LR 29:880 (June 2003), LR 30:1161 (June 2004).

§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:

1.a. for students graduating in Academic Year (high school) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided by May 1 of the following Academic Year (college). Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award.

b. for students graduating in Academic Year (high school) 2002-2003 and thereafter, be a United States citizen or be a permanent resident as defined by the Bureau of Citizenship and Immigration Services and be eligible to apply for United States citizenship;

2 - 4. ...

5.a. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3; and

i.(a). for students graduating in Academic Year (high school) 2006-2007 and prior, at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work documented on the student's official transcript as approved by the Louisiana

Department of Education constituting a core curriculum as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Computer /Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics and Animation (1/2 credit) Multimedia Productions (1 credit) Web Mastering (1/2 credit) Independent Study in Technology Applications (1 credit)

(b). beginning with the graduates of Academic Year (High School) 2007-2008, at the time of high school graduation, an applicant must have successfully completed 17.5 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education;

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry

1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1 1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one and one-half units of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE). BESE has approved the following courses as computer related for purposes of satisfying the 1 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Computer/Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Multimedia Productions (1 credit) Web Mastering (1/2 credit) Independent Study in Technology Applications (1 credit)

b. - e. ...

f.i. for students graduating in Academic Years (high school) 2000-2001 and 2001-2002, successfully complete a minimum of 10 units in honors courses graded on a 5.00 scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3 and have completed the core curriculum defined in §703.A.5.a.i;

ii. for students graduating Academic Year (high school) 2002-2003 through 2005-2006, successfully complete a minimum of 10 units in Honors Curriculum Courses used to satisfy the core curriculum requirement and graded on a 4.00 or higher scale and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3, and have completed the core curriculum defined in §703.A.5.a.i; and

6. have achieved an ACT Score, as defined in §301 of at least:

- a. if qualifying under the terms of §703.A.5.a or b;
 - i. the state's reported prior year ACT composite average, rounded, but never less than 20 for the Opportunity Award; or
 - ii. a 23 for the Performance Award; or
 - iii. a 27 for the Honors Award; or
- b. if qualifying under §703.A.5.c or d;
 - i. the state's reported prior year average plus three points, rounded, but never less than 23 for the Opportunity Award; or
 - ii. a 26 for the Performance Award; or
 - iii. a 30 for the Honors Award; and
- c. if qualifying under §703.A.5.e, which is limited to the Opportunity Award only, the state's reported prior year average plus 3 points, rounded, but never less than 23;

d. if qualifying under §703.A.5.f, which is limited to the Performance Award only, a 24; and

7. - 8. ...

B. Students qualifying:

1. under §703.A.5.a and b, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

- a. a 2.50 for the Opportunity Award; or
- b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.f and graduating in Academic Year (High School) 2000-2001 through 2005-2006, must have attained a TOPS Cumulative High School Grade Point Average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. - G.2. ...

H. Returning Students

1. A Returning student, as defined in §301, is eligible for a TOPS Award if:

a. he submits a request for reinstatement that includes:

- i. the name of the Louisiana school in which he has enrolled or will enroll; and
- ii. his official transcripts from all out-of-state colleges and universities attended; and

b. he met all the requirements to maintain his award that would have been applicable had the student enrolled in an eligible college or university during the time the student was enrolled in an out-of state college or university; and

c. he enrolled in an eligible college or university no later than the next semester or term, excluding summer sessions and intersessions, immediately following the last semester he was enrolled in the out-of state college or university.

2. A *returning student* who fails to enroll by the deadline established in §703.A.4 or to maintain full time enrollment or to earn 24 hours during an Academic Year (college) while enrolled in an out-of-state college or university, shall not be eligible for a TOPS Award unless granted an exception in accordance with §2103.

3. The period of eligibility of a *returning student* shall be reduced by each semester or term the student was enrolled in an out-of state college or university.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 30:1162 (June 2004).

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Award funds, except as provided in §701.E.1.b, §701.E.2.b and §701.E.3.b; and

2 - 4. ...

5. continue to enroll and accept the TOPS award as a full-time undergraduate student, professional or graduate student in an eligible college or university defined in §301, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; and

6. minimum academic progress:

a. in an academic undergraduate program at an eligible college or university, by the end of each Academic Year (college), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the Academic Year (college). These hours shall include remedial course work required by the institution, but shall not include hours earned during Qualified Summer Sessions, summer sessions nor intersessions nor by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

b. ...

c. in an academic graduate or professional program at an eligible college or university, by the end of each Academic Year (college), earn at least the total college credit hours required by the college or university for full time enrollment for each semester or quarter as determined by totaling the earned hours reported by the institution for each semester or quarter in the Academic Year (college). These hours shall not include hours earned during Qualified Summer Sessions, summer sessions nor intersessions nor by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

7. ...

8. maintain at an eligible college or university, by the end of the spring semester, quarter, or term, a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award, if enrolled in an academic program; or

b. ...

c. a 3.00 for continuing receipt of either a Performance or Honors Award; or

d. the minimum grade necessary to maintain good standing, if enrolled in a graduate or professional program; and

9. ...

10. has not been enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree for more than two years.

B. Students failing to meet the requirements listed in §705.A.7 or §705.A.8.a, b, or c may have their tuition awards reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of 705.A.8.c, but who meet the continuation requirements of §705.A.8.a or b., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to

receive the award amount for the Opportunity Award. If the two year period is interrupted due to a student's active duty in the United States Armed Forces, the two year period will be extended for a length of time equal to the student's active duty service, not to exceed four years.

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or court ordered custodian or incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If an ineligible student has received an award due to an administrative error or incorrect certification, the administering agency will not pursue recoupment from the student of funds that were awarded. If an erroneous award has been made and the administering agency determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or court ordered custodian, the administering agency may seek reimbursement from the student, the student's parent(s) or court ordered custodian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or court ordered custodian, then the administering agency shall refer the case to the Attorney General for investigation and prosecution. If a student or the student's parent(s) or court ordered custodian is suspected of having intentionally misrepresented the facts which were provided to the administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26, 1996, 2001 (September 2000), LR 27:1853 (November 2001), LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 30:1163 (June 2004).

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:

1.a. for students graduating in Academic Year (high school) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a

TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided. Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award;

b. for students graduating in Academic Year (high school) 2002-2003 and thereafter, be a United States citizen or be a permanent resident as defined by the Bureau of Citizenship and Immigration Services and be eligible to apply for United States citizenship;

2. - 10. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), LR 27:1854 (November 2001), LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004).

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH-TECH Award for not more than two years, except as provided by §805.C, or unless reduced as required by §503.D;

2. - 7. ...

8. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale; and

9. - 10. ...

B. Students failing to meet the requirements listed in §805.A.7 and 8 may have their tuition awards reinstated upon achieving steady academic progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility. If the one year period is interrupted due to a student's active duty in the United States Armed Forces, the one year period will be extended for a length of time equal to the student's active duty service, not to exceed four years.

C. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1998, 2002 (September 2000), LR 27:1856 (November 2001), LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29, LR 29:880 (June 2003), LR 30:1165 (June 2004).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based upon the High School Attended

A. - A.3.d. ...

4. Out-of-State High Schools

a. All other public or non-public high schools located in one of the United States or territories of the United States, other than Louisiana, which have been approved by the state or territory's chief school officer as listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's or territory's equivalent of the Louisiana Board of Elementary and Secondary Education (BESE), or which high school has been approved by the Southern Association of Colleges and Schools' Commission on Secondary and Middle Schools and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above or, for students graduating during the 2002-2003 school year and thereafter, which high school has been approved by a regional accrediting organization recognized by the United States Department of Education and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

A.4.b. - B. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR26:68 (January 2000), LR 26:1997 (September 2000), LR 27:1862 (November 2001), LR 30:1165 (June 2004).

§1703. High School's Certification of Student Achievement

A. - B.1.b. ...

2.a. Through the 2002 Academic Year (high school), the certification form shall contain, but is not limited to, the following reportable data elements:

i. student's name, address, phone number and social security number;

ii. month and year of high school graduation;

iii. final cumulative high school grade point average for all courses attempted, converted to a maximum 4.00 scale, if applicable (Note: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum.); and

iv. through the graduating class of the Academic Year (high school) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended;. After the graduating class of the Academic Year (high school) 2002-2003, core unit requirements may not be waived.

b. Commencing with the 2003 Academic Year (high school), certification shall contain, but is not limited to, the following reportable data elements:

- i. student's name and Social Security number;
- ii. month and year of high school graduation;
- iii. the course code for each course completed;
- iv. the grade for each course completed;
- v. designation of each Honors Curriculum Course;

vi. the grading scale for each course reported;

vii. list the high school attended for each course reported; and

viii. through the graduating class of the Academic Year (high school) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended. After the graduating class of the Academic Year (high school) 2002-2003, core unit requirements may not be waived.

B.3. - D.3. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:1998 (September 2000), LR 26:2269 (October 2000), LR 27:1863 (November 2001), LR 29:880 (June 2003), LR 30:1165 (June 2004).

§1705. Notification of Certified Students

A. Through the 2002 Academic Year (high school), if the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student: "Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. "you must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and
2. "you must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and
3. "you must annually apply for federal student aid, if eligible for such aid, by the deadline required for consideration for state aid; and
4. "you must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

B. Commencing with the 2003 Academic Year (high school), if the certifying authority elects to notify students of their potential eligibility for an award, then the following disclaimer shall be included in any communication to the student: "Although it appears that you have satisfied the academic requirements for a Tuition Opportunity Program for Students (TOPS) Award based on this school's review of the core curriculum courses you have completed and calculation of your TOPS cumulative high school grade point average, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. "the Louisiana Student Financial Assistance Commission (LASFAC) must determine that you have in fact completed the TOPS core curriculum courses;

2. "LASFAC must determine that your TOPS cumulative high school grade point average based on the TOPS core curriculum meets the statutory requirements;

3. "you must be a Louisiana resident as defined by LASFAC;

4. "you must be accepted for enrollment by an eligible Louisiana postsecondary institution and be registered as a full-time undergraduate student no later than the next semester following the first anniversary of your graduation from high school;

5. "you must apply for federal student aid, if eligible for such aid, by the deadline required for consideration for consideration for state aid; and

6. "you must have met all academic and nonacademic requirements and be officially notified of your award by LASFAC."

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:644 (April 1998) and amended LR 24:1913 (October 1998), repromulgated LR 27:1864 (November 2001), amended LR 29:126 (February 2003), LR 29:882 (June 2003), LR 30:1166 (June 2004).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - B.5. ...

6. upon the school's certification that a recipient of a TOPS Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. public colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill for an amount up to the tuition for that institution, as defined in §301;

c. LAICU member colleges and universities may bill for students enrolled in academic programs an amount up to the Weighted Average Award Amount, as defined in §301;

d. LAICU member colleges and universities may bill for students enrolled in nonacademic programs an amount up to the *average award amount* (TOPS-Tech), as defined in §301;

e. for recipients of the performance and honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively;

f. for students enrolled in a public professional school, institutions may bill LASFAC an amount equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less;

g. for students enrolled in a LAICU professional school, institutions may charge the Weighted Average Award Amount;

h. for students enrolled in graduate school, institutions may bill LASFAC an amount equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less.

7. ...

8. before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087 11, as amended, for the purpose of qualifying the student or his parent or court ordered custodian for the federal income tax credits provided for under 26 U.S.C. 25A;

C. - G. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25: 1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 27:1864 (November 2001), LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:1166 (June 2004).

Chapter 21. Miscellaneous Provisions and Exceptions §2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - C.3. ...

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an application for an exception, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year, the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement. Commencing with the 2001-2002 academic year, the student must submit the application for exception no later than six months after the date of the notice of cancellation, except that a *returning student* must submit the application for exception no later than six months after the date of the notice of ineligibility due to failure to meet the continuing eligibility requirements of §705. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

2. - 3. ...

E. Qualifying exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher or the Rockefeller State Wildlife Scholarship because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions:

1. - 3. ...

4. Temporary Disability

a. Definition. The student/recipient is recovering from an accident, injury, illness or required surgery, or the student/recipient is providing continuous care to his/her spouse, dependent, parent, stepparent, or custodian due to an accident, illness, injury or required surgery.

b. ...

c. Maximum Length of Exception

i. Up to four consecutive semesters (six consecutive quarters) for recipient;

ii. up to a maximum of two consecutive semesters (three consecutive quarters) for care of a disabled dependent, spouse, parent, or custodian.

5. - 7.c. ...

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, custodian, dependent, sister or brother, step sibling, or grandparent dies.

8.b. - 10. ...

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitate full or partial withdrawal from, or non-enrollment in an eligible postsecondary institution.

i. The following situations are not exceptional circumstances:

(a). - (h). ...

(i). An involuntary drop, suspension, or withdrawal from enrollment because of academics, scholastics, or failure to attend classes or to comply with institutional regulations.

(j). A suspension or expulsion for misconduct.

(k). An inability to register because of failure to satisfy financial obligations.

E.11.a.ii - F. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), LR 27:1866, 1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 30:1167 (June 2004).

§2105. Repayment Obligation, Deferment and Cancellation

A. - B.3.c. ...

4. Temporary Disability

a. Definition. The recipient is recovering from an accident, injury, illness or required surgery, or the recipient is providing continuous care to his/her spouse, dependent, parent, stepparent, or custodian due to an accident, illness, injury or required surgery.

b. - b.iii. ...

c. Maximum Length of Deferment. Up to two years for recipient; up to a maximum of one year for care of a disabled dependent, spouse, parent, or custodian.

C. ...

D. Procedure for Requesting a Deferment

1. The recipient should complete and submit an application for a deferment, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. The recipient must submit the application for deferment no later than three months after the date of the notice of repayment. The deadline for filing the request shall be prominently displayed on the notice of repayment. If the applicant for a

deferment is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

E. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), LR 28:775 (April 2002), LR 28:2331 (November 2002), LR 30:1167 (June 2004).

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0406#005

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs **C** Discharge of Obligation
(LAC 28:IV.911, 1111, and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant Rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

Title 28 EDUCATION

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

Chapter 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - C.7. ...

D. Cancellation

1. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following occurs:

a. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

b. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

2. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award may be canceled in the event the remaining unpaid balance is \$25 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 28:774 (April 2002), LR 30:1168 (June 2004).

Chapter 11. Rockefeller State Wildlife Scholarship

§1111. Discharge of Obligation

A. - C.5.b. ...

D. Cancellation

1. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occurs:

a. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

b. upon submission to LASFAC of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

2. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds may be canceled in the event the remaining unpaid balance is \$25 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8, R.S. 17:3048.1 and R.S. 56:797.D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 28:775 (April 2002), LR 30:1168 (June 2004).

Chapter 21. Miscellaneous Provisions and Exceptions §2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - F. ...

G. Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient; or

2. complete and permanent disability of the recipient which precludes the recipient from gainful employment; or

3. upon a determination by LASFAC that the remaining unpaid balance is \$25 or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3041.10-3041.15, R.S. 17:3042.1-3042.8, R.S. 17:3048.1 and R.S. 56:797.D(2).

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:1168 (June 2004).

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RULE

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program **C** Trade Date
(LAC 28:VI.107, 305, and 309)

The Louisiana Tuition Trust Authority (LATTA) in accordance with the Administrative Procedure Act [R.S. 49:953(B)] has amended the rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

Title 28
EDUCATION
Part VI. Student Financial Assistance Higher
Education Savings

Chapter 1. General Provisions

§107. Applicable Definitions

* * *

Trade Date The date that a deposit to an investment option that includes *variable earnings* is assigned a value in units, the date a disbursement or refund from an investment option that includes *variable earnings* is assigned a value or the date of a change in investment options that includes *variable earnings* is assigned a value, whichever is applicable.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Office of Student Financial Assistance, Tuition Trust Authority LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:1169 (June 2004).

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - D.5. ...

6. Requests for the transfer of funds from the equity investment option in which they are currently deposited to a different equity option will be assigned a trade date of one business day after the business day of receipt of the transfer request.

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Office of Student Financial Assistance, Tuition Trust Authority LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:1169 (June 2004).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. - A.5. ...

6. Disbursements may be made to the eligible education institution, account owner and/or beneficiary. If all of the disbursement is made to the account owner and/or the beneficiary and LOSFA determines that the beneficiary is not enrolled in an eligible educational institution the semester or term for which the disbursement was intended, LOSFA shall notify the account owner that the disbursement will constitute a refund for state and federal income tax purposes, unless returned to the START account. If after such notice the disbursement is not returned to the account within 60 days of the original notice, LOSFA shall recover the amount of the earnings enhancements and interest thereon included in the disbursement from any principal and interest remaining in the account, refund any balance remaining thereafter and close the account.

A.7. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Office of Student Financial Assistance, Tuition Trust Authority, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:1169 (June 2004).

George Badge Eldredge
General Counsel

0406#006

RULE

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Contingency Plan for NO_x Emissions
(LAC 33:III.2201 and 2202)(AQ239)

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 Air regulations, LAC 33:III.2201 and 2202 (Log #AQ239).

The Rule revises LAC 33:III.Chapter 22 emission factors for industrial boilers and stationary gas turbines in the five-parish Baton Rouge ozone nonattainment area. The revised emission factors will be triggered or implemented should the Baton Rouge ozone nonattainment area fail to achieve attainment with the one-hour ozone air quality standard by the Clean Air Act statutory attainment date of November 15, 2005. The Rule, if implemented, will lower NO_x emissions by approximately 3,000 tons annually. On April 24, 2003, the Environmental Protection Agency reclassified or "bumped up," by operation of law, the Baton Rouge ozone nonattainment area from a classification of "serious" to "severe," effective June 23, 2003 (68 FR 20077). The five-parish Baton Rouge ozone nonattainment area includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Under Section 182(c)(9) of the 1990 Clean Air Act, area plans must include requirements for contingency provisions to take effect without further action by the state upon a failure by the state to meet the applicable milestone. This Rule contains such contingency provisions, which will take effect in the event that the Baton Rouge ozone nonattainment area fails to come into compliance with the one-hour National Ambient Air Quality Standard for ozone by the attainment date. The Rule will be included in a revision to the attainment State Implementation Plan (SIP) that must be submitted to the Environmental Protection Agency by June 23, 2004. Failure to promulgate the rule to establish the contingency provisions would cause the SIP submittal to be deemed incomplete. The basis and rationale for this Rule are to comply with the provisions of the 1990 Clean Air Act Amendments.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - C.20. ...

D. Emission Factors

1. Except as provided in LAC 33:III.2202, the following tables list NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence.

Table D-1A. Emission Factors for Sources in the Baton Rouge Nonattainment Area		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 40 to <80 MMBtu/Hour	0.50 pound/MMBtu
	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 40 to <80 MMBtu/Hour	0.20 pound/MMBtu
	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 40 to <80 MMBtu/Hour	0.30 pound/MMBtu
	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 40 to <80 MMBtu/Hour	0.18 pound/MMBtu
	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 5 to <10 MW	0.37 pound/MMBtu
	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 5 to <10 MW	0.27 pound/MMBtu
	>= 10 MW	0.20 pound/MMBtu
All Others	>= 5 to <10 MW	0.24 pound/MMBtu ^b
	>= 10 MW	0.16 pound/MMBtu ^c
Stationary Internal Combustion Engines:		
Lean-burn	>= 150 to <320 Hp	10 g/Hp-hour
	>= 320 Hp	4 g/Hp-hour
Rich-burn	>= 150 to <300 Hp	2 g/Hp-hour
	>= 300 Hp	2 g/Hp-hour

^a based on the higher heating value of the fuel.

^b equivalent to 65 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

^c equivalent to 43 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

Table D-1B. Emission Factors for Sources in the Region of Influence		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Industrial Boilers	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines:		
Peaking Service, Fuel Oil-fired	>= 10 MW	0.30 pound/MMBtu
Peaking Service, Gas-fired	>= 10 MW	0.20 pound/MMBtu
All Others	>= 10 MW	0.16 pound/MMBtu ^b
Stationary Internal Combustion Engines:		
Lean-burn	>= 1500 Hp	4 g/Hp-hour
Rich-burn	>= 300 Hp	2 g/Hp-hour

^a all factors are based on the higher heating value of the fuel.

^b equivalent to 43 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

D.2 - I.5. ...

J. Effective Dates

1. Except as provided in LAC 33:III.2202, the owner or operator of an affected facility shall modify and/or install and bring into normal operation NO_x control equipment and/or NO_x monitoring systems in accordance with this Chapter as expeditiously as possible, but by no later than May 1, 2005.

2. Except as provided in LAC 33:III.2202, the owner or operator shall complete all initial compliance testing, specified by Subsection G of this Section, for equipment modified with NO_x reduction controls or a NO_x monitoring system to meet the provisions of this Chapter within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than November 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:1170 (June 2004).

§2202. Contingency Plan

A. This Section shall become effective only in the event that the United States Environmental Protection Agency (EPA) determines and notifies the department in accordance with Section 181(b)(2) of the Clean Air Act as amended [42 USC 7511(b)(2)] that the Baton Rouge Nonattainment Area has failed to attain the 1-hour ozone National Ambient Air Quality Standard (NAAQS) by its appropriate attainment deadline (November 15, 2005, for areas classified as "severe") or, following application for extension by the state, any extension of the deadline approved by the EPA in accordance with Section 181(a)(5) of the Clean Air Act as amended [42 USC 7511(a)(5)].

B. Emission Factors. The emission factors for the sources listed below in Table B-1 shall supersede the factors for the like sources in Table D-1A of LAC 33:III.2201.D.1.

Table D-1B. Emission Factors for Sources in the Region of Influence		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 80 MMBtu/Hour	0.10 pound/MMBtu

All requirements of LAC 33:III.2201 shall remain applicable to such sources, except as superseded by this Section.

Table B-1. Contingency Plan Emission Factors		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Industrial Boilers	>/= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines (except peaking)	>/= 10 MW	0.092 pound/MMBtu

^abased on the higher heating value of the fuel.

C. Effective Dates

1. An owner or operator of a source subject to an emission factor provided in Table B-1 of Subsection B of this Section shall comply with such emission factor as expeditiously as possible, but not later than two years after determination and notification by the EPA in accordance with Subsection A of this Section.

2. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than 30 months after determination and notification by the EPA in accordance with Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:1170 (June 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0406#028

RULE

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

Medical Use of Radioactive Material

(LAC 33:XV.102, 104, 492, 703, 704, 709, 710, 712, 715, 716, 717, 719, 726, 728, 729, 731, 735, 736, 737, 739, 741, 742, 743, 744, 745, 747, 748, 750, 751, 755, 756, 757, 758, 759, 762, 763, and 777)(RP034*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.102, 104, 492, 703, 704, 709, 710, 712, 715, 716, 717, 719, 726, 728, 729, 731, 735, 736, 737, 739, 741, 742, 743, 744, 745, 747, 748, 750, 751, 755, 756, 757, 758, 759, 762, 763, and 777 (Log #RP034*).

This Rule is identical to federal regulations found in 68 FR 19466-19470 (April 21, 2003); 67 FR 62872 (October 9, 2002); and 67 FR 20349-20397 (April 24, 2002), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the Rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule amends regulations regarding the medical use of radioactive material. The Rule focuses on those medical procedures that pose the highest risk to workers, patients, and the public, and structures the regulations to be more risk-informed and performance-based. This rulemaking is necessary to maintain delegation and authorization granted to Louisiana by the Nuclear Regulatory Commission and the Environmental Protection Agency and to keep Louisiana's radiation protection program current with its federal counterpart. The basis and rationale for this Rule are to mirror the federal regulations and to protect and inform the workers, patients, and public regarding medical procedures that pose the highest risk.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 1. General Provisions

§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.

Address of Use The building or buildings that are identified on the license and where radioactive material may be received, prepared, used, or stored.

Authorized Medical Physicist An individual who is identified as an authorized medical physicist or teletherapy physicist on:

1. a specific medical use license issued by the department, the U.S. Nuclear Regulatory Commission, or an agreement state;
2. a medical use permit issued by a U.S. Nuclear Regulatory Commission master material licensee;
3. a permit issued by the department, the U.S. Nuclear Regulatory Commission, or an agreement state broad scope medical use licensee; or
4. a permit issued by a U.S. Nuclear Regulatory Commission master material license broad scope medical use permittee.

Brachytherapy Source A radioactive source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.

Client's Address The area of use or a temporary jobsite for the purpose of providing mobile medical service in accordance with LAC 33:XV.726.

Dentist An individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

High Dose-Rate Remote Afterloader A brachytherapy device that remotely delivers a dose rate in excess of 12 gray

(1200 rads) per hour at the point or surface where the dose is prescribed.

Low Dose-Rate Remote Afterloader—a brachytherapy device that remotely delivers a dose rate of less than or equal to 2 gray (200 rads) per hour at the point or surface where the dose is prescribed.

Manual Brachytherapy—a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

Medical Event—an event that meets the criteria in LAC 33:XV.712.A.

Medium Dose-Rate Remote Afterloader—a brachytherapy device that remotely delivers a dose rate of greater than 2 gray (200 rads), but less than 12 gray (1200 rads), per hour at the point or surface where the dose is prescribed.

Metric Prefixes and Abbreviations

c	centi	(=10 ⁻²)	f	femto	(=10 ⁻¹⁵)
m	milli	(=10 ⁻³)	k	kilo	(=10 ³)
μ	micro	(=10 ⁻⁶)	M	mega	(=10 ⁶)
n	nano	(=10 ⁻⁹)	G	giga	(=10 ⁹)
p	pico	(=10 ⁻¹²)	T	tera	(=10 ¹²)

Misadministration—repeated.

Mobile Medical Service—the transportation of radioactive material to, and its medical use at, the client's address.

Output—the exposure rate, dose rate, or a quantity related in a known manner to these rates from a brachytherapy source or a teletherapy unit, a remote afterloader, or a gamma stereotactic radiosurgery unit for a specified set of exposure conditions.

Patient Intervention—actions by the patient or human research subject, whether intentional or unintentional, such as dislodging or removing treatment devices or prematurely terminating the administration.

Physician—a medical doctor or doctor of osteopathy licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine, or who is authorized to practice medicine under the provisions of R.S. 37:1261 et seq.

Podiatrist—an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

Preceptor—an individual who provides or directs the training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a radiation safety officer.

Prescribed Dose

1. - 2. ...

3. for manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

4. for remote brachytherapy afterloaders, the total dose and dose per fraction in the written directive.

Pulsed Dose-Rate Remote Afterloader—a special type of remote afterloading brachytherapy device that uses a single source capable of delivering dose rates in the "high dose-rate" range, but:

1. is approximately one-tenth of the activity of typical high dose-rate remote afterloader sources; and

2. is used to simulate the radiobiology of a low dose-rate treatment by inserting the source for a given fraction of each hour.

Sealed Source and Device Registry—the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and the agreement states, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the products.

Stereotactic Radiosurgery—the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume.

Structured Educational Program—an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

Therapeutic Dosage—a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

Therapeutic Dose—a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

Treatment Site—the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

Type of Use—use of radioactive material as described in LAC 33:XV.729, 731, 735, 739, 741, or 747.

Unit Dosage—a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

Year—the period of time beginning in January used to determine compliance with the provisions of these regulations. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the 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), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171 (June 2004).

§104. Records

A. - C. ...

D. Each licensee and registrant shall maintain the records required by LAC 33:XV.104, 421, 451, and all other applicable portions of these regulations at the authorized location of storage and/or use.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1173 (June 2004).

Chapter 4. Standards for Protection Against Radiation

Subchapter J. Reports

§492. Reports of Leaking or Contamination From Sealed Sources

A. The licensee or registrant shall file a report within five days with the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925 if the test for leakage or contamination required in accordance with LAC 33:XV.426 indicates a sealed source is leaking or a source of contamination. The report shall include the equipment involved, its model number and serial number if assigned, the estimated activity of the source, the test results, the date of the test, and the corrective action taken.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 30:1173 (June 2004).

Chapter 7. Use of Radionuclides in the Healing Arts

§703. License Amendments and Provisions for Research Involving Human Subjects

A. - A.6. ...

B. 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.

C. If the research will not be conducted, funded, supported, or regulated by a federal agency that has implemented the Federal Policy for the Protection of Human Subjects, the licensee shall, before conducting research, apply for and receive a specific amendment to its U.S. Nuclear Regulatory Commission medical use license. The amendment request must include a written commitment that the licensee will, before conducting research:

1. obtain review and approval of the research from an *Institutional Review Board*, as defined and described in the Federal Policy; and

2. obtain *informed consent*, as defined and described in the Federal Policy, from the human research subject.

D. Nothing in this Section relieves licensees from complying with the other requirements in this Chapter.

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 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000), LR 30:1173 (June 2004).

§704. Notifications

A. - B. ...

1. an authorized user, an authorized nuclear pharmacist, a radiation safety officer, or an authorized medical physicist permanently discontinues performance of duties under the license or has a name change; or

2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2101 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2587 (November 2000), LR 30:1173 (June 2004).

§709. Supervision

A. - A.1. ...

2. require the supervised individual to follow the instructions of the supervising authorized user, written radiation protection procedures established by the licensee, written directive procedures, regulations of this Chapter, and license conditions with respect to the medical use of radioactive material;

3. review the supervised individual's use of radioactive material, provide reinstruction as needed, and review records kept to reflect this use;

4. require the authorized user to be immediately available to communicate with the supervised individual;

5. require the authorized user to be able to be physically present and available to the supervised individual on one hour's notice (The supervising authorized user need not be present for each use of radioactive material.); and

6. require that only those individuals specifically trained, and designated by the authorized user, shall be permitted to administer radionuclides or radiation to patients.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1173 (June 2004).

§710. Report and Notification of a Dose to an Embryo/Fetus or a Nursing Child

A. A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

B. A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breast-feeding individual that:

1. is greater than 50 mSv (5 rem) total effective dose equivalent; or
2. has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

C. The licensee shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 no later than the next calendar day after discovery of a dose to the embryo/fetus or nursing child that requires a report in accordance with Subsection A or B of this Section.

D. The licensee shall submit a written report to the Office of Environmental Compliance in the manner provided in LAC 33:I.3925 within 15 days after discovery of a dose to the embryo/fetus or nursing child that requires a report in accordance with Subsection A or B of this Section.

1. The written report shall include:
 - a. the licensee's name;
 - b. the name of the prescribing physician;
 - c. a brief description of the event;
 - d. why the event occurred;
 - e. the effect, if any, on the embryo/fetus or the nursing child;
 - f. what actions, if any, have been taken or are planned to be taken to prevent recurrence; and
 - g. certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian) in accordance with Subsection E of this Section and, if not, why not.
2. The report shall not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

E. The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as "the mother," no later than 24 hours after discovery of an event that would require reporting in accordance with Subsection A or B of this Section, unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee may not delay any appropriate medical care for the embryo/fetus or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this Subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of to the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible

relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

F. A licensee shall:

1. annotate a copy of the report provided to the Office of Environmental Compliance, SPOC with:
 - a. the name of the pregnant individual or the nursing child who is the subject of the event; and
 - b. the social security number or other identification number, if one has been assigned, of the pregnant individual or the nursing child who is the subject of the event; and
2. provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 30:1174 (June 2004).

§712. Notifications, Reports, and Records of Medical Events

A. A licensee shall report any medical event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:

1. a dose that differs from the prescribed dose, or the dose that would have resulted from the prescribed dosage, by more than 0.05 Sv (5 rem) effective dose equivalent, (0.5 Sv (50 rem) to an organ or tissue), or 0.5 Sv (50 rem) shallow dose equivalent to the skin, where:
 - a. the total dose delivered differs from the prescribed dose by 20 percent or more;
 - b. the total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
 - c. the fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more;
2. a dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:
 - a. an administration of a wrong radioactive drug;
 - b. an administration of a radioactive drug by the wrong route of administration;
 - c. an administration of a dose or dosage to the wrong individual or human research subject;
 - d. an administration of a dose or dosage delivered by the wrong mode of treatment; or
 - e. a leaking sealed source; or
3. a dose to the skin or an organ or tissue other than the treatment site that exceeds 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

B. A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

C. The following notifications are required for a medical event.

1. The licensee shall notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923 no later than the next calendar day after discovery of the medical event.

2. The licensee shall submit a written report to the Office of Environmental Compliance using the procedures in LAC 33:I.3925 within 15 days after discovery of the medical event. 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, 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 medical event may be made to the individual or instead to that individual's responsible relative or guardian, when appropriate.

3. The licensee shall notify the referring physician and also notify the individual who is the subject of the medical event 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 the affected individual 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 medical event, because of any delay in notification. To meet the requirements of this Paragraph, the notification to the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

4. If the individual was notified, the licensee shall also furnish, within 15 days after discovery of the medical event, a written report to the individual by sending either:

a. a copy of the report that was submitted to the department; 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 department can be obtained from the licensee.

D. Each licensee shall retain a record of each medical event for five years. The record shall contain the names of all individuals involved (including the prescribing physician, allied health personnel, the individual affected by the medical event, 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 medical event, why it occurred, the effect on the individual, what improvements are needed to prevent recurrence, and the actions taken to prevent recurrence.

E. 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.

F. A licensee shall:

1. annotate a copy of the report provided to the department with:

a. the name of the individual who is the subject of the event; and

b. the social security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and

2. provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

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 24:2102 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2588 (November 2000), LR 30:1174 (June 2004).

§715. Possession, Use, Calibration, and Checking of Dose Calibrators and of Instruments to Measure Dosages of Alpha-Emitting or Beta-Emitting Radionuclides

A. For direct measurements performed in accordance with LAC 33:XV.717, a licensee shall possess and use instrumentation to measure the activity of unsealed radioactive material before it is administered to each patient or human research subject.

B. - C. ...

D. A licensee shall also perform checks and tests required by Subsection B of this Section following adjustment or repair of the dose calibrator.

E. A licensee shall retain a record of each check and test required by this Section for two years. The records for the checks and tests required by Subsection B of this Section shall include:

1. for Paragraph B.1 of this Section, the model and serial number of the dose calibrator, the identity and calibrated activity of the radionuclide contained in the check source, the date of the check, the activity measured, the instrument settings, and the initials of the individual who performed the check;

2. for Paragraph B.2 of this Section, the model and serial number of the dose calibrator, the model and serial number of each source used and the identity of the radionuclide contained in the source and its activity, the date of the test, the results of the test, the instrument settings, and the signature of the radiation safety officer;

3. for Paragraph B.3 of this Section, the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test, and the signature of the radiation safety officer; and

4. for Paragraph B.4 of this Section, the model and serial number of the dose calibrator, the configuration and calibrated activity of the source measured, the activity of the source, the activity measured and the instrument setting for

each volume measured, the date of the test, and the signature of the radiation safety officer.

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

G. A licensee shall calibrate the instrumentation required in Subsection A of this Section in accordance with nationally-recognized standards or the manufacturer's instructions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2103 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1175 (June 2004).

§716. Calibration and Checking of Survey Instruments

A. ...

B. To satisfy the requirements of Subsection A of this Section, the licensee shall:

1. - 3. ...

C. To satisfy the requirements of Subsection B of this Section, the licensee shall consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent, and shall conspicuously attach a correction chart or graph to the instrument. A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than the allowed 20 percent.

D. ...

E. The licensee shall retain a record of each calibration required in Subsection A of this Section for two years. The record shall include:

1. - 2. ...

F. To meet the requirements of Subsections A, B, and C of this Section, the licensee may obtain the services of individuals licensed by the department, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state to perform calibrations of survey instruments. Records of calibrations that contain information required by Subsection E of this Section shall be maintained by the licensee.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1176 (June 2004).

§717. Assay of Radiopharmaceutical Dosages

A. A licensee shall determine and record the activity of each dosage before medical use.

B. For a unit dosage, this determination shall be made by:

1. direct measurement of radioactivity; or
2. a decay correction, based on the activity or activity concentration determined by:
 - a. a manufacturer or preparer licensed under

LAC 33:XV.328.J or equivalent agreement state requirements; or

b. a U.S. Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA.

C. For other than unit dosages, this determination shall be made by:

1. direct measurement of radioactivity;
2. a combination of measurement of radioactivity and mathematical calculations; or
3. a combination of volumetric measurements and mathematical calculations, based on the measurement made by a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements.

D. Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than 20 percent.

E. A licensee shall retain a record of the dosage determination required by this Section for three years. The record shall contain:

1. the radiopharmaceutical;
2. the patient's or human research subject's name or identification number, if one has been assigned;
3. the prescribed dosage, the determined dosage, or a notation that the total activity is less than 1.1 MBq (30 µCi);
4. the date and time of the dosage determination; and
5. the name of the individual who determined the dosage.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2103 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1176 (June 2004).

§719. Requirements for Possession of Sealed Sources and Brachytherapy Sources

A. - B.2. ...

C. To satisfy the leak test requirements of Subsection B of this Section, the licensee shall assure that:

C.1. - H. ...

I. A licensee shall retain a record of each survey required in Subsection H of this Section for two years. The record shall include the date of the survey, a sketch of each area that was surveyed, the measured dose rate at several points in each area expressed in milliroentgens per hour, the model number and serial number of the survey instrument used to make the survey, and the signature of the radiation safety officer.

J. Before the first medical use of a brachytherapy source on or after October 24, 2002, a licensee shall have:

1. determined the source output or activity using a dosimetry system that meets the requirements of LAC 33:XV.755.A;
2. determined source positioning accuracy within applicators; and
3. used published protocols currently accepted by nationally-recognized bodies to meet the requirements of Paragraphs J.1 and J.2 of this Section.

K. A licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with Subsection J of this Section.

L. A licensee shall mathematically correct the outputs or activities determined in Subsection A of this Section for physical decay at intervals consistent with 1 percent physical decay.

M. A licensee shall retain a record of each calibration in accordance with LAC 33:XV.744.B.

N. Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay shall be based on the activity determined in accordance with Subsections J-M of this Section.

O. A licensee shall retain a record of the activity of each strontium-90 source in accordance with LAC 33:XV.744.C.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1176 (June 2004).

§726. Mobile Medical Service Technical Requirements

A. A licensee providing mobile medical services shall do the following.

1. Obtain a letter signed by the management of each client for which services are rendered that permits the use of radioactive material at the client's address and clearly delineates the authority and responsibility of the licensee and the client.

2. Check instruments used to measure the activity of unsealed radioactive material for proper function before medical use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function required by this Paragraph shall include a constancy check.

3. Check survey instruments for proper operation with a dedicated check source before use at each client's address.

4. Before leaving a client's address, survey all areas of use to ensure compliance with the requirements in LAC 33:XV.Chapter 4.

B. A mobile medical service may not have radioactive material delivered from the manufacturer or the distributor to the client unless the client has a license allowing possession of the radioactive material. Radioactive material delivered to the client shall be received and handled in conformance with the client's license.

C. A licensee providing mobile medical services shall retain a copy of each letter that permits the use of radioactive material at a client's address, as required by Paragraph A.1 of this Section. Each letter shall be retained for three years after the last provision of service.

D. A licensee providing mobile medical services shall retain the record of each survey required by Paragraph A.4 of this Section for three years. The record shall include the date of the survey, the results of the survey, the instrument used to make the survey, and the name of the individual who performed the survey.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1177 (June 2004).

§728. Decay-in-Storage

A. - A.2. ...

3. removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee; and

4. ...

B. For radioactive material disposed in accordance with Subsection A of this Section, the licensee shall retain a record of each disposal for two years. The record must include the date of the disposal, the date on which the radioactive material was placed in storage, the radionuclides disposed, the model and serial number of the survey instrument used, the background dose rate, the radiation dose rate measured at the surface of each waste container, and the name of the individual who performed the disposal.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1238 (August 2001), LR 30:1177 (June 2004).

§729. Use of Radiopharmaceuticals for Uptake, Dilution, or Excretion Studies

A. - A.7. ...

B. A licensee using a radiopharmaceutical specified in Subsection A of this Section for a clinical procedure other than one specified in the product label or package insert instructions shall comply with the product label or package insert instructions regarding physical form, route of administration, and dosage range.

C. The radiopharmaceuticals specified in Subsection A of this Section shall be:

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;

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;

3. obtained from and prepared by a Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or

4. prepared by the licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved application or an IND protocol accepted by FDA.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1177 (June 2004).

§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits For Imaging and Localization Studies

A. - C. ...

D. Technetium-99m pentetate as an aerosol for lung function studies is not subject to the restrictions in Subsection B of this Section.

E. - F.2. ...

G. Except for quantities that require a written directive in accordance with LAC 33:XV.777.B, a licensee may use any unsealed radioactive material prepared for medical use for imaging and localization studies that is:

1. obtained from a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements;

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.D, or an individual under the supervision of either as specified in LAC 33:XV.709;

3. obtained from and prepared by a Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or

4. prepared by the licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved application or an IND protocol accepted by FDA.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:1238 (August 2001), LR 30:1178 (June 2004).

§735. Use of Radiopharmaceuticals for Therapy

A. - B.2. ...

C. A licensee may use any unsealed radioactive material prepared for medical use and for which a written directive is required that is:

1. obtained from a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements;

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.E, or an individual under the supervision of either as specified in LAC 33:XV.709;

3. obtained from and prepared by a Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with an IND protocol accepted by FDA; or

4. prepared by the licensee, for use in research in accordance with an IND protocol accepted by FDA.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1178 (June 2004).

§736. Safety Instruction

A. - B.1. ...

2. visitor control, including:

a. routine visitation to hospitalized individuals in accordance with LAC 33:XV.421.A.1; and

b. visitation authorized in accordance with LAC 33:XV.421.C;

3. - 6. ...

C. A licensee shall keep a record of individuals receiving instruction required by Subsection A of this Section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction. Such record shall be maintained for inspection by the department for two years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1178 (June 2004).

§737. Safety Precautions

A. ...

1. quarter the patient or human research subject either in:

a. a private room with a private sanitary facility; or

b. a room, with a private sanitary facility, with another individual who also has received therapy with unsealed radioactive material and who also cannot be released under LAC 33:XV.725;

A.2. - B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 30:1178 (June 2004).

§739. Use of Sealed Sources for Diagnosis

A. A licensee shall use only sealed sources for diagnostic medical uses as approved in the Sealed Source and Device Registry.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1178 (June 2004).

§741. Use of Sources for Brachytherapy

A. - A.5. ...

B. A licensee shall use only radioactive sources for therapeutic medical uses:

1. as approved in the Sealed Source and Device Registry; or

2. in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA, provided the requirements of LAC 33:XV.713.A.1 are met.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1178 (June 2004).

§742. Safety Instructions

A. ...

B. To satisfy the requirements of Subsection A of this Section, the instruction shall describe:

1. - 3. ...

4. procedures for visitor control, including:

a. routine visitation of hospitalized individuals in accordance with LAC 33:XV.421.A.1; and

b. visitation authorized in accordance with LAC 33:XV.421.C;

5. - 6. ...

C. A licensee shall maintain a record of individuals receiving instruction required by Subsection A of this Section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction for two years.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1179 (June 2004).

§743. Safety Precautions

A. - A.4. ...

B. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

1. dislodged from the patient; or

2. lodged within the patient following removal of the source applicators.

C. 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: 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 24:2105 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1179 (June 2004).

§744. Brachytherapy Records

A. Brachytherapy Sources Inventory

1. A licensee shall maintain accountability at all times for all brachytherapy sources in storage or use.

2. 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.

3. A licensee shall make a record of brachytherapy source utilization that includes:

a. the names of the individuals permitted to handle the sources;

b. the number and activity of sources removed from storage, the room number of use and the 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

c. the number and activity of sources returned to storage, the room number of use and the patient's or human research subject's name, the time and date the sources 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.

4. 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.

5. A licensee shall maintain the records required in Paragraphs A.3 and 4 of this Section for two years.

B. Records of Calibration Measurements of Brachytherapy Sources

1. A licensee shall maintain a record of the calibrations of brachytherapy sources required by LAC 33:XV.719 for three years after the last use of the source.

2. The record shall include:

a. the date of the calibration;

b. the manufacturer's name, model number, and serial number for the source and the instruments used to calibrate the source;

c. the source output or activity;

d. the source positioning accuracy within the applicators; and

e. the signature of the authorized medical physicist.

C. Records of Decay of Strontium-90 Sources for Ophthalmic Treatments

1. A licensee shall maintain a record of the activity of a strontium-90 source required by LAC 33:XV.719 for the life of the source.

2. The record shall include:

a. the date and initial activity of the source as determined in accordance with LAC 33:XV.719; and

b. for each decay calculation, the date and the source activity as determined in accordance with LAC 33:XV.719.

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 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1179 (June 2004).

§745. Surveys for Temporary Implants

A. Immediately after implanting sources in a patient or a human research subject, the licensee shall make a survey to locate and account for all sources that have not been implanted.

B. 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.

C. Before releasing a patient or a human research subject treated with a remote afterloader unit from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that the sources have been removed from the patient or human research subject and returned to the safe shielded position.

D. A licensee shall maintain a record of patient or human research subject surveys that demonstrates compliance with Subsections A, B, and C of this Section for two years. Each record shall include the date and results of the survey, the survey instrument used, and the name of the individual who made the survey.

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 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1180 (June 2004).

§747. Use of Sealed Sources in Teletherapy Units, Remote Afterloader Units, and Gamma Stereotactic Radiosurgery Units

A. A licensee shall use sealed sources in teletherapy units, photon emitting remote afterloader units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

1. as approved in the Sealed Source and Device Registry; or
2. in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA, provided the requirements of LAC 33:XV.713.A.1 are met.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1180 (June 2004).

§748. Maintenance and Repair Restrictions

A. ...

B. Except for low dose-rate remote afterloader units, only a person specifically licensed by the department, the

U.S. Nuclear Regulatory Commission, or an agreement state shall install, replace, relocate, or remove a sealed source or a source contained in a remote afterloader unit, a teletherapy unit, or a gamma stereotactic radiosurgery unit.

C. For a low dose-rate remote afterloader unit, only a person specifically licensed by the department, the U.S. Nuclear Regulatory Commission, or an agreement state or an authorized medical physicist shall install, replace, relocate, or remove a sealed source contained in the unit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1180 (June 2004).

§750. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

A. For remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units, a licensee shall:

1. secure the unit, the console, the console keys, and the treatment room when not in use or unattended;
2. permit only individuals approved by the authorized user, radiation safety officer, or authorized medical physicist to be present in the treatment room during treatment with the source;
3. prevent dual operation of more than one radiation-producing device in a treatment room, if applicable; and
4. develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place the source in the shielded position or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures shall include:

a. instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;

b. the process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and

c. the names and telephone numbers of the authorized users, the authorized medical physicist, and the radiation safety officer to be contacted if the unit or console operates abnormally.

B. A copy of the procedures required by Paragraph A.4 of this Section shall be physically located at the unit console.

C. A licensee shall conspicuously post written instructions at the unit console. These instructions shall inform the operator of:

1. the location of the procedures required by Paragraph A.4 of this Section; and

2. the names and telephone numbers of the authorized users, the authorized medical physicist, and radiation safety officer to be immediately contacted if the unit or console operates abnormally.

D. A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:

1. the procedures identified in Paragraph A.4 of this Section; and

2. the operating procedures for the unit.

E. A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

F. A licensee shall maintain a record of individuals receiving instruction required by Subsection D of this Section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction for two years.

G. A licensee shall retain a copy of the procedures required by Paragraph A.4 and D.2 of this Section until the licensee no longer possesses the remote afterloader, teletherapy unit, or gamma stereotactic radiosurgery unit.

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 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1180 (June 2004).

§751. Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

A. A licensee shall control access to the treatment room by a door at each entrance.

B. A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:

1. prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;
2. cause the source to be shielded when an entrance door is opened; and
3. prevent the source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source “on-off” control is reset at the console.

C. A licensee shall require any individual entering the treatment room to ensure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.

D. Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

E. For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments that allow for expeditious removal of a decoupled or jammed source.

F. In addition to the requirements specified in Subsections A through E of this Section, a licensee shall:

1. for medium dose-rate and pulsed dose-rate remote afterloader units, require:
 - a. an authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during the initiation of all patient treatments involving the unit; and
 - b. an authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove the source

applicator in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit;

2. for high dose-rate remote afterloader units, require:

a. an authorized medical physicist and an authorized user to be physically present during the initiation of all patient treatments involving the unit; and

b. an authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit;

3. for gamma stereotactic radiosurgery units, require an authorized medical physicist and an authorized user to be physically present throughout all patient treatments involving the unit;

4. notify the radiation safety officer, or his/her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

G. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

1. remaining in the unshielded position; or
2. lodged within the patient following completion of the treatment.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1181 (June 2004).

§755. Dosimetry Equipment and Therapy-Related Computer Systems

A. - A.2. ...

B. The licensee shall have available for use a dosimetry system for spot-check measurements. To meet this requirement, the system may be compared with a system that has been calibrated in accordance with Subsection A of this Section. This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in Subsection A of this Section.

C. The licensee shall maintain a record of each calibration, intercomparison, and comparison for the duration of the license. For each calibration, intercomparison, or comparison, the record shall include:

1. the date;
2. the model numbers and serial numbers of the instruments that were calibrated, intercompared, or compared, as required by Subsections A and B of this Section;
3. the correction factors that were determined;
4. the names of the individuals who performed the calibration, intercomparison, or comparison; and
5. evidence that the intercomparison meeting was sanctioned by a calibration laboratory or radiologic physics

center accredited by the American Association of Physicists in Medicine.

D. The licensee shall perform acceptance testing on the treatment planning system of a therapy-related computer system in accordance with published protocols accepted by nationally-recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:

1. the source-specific input parameters required by the dose calculation algorithm;
2. the accuracy of dose, dwell time, and treatment time calculations at representative points;
3. the accuracy of isodose plots and graphic displays;
4. the accuracy of the software used to determine sealed source positions from radiographic images; and
5. the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1181 (June 2004).

§756. Full Calibration Measurements on Teletherapy Units, Remote Afterloader Units, and Gamma Stereotactic Radiosurgery Units

A. Full Calibration Measurements on Teletherapy Units

1. A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:

- a. before the first medical use of the unit;
- b. before medical use under the following conditions:
 - i. whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
 - ii. following replacement of the source or following reinstallation of the teletherapy unit in a new location; and
 - iii. following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
- c. at intervals not exceeding one year.

2. To satisfy the requirement of Paragraph A.1 of this Section, full calibration measurements shall include determination of:

- a. the output within 3 percent for the range of field sizes and for the distance or range of distances used for medical use;
- b. the coincidence of the radiation field and the field indicated by the light beam localizing device;
- c. the uniformity of the radiation field and its dependence on the orientation of the useful beam;
- d. timer accuracy, constancy, and linearity;
- e. "on-off" error; and
- f. the accuracy of all distance measuring and localization devices in medical use.

3. A licensee shall use the dosimetry system described in LAC 33:XV.755 to measure the output for one set of exposure conditions. The remaining radiation measurements required in Subparagraph A.2.a of this Section may then be made using a dosimetry system that indicates relative dose rates.

4. A licensee shall make full calibration measurements required by Paragraph A.1 of this Section in accordance with the procedures recommended by Task Group 21 of the Radiation Therapy Committee of the American Association of Physicists in Medicine that are described in *Medical Physics*, vol. 10, number 6, 1983, pp. 741-771, and vol. 11, number 2, 1984, p. 213.

5. A licensee shall correct mathematically the outputs determined in Subparagraph A.2.a of this Section for physical decay for intervals not exceeding one month for cobalt-60 and intervals not exceeding six months for cesium-137.

6. Full calibration measurements required by Paragraph A.1 of this Section and physical decay corrections required by Paragraph A.5 of this Section shall be performed by a teletherapy physicist named on the licensee's license or authorized by a license issued by the U.S. Nuclear Regulatory Commission or an agreement state to perform such services.

7. A licensee shall retain a record of each calibration in accordance with Subsection D of this Section.

B. Full Calibration Measurements on Remote Afterloader Units

1. A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:

- a. before the first medical use of the unit;
- b. before medical use under the following conditions:
 - i. following replacement of the source or following reinstallation of the unit in a new location outside the facility; and
 - ii. following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly;
- c. at intervals not exceeding one quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and
- d. at intervals not exceeding one year for low dose-rate remote afterloader units.

2. To satisfy the requirement of Paragraph B.1 of this Section, full calibration measurements shall include, as applicable, determination of:

- a. the output within 5 percent;
- b. source positioning accuracy to within 1 millimeter;
- c. source retraction with backup battery upon power failure;
- d. length of the source transfer tubes;
- e. timer accuracy and linearity over the typical range of use;
- f. length of the applicators; and
- g. function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.

3. A licensee shall use the dosimetry system described in LAC 33:XV.755.A to measure the output.

4. A licensee shall make the full calibration measurements required by Subsection A of this Section in accordance with published protocols accepted by nationally-recognized bodies.

5. In addition to the requirements for full calibrations for low dose-rate remote afterloader units in Paragraph B.2 of this Section, a licensee shall perform an autoradiograph of the sources to verify inventory and source arrangement at intervals not exceeding one quarter.

6. For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with Paragraphs B.1-5 of this Section.

7. A licensee shall mathematically correct the output determined in Subparagraph B.2.a of this Section for physical decay at intervals consistent with 1 percent physical decay.

8. Full calibration measurements required by Paragraph B.1 of this Section and physical decay corrections required by Paragraph B.7 of this Section shall be performed by the authorized medical physicist.

9. A licensee shall retain a record of each calibration in accordance with Subsection D of this Section.

C. Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

1. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:

- a. before the first medical use of the unit;
- b. before medical use under the following conditions:

i. whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

ii. following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and

iii. following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and

c. at intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.

2. To satisfy the requirement of Paragraph C.1 of this Section, full calibration measurements shall include determination of:

- a. the output within 3 percent;
- b. relative helmet factors;
- c. isocenter coincidence;
- d. timer accuracy and linearity over the range of

use;

- e. "on-off" error;
- f. trunnion centricity;
- g. proper functioning of treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
- h. proper functioning of helmet microswitches;

i. proper functioning of emergency timing circuits; and

j. proper functioning of stereotactic frames and localizing devices (trunnions).

3. A licensee shall use the dosimetry system described in LAC 33:XV.755.A to measure the output for one set of exposure conditions. The remaining radiation measurements required in Subparagraph C.2.a of this Section may be made using a dosimetry system that indicates relative dose rates.

4. A licensee shall make the full calibration measurements required by Paragraph C.1 of this Section in accordance with published protocols accepted by nationally-recognized bodies.

5. A licensee shall mathematically correct the outputs determined in Subparagraph C.2.a of this Section at intervals not exceeding one month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.

6. Full calibration measurements required by Paragraph C.1 of this Section and physical decay corrections required by Paragraph C.5 of this Section shall be performed by the authorized medical physicist.

7. A licensee shall retain a record of each calibration in accordance with Subsection D of this Section.

D. Records of Teletherapy Unit, Remote Afterloader Unit, and Gamma Stereotactic Radiosurgery Unit Full Calibrations

1. A licensee shall maintain a record of the teletherapy unit, remote afterloader unit, and gamma stereotactic radiosurgery unit full calibrations required by Subsections A, B, and C of this Section for three years. The record shall include:

a. the date of the calibration;

b. the manufacturer's name, model number, and serial number of the teletherapy, remote afterloader, or gamma stereotactic radiosurgery unit, the source, and the instruments used to calibrate the unit;

c. the results and an assessment of the full calibrations;

d. the results of the autoradiograph required for low dose-rate remote afterloader units; and

e. the signature of the authorized medical physicist who performed the full calibration.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1182 (June 2004).

§757. Periodic Spot-Checks

A. Periodic Spot-Checks for Teletherapy Units

1. A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit at intervals not to exceed one month.

2. To satisfy the requirement of Paragraph A.1 of this Section, spot-checks shall include determination of:

a. timer constancy and timer linearity over the range of use;

b. "on-off" error;

c. the coincidence of the radiation field and the field indicated by the light-beam localizing device;

d. the accuracy of all distance-measuring and localization devices used for medical use;

e. the output for one typical set of operating conditions; and

f. the difference between the measurement made in Subparagraph A.2.e of this Section and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay).

3. A licensee shall use the dosimetry system described in LAC 33:XV.755 to make the spot-check required in Subparagraph A.2.e of this Section.

4. A licensee shall perform spot-checks required by Paragraph A.1 of this Section in accordance with procedures established by the teletherapy physicist. The teletherapy physicist does not need to actually perform the output spot-check measurements.

5. A licensee shall have the teletherapy physicist review the results of each output spot-check within 15 days. The teletherapy physicist shall promptly notify the licensee in writing of the results of each output spot-check. The licensee shall keep a copy of each written notification for two years.

6. A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility at intervals not to exceed one month.

7. To satisfy the requirement of Paragraph A.6 of this Section, safety spot-checks shall ensure proper operation of:

a. electrical interlocks at each teletherapy room entrance;

b. electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation, restricting source housing angulation or elevation and carriage or stand travel, and operating the beam "on-off" mechanism;

c. beam condition indicator lights on the teletherapy unit, on the control console, and in the facility;

d. viewing systems;

e. treatment room doors from inside and outside the treatment room; and

f. electrically-assisted treatment room doors with the teletherapy unit electrical power turned "off."

8. A licensee shall lock the control console in the "off" position if any door interlock malfunctions. No licensee shall use the unit until the interlock system is repaired unless specifically authorized to do so in writing by the department.

9. A licensee shall promptly repair any system identified in Paragraph A.7 of this Section that is not operating properly. The teletherapy unit shall not be used until all repairs are completed.

10. A licensee shall maintain a record of each spot-check required by Paragraphs A.1 and 6 of this Section for two years. The record shall include the date of the spot-check; the manufacturer's name, model number, and serial number for both the teletherapy unit and source; the manufacturer's name, model number, and serial number of the instrument used to measure the output of the teletherapy unit; the timer constancy and linearity; the calculated "on-off" error; a determination of the coincidence of the radiation field and the field indicated by the light beam localizing

device; the timer constancy and linearity for a typical treatment time; the calculated "on-off" error; the estimated accuracy of each distance-measuring or localization device; the difference between the anticipated output and the measured output; notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system, and doors; and the signature of the individual who performed the periodic spot-check.

B. Periodic Spot-Checks for Remote Afterloader Units

1. A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:

a. before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

b. before each patient treatment with a low dose-rate remote afterloader unit; and

c. after each source installation.

2. A licensee shall perform the measurements required by Paragraph B.1 of this Section in accordance with written procedures established by the authorized medical physicist. The authorized medical physicist need not actually perform the spot-check measurements.

3. A licensee shall have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

4. To satisfy the requirements of Paragraph B.1 of this Section, spot-checks shall, at a minimum, ensure proper operation of:

a. electrical interlocks at each remote afterloader unit room entrance;

b. source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

c. viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;

d. emergency response equipment;

e. radiation monitors used to indicate the source position;

f. timer accuracy;

g. clock (date and time) in the unit's computer; and

h. decayed source activity in the unit's computer.

5. If the results of the checks required in Paragraph B.4 of this Section indicate the malfunction of any system, a licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

6. A licensee shall retain a record of each check required by Paragraph B.4 of this Section and a copy of the procedures required by Paragraph B.2 of this Section for three years. The records shall include:

a. the date of the spot-check;

b. the manufacturer's name, model number, and serial number for the remote afterloader unit and source;

c. an assessment of timer accuracy;

d. notations indicating the operability of entrance door electrical interlocks, radiation monitors, source exposure indicator lights, viewing and intercom systems, and clock and decayed source activity in the unit's computer; and

e. the name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

7. A licensee shall retain a copy of the procedures required by Paragraph B.6 of this Section until the licensee no longer possesses the remote afterloader unit.

C. Periodic Spot-Checks for Gamma Stereotactic Radiosurgery Units

1. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:

- a. monthly;
- b. before the first use of the unit on a given day; and
- c. after each source installation.

2. A licensee shall:

a. perform the measurements required by Paragraph C.1 of this Section in accordance with written procedures established by the authorized medical physicist; and

b. have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

3. To satisfy the requirements of Subparagraph C.1.a of this Section, spot-checks shall, at a minimum:

a. ensure proper operation of:

- i. treatment table retraction mechanisms, using backup battery power or hydraulic backups with the unit off;
- ii. helmet microswitches;
- iii. emergency timing circuits; and
- iv. stereotactic frames and localizing devices (trunnions);

b. determine:

i. the output for one typical set of operating conditions measured with the dosimetry system described in LAC 33:XV.755.B;

ii. the difference between the measurement made in accordance with Clause C.3.b.i of this Section and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay);

iii. the degree of agreement between source output and computer calculation;

iv. timer accuracy and linearity over the range of use;

v. "on-off" error; and

vi. trunnion centricity.

4. To satisfy the requirements of Subparagraphs C.1.b and c of this Section, spot-checks shall ensure proper operation of:

a. electrical interlocks at each gamma stereotactic radiosurgery room entrance;

b. source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;

c. viewing and intercom systems;

d. timer termination;

e. radiation monitors used to indicate room exposures; and

f. emergency "off" buttons.

5. A licensee shall arrange for the repair of any system identified in Paragraph C.3 of this Section that is not operating properly as soon as possible.

6. If the results of the checks required in Paragraph C.4 of this Section indicate the malfunction of any system, a licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

7. A licensee shall retain a record of each check required by Paragraphs C.3 and 4 of this Section for three years. The record shall include:

a. the date of the spot-check;

b. the manufacturer's name, model number, and serial number for the gamma stereotactic radiosurgery unit and the instrument used to measure the output of the unit;

c. an assessment of timer linearity and accuracy;

d. the calculated "on-off" error;

e. a determination of trunnion centricity;

f. the difference between the anticipated output and the measured output;

g. an assessment of source output against computer calculations;

h. notations indicating the operability of radiation monitors, helmet microswitches, emergency timing circuits, emergency "off" buttons, electrical interlocks, source exposure indicator lights, viewing and intercom systems, timer termination, treatment table retraction mechanism, and stereotactic frames and localizing devices (trunnions); and

i. the name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

8. A licensee shall retain a copy of the procedures required by Paragraph C.2 of this Section until the licensee no longer possesses the gamma stereotactic radiosurgery unit.

D. Additional Technical Requirements for Mobile Remote Afterloader Units

1. A licensee providing mobile remote afterloader service shall:

a. check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and

b. account for all sources before departure from a client's address of use.

2. In addition to the periodic spot-checks required by Subsection B of this Section, a licensee authorized to use mobile remote afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks shall be made to verify the operation of:

a. electrical interlocks on treatment area access points;

b. source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

c. viewing and intercom systems;

d. applicators, source transfer tubes, and transfer tube-applicator interfaces;

e. radiation monitors used to indicate room exposures;

f. source positioning (accuracy); and

g. radiation monitors used to indicate whether the source has returned to a safe shielded position.

3. In addition to the requirements of periodic spot-checks in Paragraph D.2 of this Section, a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

4. If the results of the checks required in Paragraph D.2 of this Section indicate the malfunction of any system, a licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

5. A licensee shall retain a record of each check required by Paragraph D.2 of this Section for three years. The record shall include:

- a. the date of the check;
- b. the manufacturer's name, model number, and serial number of the remote afterloader unit;
- c. notations accounting for all sources before the licensee departs from a facility;
- d. notations indicating the operability of entrance door electrical interlocks, radiation monitors, source exposure indicator lights, viewing and intercom system, applicators, source transfer tubes, and transfer tube applicator interfaces, and source positioning accuracy; and
- e. the signature of the individual who performed the check.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1183 (June 2004).

§758. Radiation Surveys

A. A person licensed under this Chapter shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with the source in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.

B. The licensee shall make the survey required by Subsection A of this Section at installation of a new source and following repairs to the source shielding, the source driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around the source, or compromise the radiation safety of the unit or the source.

C. A licensee shall maintain a record of radiation surveys of treatment units made in accordance with Subsections A and B of this Section for the duration of use of the unit. The record shall include:

1. the date of the measurements;
2. the manufacturer's name, model number, and serial number of the treatment unit, the source, and the instrument used to measure radiation levels;
3. each dose rate measured around the source while the unit is in the "off" position and the average of all measurements; and
4. the signature of the individual who performed the test.

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HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004).

§759. Safety Spot-Checks for Teletherapy Facilities

A. A licensee shall promptly check all systems listed in LAC 33:XV.757.A.7 for proper function after each installation of a teletherapy source and after making any change for which an amendment is required by LAC 33:XV.749.

B. If the results of the safety spot-checks required in Subsection A of this Section indicate the malfunction of any system specified in LAC 33:XV.757, the licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

C. ...

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

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§762. Five-Year Inspection

A. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to ensure proper functioning of the source exposure mechanism.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004).

§763. Training

A. - D.2.b.iii. ...

iv. using administrative controls to prevent a medical event involving the use of unsealed radioactive material;

D.2.b.v. - I.2.b.ii. ...

iii. using administrative controls to prevent a medical event involving the use of radioactive material;

I.2.b.iv. - O. ...

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

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§777. Written Directives

A. A written directive shall be dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 megabecquerels (MBq) (30 microcuries (μCi)), any therapeutic dosage of radioactive material, or any therapeutic dose of radiation from radioactive material. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient's record. A written directive shall be prepared within 48 hours of the oral directive.

B. The written directive shall contain the patient's or human research subject's name and the following information:

1. for any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I-131, the dosage;
2. for an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131:
 - a. the radioactive drug;
 - b. the dosage; and
 - c. the route of administration;
3. for gamma stereotactic radiosurgery:
 - a. the total dose;
 - b. the treatment site; and
 - c. the values for the target coordinate settings per treatment for each anatomically distinct treatment site;
4. for teletherapy:
 - a. the total dose;
 - b. the dose per fraction;
 - c. the number of fractions; and
 - d. the treatment site;
5. for high dose-rate remote afterloading brachytherapy:
 - a. the radionuclide;
 - b. the treatment site;
 - c. the dose per fraction;
 - d. the number of fractions; and
 - e. the total dose; or
6. for all other brachytherapy, including low, medium, and pulsed dose-rate remote afterloaders:
 - a. before implantation:
 - i. the treatment site;
 - ii. the radionuclide; and
 - iii. the dose; and
 - b. after implantation but before completion of the procedure:
 - i. the radionuclide;
 - ii. the treatment site;
 - iii. the number of sources; and
 - iv. the total source strength and exposure time (or the total dose).

C. For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

1. the patient's or human research subject's identity is verified before each administration; and

2. each administration is in accordance with the written directive.

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 21:554 (June 1995), amended LR 24:2110 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2591 (November 2000), LR 30:1187 (June 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0406#029

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Skin Dose Limits, Corrections, and Clarifications
(LAC 33:XV.102, 110, 326, 410,
503, 541, and 1410)(RP036)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.102, 110, 326, 410, 503, 541, and 1410 (Log #RP036).

This Rule is amending the state's regulations regarding the definition and method of calculating shallow dose equivalent (SDE). A result of this amendment is to make the skin dose limit less restrictive when small areas of skin are irradiated and to address skin and extremity doses from all source geometries under a single limit. Reduced monitoring will result in reduced external dose, and reduced use of protective clothing will result in fewer industrial hazards in the workplace. This amendment, in LAC 33:XV.102 and 410, is taken verbatim from 10 CFR 20.1003 and 1203 and is required for the state radiation program/Nuclear Regulatory Commission compatibility. The amendments to sections regarding internal inspections, prohibited uses, and locks on radiation sources will correct conflicts that are present with other sections of LAC 33:Part XV. The definition of permanent radiographic installation is being amended in order to agree with its federal counterpart. This rulemaking is necessary to alleviate conflicts among sections within LAC 33:Part XV and to keep Louisiana's radiation protection program current with its federal counterpart. The basis and rationale for this Rule are to mirror the federal regulations and to alleviate conflicting sections and clarify the radiation regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection

Chapter 1. General Provisions

§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.

* * *

Shallow Dose Equivalent (H_s) Applies to the external exposure of the skin of the whole body or the skin of an extremity, and is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²).

* * *

Metric Prefixes and Abbreviations

c	centi	(=10 ⁻²)	f	femto	(=10 ⁻¹⁵)
m	milli	(=10 ⁻³)	k	kilo	(=10 ³)
μ	micro	(=10 ⁻⁶)	M	mega	(=10 ⁶)
n	nano	(=10 ⁻⁹)	G	giga	(=10 ⁹)
p	pico	(=10 ⁻¹²)	T	tera	(=10 ¹²)

* * *

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 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), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1188 (June 2004).

§110. Prohibited Uses

A. - D. ...

E. No person shall intentionally apply or allow to be applied, either directly or indirectly, radiation to human beings except by, or under the supervision of, persons licensed by Louisiana to practice the healing arts and who are authorized to use radiation on humans.

1. *Supervision*, as used in this Subsection, shall mean the responsibility for, and control of, quality, radiation safety, and technical aspects of the application of radiation to human beings for diagnostic and therapeutic purposes.

2. This prohibition shall not be deemed to apply to persons who are exposed to radiation occupationally, or as otherwise provided in these regulations.

Note: Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2564 (November 2000), LR 30:1188 (June 2004).

Chapter 3. Licensing of Radioactive Material

Subchapter D. Specific Licenses

§326. Special Requirements for Issuance of Certain

Specific Licenses for Radioactive Material

A. - E.1.b. ...

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

d. - k. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 27:1228 (August 2001), LR 30:1188 (June 2004).

Chapter 4. Standards for Protection Against Radiation

Subchapter B. Radiation Protection Programs

§410. Occupational Dose Limits for Adults

A. - A.1.b. ...

2. the annual limits to the lens of the eye, to the skin of the whole body, and to the skin of the extremities, which are:

a. ...

b. a shallow dose equivalent of 0.5 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.

B. ...

C. The assigned deep dose equivalent must be for the part of the body receiving the highest exposure. The assigned shallow dose equivalent must be the dose averaged over the contiguous 10 square centimeters of skin receiving the highest exposure. The deep dose equivalent, lens dose equivalent, and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure or the results of individual monitoring are unavailable.

D. If a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in LAC 33:XV.431, the effective dose equivalent for external radiation shall be determined using one of the following methods.

1. When only one individual monitoring device is used and it is located at the neck outside the protective apron, the reported deep dose equivalent shall be the effective dose equivalent for external radiation.

2. When only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25 percent of the limit specified in this Section, the reported deep dose equivalent value, multiplied by 0.3, shall be the effective dose equivalent for external radiation.

3. When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation shall be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron, multiplied by 1.5, and the deep dose equivalent

reported for the individual monitoring device located at the neck outside the protective apron, multiplied by 0.04.

E. Derived air concentration (DAC) and annual limit on intake (ALI) values are specified in Table I of Appendix B and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits. See LAC 33:XV.476.

F. Notwithstanding the annual dose limits, the licensee shall limit the soluble uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity. See Endnote 3 of Appendix B.

G. The licensee or registrant shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person. See LAC 33:XV.414.E and F.

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 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2769 (December 2000), LR 30:1188 (June 2004).

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

§503. Definitions

As used in this Chapter, the following definitions apply.

* * *

Permanent Radiographic Installation An enclosed shielded room, cell, or vault, not located at a temporary jobsite, in which radiography is performed.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 26:2772 (December 2000), LR 27:1231 (August 2001), LR 29:34 (January 2003), LR 30:1189 (June 2004).

Subchapter A. Equipment Control

§541. Locking of Sources of Radiation

A. Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its container must be kept locked, with the key removed at all times for a keyed-lock, when not under the direct surveillance of a radiographer or a trainee except at permanent radiographic installations in accordance with LAC 33:XV.585. In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

B. Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked, with the key removed at all times for a keyed-lock, when containing sealed

sources, except when under the direct surveillance of a radiographer or trainee.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1232 (August 2001), LR 28:306 (February 2002), LR 30:1189 (June 2004).

Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)

§1410. General Licenses: Pipe Yards, Storage Yards, or Production Equipment Yards

A. A general license is hereby issued for pipe yards or storage yards or production equipment yards to receive, possess, process, and clean tubular goods or equipment that are contaminated with scale or residue but do not exceed 50 microroentgens per hour, provided:

1. the department is notified at least 90 days prior to receipt of tubular goods or equipment that are contaminated with scale or residue but do not exceed 50 microroentgens per hour;

2. - 6. ...

7. a plan for cleanup is submitted to the Office of Environmental Services, Permits Division within 180 days of the discovery of NORM contaminated soil in excess of the limit in LAC 33:XV.1410.A.6. The plan shall include a schedule for cleanup that is to be approved by the department. The general licensee may include in this plan an application to the department for a one time authorization to perform this cleanup or use a specific licensee; and

A.8. - 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 Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), amended LR 21:26 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), LR 30:1189 (June 2004).

Wilbert F. Jordan, Jr.
Assistant Secretary

0406#027

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits
Technical Corrections and Clarifications
(LAC 32:V.103, 301, and 701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the

responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend certain provisions of the EPO Plan of Benefits in order to insert technical corrections and to clarify such provisions to assure the plan of benefits accurately reflects OGB's administrative interpretations and applications.

Accordingly, OGB amended the following Rule, effective upon promulgation.

**Title 32
EMPLOYEE BENEFITS**

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§103. Continued Coverage

A. - C.3.e.iii. ...

D. Over-Age Dependents. If a never married dependent child is incapable of self-sustaining employment by reason of mental retardation or physical incapacity, became incapable prior attainment of age 21, and is dependent upon the covered employee for support, the coverage for the dependent child may be continued for the duration of incapacity.

1. Prior to such dependent child's attainment of age 21, an application for continued coverage must be submitted to the program together with current medical information from the dependent child's attending physician to establish eligibility for continued coverage as set forth above.

2. The program may require additional medical documentation regarding the dependent child's mental retardation or physical incapacity upon receipt of the application for continued coverage and as often as it may deem necessary thereafter.

3. For purposes of this Section, mental illness does not constitute mental retardation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1806 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits LR 30:1190 (June 2004).

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.20.d. ...

21. services of a physical therapist and occupational therapist licensed by the state in which the services are rendered when:

a. prescribed by a licensed physician and rendered in a non group setting;

b. - e. ...

f. approved through case management when rendered in the home;

22. - 30.c. ...

31.a. testing of sleep disorders only when the tests are performed at either:

i. a sleep study facility accredited by the American Academy of Sleep Medicine or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

ii. a sleep study facility located within a healthcare facility accredited by JCAHO;

31.b. - 32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002), LR 29:334 (March 2003), LR 30:1190 (June 2004).

Chapter 7. Schedule of Benefits
§701. Comprehensive Medical Benefits

A. - A.1. ...

2.a. Percentage Payable after Satisfaction of Applicable Deductibles

	Non-Participating Provider	EPO Participating Provider
Eligible expenses incurred for services of an EPO participating provider	N/A	100%
Eligible expenses incurred for services of a non-participating provider	70%	N/A
Eligible expenses incurred when Medicare or other Group Health Plan is primary, and after Medicare reduction	80%	N/A
Eligible expenses in excess of \$10,000 per person per Calendar Year	100%	N/A
<ul style="list-style-type: none"> Eligible expenses for services of an EPO participating provider are based upon contracted rates. Eligible expenses for services non-participating provider are based upon the OGB's fee schedule. Charges in excess of the fee schedule are not eligible expenses and do not apply to the coinsurance threshold. 		

A.2.b. - D. ...

E. Durable Medical Equipment

	Non-Participating Provider	EPO Participating Provider
Lifetime Maximum per covered person	\$50,000	
Percentage payable	See percentage payable after applicable deductible (above)	20% member co-pay; 100% coverage after \$10,000 eligible expense for plan year

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees, State Employees Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717, 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:338 (March 2003), LR 30:1190 (June 2004).

A. Kip Wall
Chief Executive Officer

0406#053

RULE

Office of the Governor Division of Administration Office of Group Benefits

MCO Plan of Benefits
Technical Corrections and Clarifications
(LAC 32:IX:103 and 301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend certain provisions of the MCO Plan of Benefits in order to insert technical corrections and to clarify such provisions to assure the plan of benefits accurately reflects OGB's administrative interpretations and applications.

Accordingly, OGB has amended the following Rule, effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part IX. Managed Care Option (MCO) Plan of Benefits

Chapter 1. Eligibility

§103. Continued Coverage

A. - C.3.e.iii. ...

D. Over-Age Dependents. If a never married dependent child is incapable of self-sustaining employment by reason of mental retardation or physical incapacity, became incapable prior to attainment of age 21, and is dependent upon the covered employee for support, the coverage for the dependent child may be continued for the duration of incapacity.

1. Prior to such dependent child's attainment of age 21, an application for continued coverage must be submitted to the program together with current medical information from the dependent child's attending physician to establish eligibility for continued coverage as set forth above.

2. The program may require additional medical documentation regarding the dependent child's mental retardation or physical incapacity upon receipt of the application for continued coverage and as often as it may deem necessary thereafter.

3. For purposes of this Section, mental illness does not constitute mental retardation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:885 (June 2003), amended LR 30:1191 (June 2004).

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A.20.d. ...

21. services of a physical therapist and occupational therapist licensed by the state in which the services are rendered when:

a. prescribed by a licensed physician and rendered in a non group setting;

b. - e. ...

f. approved through case management when rendered in the home;

22. - 30.c. ...

31.a. testing of sleep disorders only when the tests are performed at either:

i. a sleep study facility accredited by the American Academy of Sleep Medicine or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

ii. a sleep study facility located within a healthcare facility accredited by JCAHO;

31.b. - 32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 29:888 (June 2003), amended LR 30:1191 (June 2004).

A. Kip Wall
Chief Executive Officer

0406#051

RULE

Office of The Governor Division of Administration Office of Group Benefits

PPO Plan of Benefits
Technical Corrections and Clarifications
(LAC 32:III.103, 301, and 701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend certain provisions of the PPO Plan of Benefits in order to insert technical corrections and to clarify such provisions to assure the plan of benefits accurately reflects OGB's administrative interpretations and applications.

Accordingly, OGB amends the following Rule, effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider Organization (PPO) Plan of Benefits

Chapter 1. Eligibility

§103. Continued Coverage

A. - C.3.e.iii. ...

D. Over-Age Dependents. If a never married dependent child is incapable of self-sustaining employment by reason of mental retardation or physical incapacity, became incapable prior to attainment of age 21, and is dependent upon the covered employee for support, the coverage for the

dependent child may be continued for the duration of incapacity.

1. Prior to such dependent child's attainment of age 21, an application for continued coverage must be submitted to the program together with current medical information from the dependent child's attending physician to establish eligibility for continued coverage as set forth above.

2. The program may require additional medical documentation regarding the dependent child's mental retardation or physical incapacity upon receipt of the application for continued coverage and as often as it may deem necessary thereafter.

3. For purposes of this Section, mental illness does not constitute mental retardation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1827 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 30:1191 (June 2004).

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses Are Incurred by a Covered Person

A. - A. 20.d. ...

21. services of a physical therapist and occupational therapist licensed by the state in which the services are rendered when:

a. prescribed by a licensed physician and rendered in a non group setting;

b. - e. ...

f. approved through case management when rendered in the home;

22. - 30.c. ...

31.a. testing of sleep disorders only when the tests are performed at either:

i. a sleep study facility accredited by the American Academy of Sleep Medicine or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

ii. a sleep study facility located within a healthcare facility accredited by JCAHO;

31.b. - 32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004).

Chapter 7. Schedule of Benefits CPPO

§701. Comprehensive Medical Benefits

A. - A.1. ...

2. Percentage Payable after Satisfaction of Applicable Deductibles

• Eligible expenses for services of a PPO participating provider are based upon contracted rates.
• Eligible expenses for services a non-participating provider are based upon the OGB's fee schedule. Charges in excess of the fee schedule are not eligible expenses and do not apply to the coinsurance threshold.

A.3 - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801 (C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), amended LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), LR 30:1192 (June 2004).

A. Kip Wall
Chief Executive Officer

04062004

RULE

**Office of the Governor
Real Estate Commission**

**Residential Property Disclosure
(LAC 46:LXVII.3601)**

Under the authority of R.S. 9:3195 et seq. (Residential Property Disclosure) and R.S. 37:1430 et seq. (Louisiana Real Estate License Law), and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has adopted LAC 46:LXVII.3601.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 36. Residential Property Disclosure

§3601. Property Disclosure Document for Residential Real Estate

A. In accordance with R.S. 9:3195 through 3199, unless exempted therein, the seller of residential real property shall complete a property disclosure document in a form prescribed by the Louisiana Real Estate Commission or a form that contains at least the minimum language prescribed by the Commission. The *Property Disclosure Document for Residential Real Estate* prescribed by the Louisiana Real Estate Commission is maintained in its entirety on the commission website and is available for public use.

AUTHORITY NOTES: Promulgated in accordance with R.S. 9:3195 et seq.

HISTORICAL NOTES: Promulgated by the Office of the Governor, Real Estate Commission, LR 30:1192 (June 2004).

Julius C. Willie
Executive Director

0406#030

Eligible expenses incurred for services of a PPO participating provider	90%
Eligible expenses incurred for services of a non-participating provider when Plan Member resides outside of Louisiana	90%
Eligible expenses incurred for services of a non-participating provider when Plan Member resides in Louisiana	70%

RULE

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

Dispensing of Medications (LAC 46:XLV.6503)

The Board of Medical Examiners (board), pursuant to the authority vested in the board by the Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, and the Administrative Procedure Act, R.S. 49:950 et seq., has amended Title 46:XLV, Subpart 3, Chapter 65, Subchapter A, §6503 of its administrative rules to increase the length of time over which bona fide (non-controlled) medication samples may be dispensed by physicians to their patients from seven days to an amount that does not exceed "a reasonable therapeutic dosage."

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter A. General Provisions

§6503. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Bona Fide Medication Sample—A medication, other than a controlled substance, packaged by the original manufacturer thereof in such quantity as does not exceed a reasonable therapeutic dosage and provided at no cost to a physician for administration or dispensation to a patient at no cost to the patient.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

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 30:1193 (June 2004).

John B. Bobear, M.D.
Executive Director

0406#049

RULE

**Department of Health and Hospitals
Office of Public Health**

Safe Drinking Water Program
Stage 1 Disinfectants and Disinfection Byproducts Rule
(LAC 51:XII.101, 311, 367, 1103,
1110-1112, 1115, Chapters 13 and 15)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) hereby amends Part XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States

Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

This Rule is specifically necessary due to a federal rule promulgated by the USEPA in the *Federal Register* dated December 16, 1998 (Volume 63, Number 241, pages 69389 through 69476), which is entitled "National Primary Drinking Water Regulations: Disinfectants and Disinfection Byproducts; Final Rule." This rule is commonly referred to as the federal Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR). In addition, technical corrections to the Stage 1 DBPR were promulgated by the USEPA in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780) and in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903).

A public water system (PWS) is classified as either a community water systems (CWSs), a non-transient non-community water systems (NTNCWSs), or a transient non-community water systems (TNCWSs). Definitions/examples of CWSs, NTNCWSs, and TNCWSs may be found in R.S. 40:5.8. This proposed Rule is only applicable to CWSs and NTNCWSs which add a chemical disinfectant (such as chlorine, chloramines, chlorine dioxide, ozone, etc.) to the water in any part of the drinking water treatment process. Also, certain provisions are specifically applicable to those TNCWSs which utilize chlorine dioxide in their treatment processes [e.g., monitoring/maximum residual disinfectant level (MRDL) for chlorine dioxide and monitoring/maximum contaminant level (MCL) for chlorite].

For CWS and NTNCWs whose source of water supply is surface water, or ground water under the direct influence of surface water (GWUDISW), serve 10,000 or more individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR was January 1, 2002. Likewise, TNCWSs whose source of water supply is surface water, or ground water under the direct influence of surface water (GWUDISW), serve 10,000 or more individuals, and add chlorine dioxide in the treatment process, the compliance date under the federal Stage 1 DBPR was January 1, 2002.

For CWSs and NTNCWS whose source of water supply is surface water or GWUDISW, serve less than 10,000 individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004. In addition, TNCWSs whose source of water supply is surface water or GWUDISW, serve less than 10,000 individuals, and add chlorine dioxide in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004.

For CWSs and NTNCWSs whose source of water supply is only ground water (and such ground water is not considered GWUDISW), serve 25 or more individuals, and add a chemical disinfectant in the treatment process, the compliance date under the federal Stage 1 DBPR is January 1, 2004.

The major reason for this amendment to Part XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt an

equivalent Stage 1 DBPR on the state level. The rule adds a new Chapter 13 to Part XII entitled "Stage 1 Disinfectants and Disinfection Byproducts Rule" as well as a new Chapter 15 to Part XII entitled "Approved Chemical Laboratories/Drinking Water."

The rule applies to public water systems that add or use a chemical disinfectant for either primary or residual treatment of the drinking water. The general purposes of the rule are to:

1. establish maximum residual disinfectant levels (MRDLs) for three disinfectants (chlorine, chloramines, and chlorine dioxide);

2. lower the existing maximum contaminant level (MCL) for total trihalomethanes (TTHMs) applicable to systems serving 10,000 or more individuals (TTHMs is one group of organic disinfection byproducts);

3. establish a MCL for TTHMs which is applicable to systems serving less than 10,000 individuals;

4. establish a MCL for Haloacetic Acids (HAA5) (HAA5 is another group of organic disinfection byproducts);

5. establish a MCL for chlorite [an inorganic disinfection byproduct created when using chlorine dioxide];

6. establish a MCL for bromate [another inorganic disinfection byproduct created when using ozone]; and

7. establish a treatment technique (TT) requirement for the control of disinfection byproduct (DBP) precursor chemicals applicable to systems whose source of water supply is surface water or GWUDISW using conventional filtration treatment.

8. regulate all laboratories (including both on-site water plant laboratories as well as private, commercial laboratories) which perform analyses on compliance monitoring samples wherein the particular parameter is not required to be analyzed by a laboratory holding official certification from the Office of Public Health (OPH) or the USEPA. The distinction is that laboratories found acceptable under Chapter 15 herein are considered "approved," but not officially "certified" by OPH (as that term is currently used in LAC 51:XII.301.C).

The USEPA and DHH-OPH believe that the implementation of this rule will reduce the levels of disinfectants and disinfection byproducts (DBPs) in drinking water supplies. The ultimate goal is to reduce the public exposure to potentially harmful DBPs in their drinking water.

In addition, the amendment to Part XII also updates adoption of the *Recommended Standards for Water Works* (commonly called the Ten State Standards) from the 1982 Edition to the 2003 Edition. Also, portions of the Interim Enhanced Surface Water Treatment Rule (LAC 51:XII.Chapter 11) which was adopted December 20, 2002 are hereby amended to specifically address the calibration/validation of pH meters and temperature measuring devices as well as the correction of several typographical errors wherein the word **A**ppendix**@**s to be changed to the word **A**chapter**@** Finally, Sections 311 and 367 of Part XII are hereby amended to increase the retention time for certain records from the current two year requirement to three years in order to be consistent with recordkeeping provisions adopted in the Interim Enhanced Surface Water Treatment Rule.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code is hereby amended as follows:

Title 51

PUBLIC HEALTH-SANITARY CODE

Part XII. Water Supplies

Chapter 1. General

§101. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows:

* * *

Certified Chemical Laboratory/Drinking Water **C**a laboratory meeting the requirements contained within the *Laboratory Certification Manual* and which has been officially certified by the state health officer to analyze and report compliance monitoring sample results for one or more physical, chemical, or radiological parameters associated with drinking water. Certification may be obtained on a parameter by parameter basis only.

* * *

National Primary Drinking Water Regulations **C**

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, *et seq.*, and as published in the July 1, 1999 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. Subpart **H**C Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75);

ii. Subpart **M**C Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144); and

iii. Subpart **P**C Enhanced Filtration and Disinfection (40 CFR 141.170 through 141.175);

b. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, *et seq.*, and as published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780), less and except:

i. any amendments contained therein applicable to 40 CFR 141.70 through 141.75; and

ii. any amendments contained therein applicable to 40 CFR 141.170 through 141.175; and

c. 40 CFR 141 drinking water regulation amendments promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, *et seq.*, and as published in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903).

d. When "Subpart H" or "Subpart P" is used within the actual text of the drinking water regulations cited in Subparagraphs a, b, or c of this Paragraph (definition), **A**AC 51:XII.Chapter 11**@** shall be substituted therein.

* * *

Ten State Standards **C**he *Recommended Standards for Water Works* (2003 Edition)* promulgated by the Great Lakes and Upper Mississippi Board of State Sanitary Engineers and any modifications and additions to these Standards which the state health officer may establish in this Part.

NOTE: Published by: Health Education Services, P.O. Box 7126, Albany, New York 12224 (Internet URL address: <http://www.hes.org/>)

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), amended LR 30:1194 (June 2004).

Chapter 3. Water Quality Standards

§311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of three years on forms approved by the state health officer. Copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004).

§367. Records

[formerly paragraph 12:021-7]

A. Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1327 (June 2002), amended LR 30:1195 (June 2004).

Chapter 11. Interim Enhanced Surface Water Treatment Rule

Subchapter A. General Requirements and Definitions

§1103. Definition of Terms

A. ...

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Chapter except where the following special definitions apply.

* * *

Best Available Technology **C**for the purpose of this Chapter in relation to the treatment of surface water, means conventional filtration treatment which conforms with all of the requirements of this Chapter.

* * *

Calibration_{pH} **C**o standardize (adjust the instrument response to a pH primary standard) a pH meter (such as a bench top or continuous monitoring pH meter) by determining the deviation from a pH primary standard so as

to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable results.

* * *

Calibration_{temp} **C**o standardize [adjust the instrument response to a NIST traceable standard] a temperature measuring device (such as a thermometer or thermocouple) by determining the deviation from a NIST traceable standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5(2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1336 (June 2002), amended LR 28:2514 (December 2002), amended LR 30:1195 (June 2004).

§1110. Calibration_{pH}/Validation of pH Meters

A. pH of water within the water treatment plant shall be conducted using a pH meter having a minimum accuracy of " 0.2 pH units.

B. Benchtop pH meters used for determining the pH of water within the water treatment plant shall be calibrated at least once each day in accordance with Section 4.a. of SM 4500-H⁺ B (Electrometric pH Method) of the *Standard Methods for the Examination of Water and Wastewater*, 19th Edition, or the manufacturer's specifications.

C. The calibration_{pH} of benchtop pH meters shall be validated with at least one buffer solution each time a series of samples is run and, if necessary, recalibrated in accord with the requirements of Subsection B of this Section.

D. On-line pH meters shall be calibrated_{pH} according to the manufacturer's specifications at a frequency such that the deviation observed between calibrations is typically less than " 0.2 pH units. The deviation is to be recorded at each calibration by recording the current process pH both before and after calibration. In no case shall calibrations of on-line pH meters be performed at a frequency of less than once each week.

E. Records of calibrations on each pH meter shall be maintained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1195 (June 2004).

§1111. Calibration_{temp}/Validation of Temperature Measuring Devices

A. Water temperature within the water treatment plant shall be measured using a thermometer, thermocouple, or other temperature measuring device having a minimum accuracy of " 0.5 degrees Celsius (0.5EC).

B. Service thermometers, thermocouples, and other temperature measuring devices used for determining water temperature within the water treatment plant shall be validated at a frequency of once per month using a field thermometer that has been calibrated annually against a NIST certified thermometer. The NIST certified thermometer shall be sent back to the manufacturer for recalibration at least once every three years.

C. Records of validations/calibrations on each temperature measuring device shall be maintained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002, amended LR 28:2518 (December 2002), amended LR 30:1195 (June 2004).

§1112. Cleaning of Analytical Instrumentation

A. A thorough cleaning of analytical instrumentation (particularly continuous monitoring turbidimeters, disinfectant residual monitors, and pH meters) shall be performed, as necessary, prior to performing any calibration/validation. On a weekly basis, continuous monitoring turbidimeters and continuous disinfectant residual monitors shall be inspected to determine if there is any material or sedimentation in the measuring chambers. Records of such inspection/cleaning shall be kept for at least 3 years and such records shall include meter location (e.g., model and serial number), dates of cleaning, and the name of the person performing the cleaning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1196 (June 2004).

§1115. Filtration Performance Standards

A. - B.1.[Table 2]. ...

2. Expected minimum removal credits for public water systems serving less than 10,000 individuals are listed in Table 3 of this Chapter along with the corresponding remaining disinfection log inactivation required.

B.2.[Table 3] - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:2519(December 2002), amended LR 30:1196 (June 2004).

Chapter 13. Stage I Disinfectants and Disinfection Byproducts Rule

Subchapter A. General

§1301. General

A. Pursuant to the definition of National Primary Drinking Water Regulations and the provisions of §377 of this Part, the Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts by reference the United States Environmental Protection Agency (USEPA) federal Disinfectants and Disinfection Byproducts Rule (D/DBPR) as published in the *Federal Register* dated December 16, 1998 (Volume 63, Number 241, pages 69389 through 69476). In addition, under §377 of this Part, DHH-OPH also adopted by reference certain USEPA technical corrections to the federal D/DBPR. The applicable technical corrections were published in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780) and in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903). The regulations in this Chapter are promulgated in order to clarify the State's discretionary decisions allowed by the federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1196 (June 2004).

Subchapter B. Disinfection Byproduct (DBP) Precursor Control

§1303. Applicability

A. The requirements of this Subchapter shall only be applicable to public water systems whose source of water is surface water or ground water under the direct influence of surface water (GWUDISW) which employ conventional filtration treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1196 (June 2004).

§1305. Monthly TOC Monitoring/Reporting

A. Public water systems meeting §1303. A applicability requirements of this Subchapter shall submit the results of their paired (source water and treated water) total organic carbon (TOC) samples (which have been collected for compliance determination in accord with the system's approved D/DBPR monitoring plan) to the state health officer monthly for each individual treatment plant. In addition, the result of source water alkalinity sampling conducted at the same time as the source water TOC sample shall also be submitted to the state health officer monthly for each individual treatment plant. The actual monthly TOC percent removal and the removal ratio (reported to two significant figures past the decimal point) shall be calculated in accord with 40 CFR 141.135(c) and indicated on the form. All results for each particular plant shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar month.

B. When monthly TOC percent removal calculations performed under Subsection A of this Section result in a negative number (indicative of having a higher level of TOC in treated water than in source water), a "0" percent removal shall be reported for that particular paired sample set instead of the negative number. If this should happen, OPH recommends that an additional paired sample set of TOC samples be collected later in that same month. If the system chooses to collect an additional paired sample set of TOC samples during that same month, the system shall mathematically average the "0" result of the first paired sample set with the result of the second paired sample set and report such average as the monthly TOC percent removal achieved on the monthly TOC report form. If the system does not choose to collect an additional paired sample set of TOC samples during that same month, the system shall report a "0" percent removal achieved on the monthly TOC report form.

C. Plant sites having multiple treatment trains shall perform TOC paired monitoring on each treatment train and report the results of each separate treatment train on its own, individual, and properly identified TOC monthly operating report. The actual monthly TOC percent removal and the removal ratio (reported to two significant figures past the decimal point) for the entire plant site shall be determined by performing a flow-weighted average using the results from each individual treatment train. Flow-weighted averaging shall be based upon the flows at the moment in time that the

samples are collected. The percent flow attributed to each treatment train shall be reported and shown in the flow-weighted average calculation formula.

1. On a case-by-case basis, a system may apply to DHH-OPH for approval of the use of a flow-weighted sample composite of all treatment trains in lieu of individual TOC analyses of each individual treatment train. The flow-weighted sample shall be composited by laboratory personnel using aliquots from individual samples collected from each treatment train. Flow-weighted averaging shall be based upon the flows at the moment in time that the samples are collected. Each sample composite shall consist of aliquots from no more than five different treatment trains. Each laboratory report of a sample composite shall identify the specific treatment trains associated with the composited sample.

2. On a case-by-case basis, a system may apply to DHH-OPH for a waiver allowing monitoring of only one treatment train at a facility having multiple treatment trains if the system can demonstrate consistency in TOC sample results between each of the different treatment trains located at the facility. If such waiver is granted, it shall be stipulated therein that the waiver shall automatically cease if any treatment changes are made which may affect the continued consistency between TOC sample results between the various treatment trains.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1196 (June 2004).

§1307. Quarterly TOC Report

A. At the end of each calendar quarter, public water systems meeting §1303.A applicability requirements of this Subchapter shall submit a quarterly TOC report to the state health officer for each plant site. Particularly, after 12 consecutive months of TOC compliance monitoring have occurred, the system shall, following the end of each calendar quarter, calculate the running annual TOC removal ratio average using the previous 12 months of monthly TOC removal ratios as the basis. [For example, the report for the 4th calendar quarter of 2004 (required to be submitted no later than January 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then 12 preceding months, i.e., January through December 2004. The report for the 1st calendar quarter 2005 (required to be submitted no later than April 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., April 2004 - March 2005. The report for the 2nd calendar quarter 2005 (required to be submitted no later than July 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., July 2004 - June 2005. The report for the 3rd calendar quarter 2005 (required to be submitted no later than October 10, 2005) will consist of the annual average removal ratio determined from the 12 monthly removal ratios reported from each of the then preceding 12 months, i.e., October 2004 - September 2005, etc.] The quarterly TOC report shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH

District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1197 (June 2004).

§1309. Step 2 Bench-Scale (Jar) or Pilot-Scale Testing

A. Water systems meeting §1303.A applicability requirements of this Subchapter which cannot achieve Step 1 TOC removal requirements at any time following 12 months of paired TOC monitoring shall submit an application to the state health officer for approval of alternative minimum (Step 2) TOC removal requirements. Such application shall be submitted within three months of the failure to achieve the Step 1 TOC removal requirements specified in 40 CFR 141.135(b)(2). The application shall include the results of bench-scale(jar) or pilot-scale testing conducted in accordance with the applicable provisions of §377 of this Part, specifically, 40 CFR 141.135(b)(4). The system shall conduct bench-scale(jar) or pilot-scale testing at a frequency of no less than once per calendar quarter for at least one year (beginning from the time of failure to achieve Step 1 TOC removal requirements) so that seasonal changes in raw water quality may be assessed and accounted for.

B. For a system which voluntarily completed 12 months of TOC monitoring prior to the applicable federal compliance date of the rule for the particular system (i.e., performed pre-compliance paired TOC/alkalinity monitoring to determine whether Step 1 TOC removals could be met before the compliance date of the rule) and then determines in the first 12 months after the federal compliance date that it is not able to meet the Step 1 TOC removal requirements and therefore must apply for alternative minimum TOC removal (Step 2) requirements, the state health officer may make the Step 2 requirements retroactive for the purpose of determining compliance.

1. Pursuant to the requirements of Subsection A of this Section, at least one Step 2 TOC bench-scale(jar) or pilot-scale test is required to be performed per calendar quarter. When the state health officer agrees to make the Step 2 TOC removal requirements retroactive in accord with the requirements of Subsection B of this Section, the Step 2 TOC removal requirements shall be applied retroactively by the equivalent calendar quarter. [For example, Step 2 TOC removal requirements determined during the first calendar quarter of 2005 (for applicable surface water systems serving less than 10,000 persons) shall retroactively be applied as the TOC requirement to the first calendar quarter of 2004; Step 2 TOC removal requirements determined during the second calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the second calendar quarter of 2004; Step 2 TOC removal requirements determined during the third calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the third calendar quarter of 2004; and, Step 2 TOC removal requirements determined during the fourth calendar quarter of 2005 shall retroactively be applied as the TOC requirement to the fourth calendar quarter of 2004.]

C. For those systems which may be achieving Step 1 removals during 2002 and 2003 (for applicable systems serving 10,000 or more persons) or during 2004 and 2005

(for applicable systems serving less than 10,000 persons) and then, for whatever reason, all of a sudden cannot achieve Step 1 removals in 2004 or later (for applicable systems serving 10,000 or more persons) or 2006 or later (for applicable systems serving less than 10,000 persons), Step 2 bench-scale (jar) or pilot-scale testing results may then be applied to the three months of the quarter in which the Step 2 bench-scale (jar) or pilot-scale testing is performed and retroactively to the three months of the prior calendar quarter (six months total).

1. The raw water quality characteristics of any Step 2 bench-scale (jar) or pilot-scale testing must be substantially equivalent to the raw water quality characteristics when the problematic Step 1 monitoring was performed. At its discretion, DHH-OPH is authorized to require a system to perform a new Step 2 bench-scale (jar) or pilot-scale testing particularly when it is determined that the Step 1 and Step 2 raw water quality characteristics are not substantially equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1197 (June 2004).

§1311. Alternative Compliance Criteria

A. When a public water system meeting §1303.A applicability requirements uses an alternative compliance criteria (ACC) on its monthly TOC monitoring report, the following numbering key shall be employed to identify the specific alternative compliance criteria used:

1. ACC #1 Source water TOC level is less than 2.0 mg/L.

2. ACC #2 Treated water TOC level is less than 2.0 mg/L.

3. ACC #3 Source water TOC is less than 4.0 mg/L and source water alkalinity is greater than 60mg/L (as CaCO₃) and either:

a. the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, or

b. prior to the effective date for compliance, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance to use technologies that will limit the levels of TTHMs and HAA5s to no more than 0.040 mg/L and 0.030 mg/L, respectively.

4. ACC #4 The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

5. ACC #5 Source water specific ultraviolet absorbance (SUVA) prior to any treatment is less than or equal to 2.0 L/mg-m.

6. ACC #6 Finished water SUVA is less than or equal to 2.0 L/mg-m.

7. ACC #7 For systems practicing enhanced softening that cannot achieve the Step 1 TOC removal requirements and softening results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO₃).

8. ACC #8 For systems practicing enhanced softening that cannot achieve the Step 1 TOC removal requirements and softening results in removing at least 10 mg/L of magnesium hardness (as CaCO₃).

B. When ACC #6 is utilized, the water samples for dissolved organic carbon (DOC) and ultraviolet absorption at a wavelength of 254 nanometers (UV₂₅₄) shall be collected at a point in the treatment plant after coagulation, flocculation, and sedimentation have occurred as well as at a point prior to the addition of any oxidant or disinfectant to the water. Such samples shall also be collected no later than the point at which samples for combined filter effluent turbidity are collected. If the plant is designed such that these monitoring parameters can not be met, or if ferric salts are used for coagulation in the clarification process, then a source water sample, prior to any treatment, shall be collected for the performance of a "treated-water SUVA jar test." Such "treated-water SUVA jar test" shall simulate actual plant conditions relative to coagulation, flocculation, and sedimentation. No oxidant, disinfectant, or ferric salts shall be employed in this jar test. Plants using ferric salts must replace the ferric with an equivalent amount of alum in the Treated-water SUVA jar test. After coagulation, flocculation, and sedimentation have been simulated in the jar test, samples of the supernatant shall be collected for DOC and UV₂₅₄ determination. The results of such samples are to be used as the basis for calculating the finished water SUVA value under ACC #6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1198 (June 2004).

§1313. Amendment to the Step 1 Required Removal of TOC matrix table under 40 CFR 141.135(b)(2) to Clarify ACC #1

A. In order to clarify the requirements for a system to be able to achieve ACC #1, the Step 1 Required Removal of TOC by Enhanced Coagulation and Enhanced Softening for Subpart H Systems Using Conventional Treatment matrix table under 40 CFR 141.135(b)(2) is hereby amended to read as follows.

STEP 1 REQUIRED REMOVAL OF TOC BY ENHANCED COAGULATION AND ENHANCED SOFTENING FOR SUBPART H SYSTEMS USING CONVENTIONAL TREATMENT ¹²

Source-water TOC, mg/L	Source-water alkalinity, mg/L as CaCO ₃ (in percentages)		
	0-60	>60-120	>120 ³
\$2.0-4.0	35.0	25.0	15.0
>4.0-8.0	45.0	35.0	25.0
>8.0	50.0	40.0	30.0

¹Systems meeting at least one of the conditions in paragraph (a)(2)(i)-(vi) of 40 CFR 141.135 are not required to operate with enhanced coagulation.

²Softening system meeting one of the alternative compliance criteria in paragraph (a)(3) of 40 CFR 141.135 are not required to operate with enhanced softening.

³System practicing softening must meet the TOC removal requirements in this column.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1198 (June 2004).

§1315. Analytical Requirements for TOC, DOC, and UV₂₅₄

A. All compliance monitoring samples for TOC, DOC, and UV₂₅₄ shall be analyzed in a certified chemical laboratory/drinking water or in an EPA-certified laboratory.

B. In addition to any other applicable analytical requirements, all laboratories in Subsection A of this Section which analyze compliance monitoring samples for TOC, DOC, and UV₂₅₄ shall incorporate the quality assurance (QA) and quality control (QC) procedures contained within "EPA Method 415.3, Revision 1.0" dated June 2003 which is titled "Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water."

C. The effective date of this Section shall be January 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004).

Subchapter C. Chlorite/Chlorine Dioxide

§1317. Monthly Reporting Required

A. If a system uses chlorine dioxide, chlorite monitoring results (daily, monthly, as well as any additional compliance monitoring) and daily chlorine dioxide residual monitoring results (as ClO₂) shall be reported to the state health officer monthly. All results shall be on a report form approved by the state health officer. Such report shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system within 10 days following the end of each calendar month.

1. Nothing within this Section shall be interpreted to exempt a public water system which uses chlorine dioxide from issuing public notification and consulting with the state health officer as soon as possible but no later than 24 hours after the system learns of an acute violation of the maximum residual disinfectant level (MRDL) for chlorine dioxide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004).

Subchapter D. Monitoring Plans

§1319. Monitoring Plan Required

A. Each public water system required to perform monitoring under the requirements of this Chapter shall submit a monitoring plan to the state health officer for review and approval. Such monitoring plan shall specifically be provided to the OPH District Engineering office which has jurisdictional oversight of the public water system no later than the effective date of this rule.

B. The monitoring plan shall include a list of all routine samples required on a daily, weekly, monthly, quarterly, and annual basis and identify the sampling location where samples are to be collected.

C. The public water system shall revise and re-submit its monitoring plan if changes to a plant or distribution system require changes to the sampling locations or if any significant changes to the disinfection methods are made. In addition, the public water system shall update and re-submit its monitoring plan when the system's sampling requirements or protocols change.

D. Minor revisions to a system's monitoring plan shall be submitted to the state health officer upon request.

E. The public water system shall maintain a copy of their approved monitoring plan at each treatment plant and at a central location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004).

Chapter 15. Approved Chemical Laboratories/Drinking Water

Subchapter A. Definitions and General Requirements

§1501. Definitions of Terms

A. Words Not Defined. Words not defined in this Chapter shall have the meanings stated in §101 of this Part or other Parts of the Louisiana State Sanitary Code. When words not defined in this Chapter are defined in both §101 of this Part and in another Part of the Louisiana State Sanitary Code, the definition contained within §101 of this Part shall be given preference as it pertains to water supplies. Words not defined in any of these source documents shall have the meanings stated in the Merriam-Webster's Collegiate Dictionary-Tenth Edition, as revised.

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Appendix except where the following special definitions apply:

Analyte—A particular contaminant or value that one is analyzing a water sample for, e.g., temperature, pH, turbidity, disinfectant residual, chlorite, total organic carbon, or UV₂₅₄.

Approved Chemical Laboratory/Drinking Water—A laboratory approved by the state health officer under the requirements of this Chapter to analyze and report compliance monitoring sample results for certain physical and chemical analytes associated with drinking water which are not required to be analyzed in a certified chemical laboratory/drinking water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004).

§1503. General Requirements

A. Public water systems which provide treatment (other than chlorination) to the water shall provide an approved chemical laboratory/drinking water on-site or make contractual arrangements with an approved chemical laboratory/drinking water off-site to analyze and report results for certain physical and chemical analytes which are not required to be analyzed in a certified chemical laboratory/drinking water.

1. All samples collected for compliance determination shall be either analyzed in a certified chemical laboratory/drinking water or in an approved chemical laboratory/drinking water. Samples collected for compliance determination which are allowed to be analyzed in an approved chemical laboratory/drinking water include the following:

- a. daily chlorite levels (at the point of entry to the distribution system when using chlorine dioxide);
- b. daily fluoride levels;

- c. daily corrosion inhibitor concentrations (orthophosphate and silica);
- d. pH;
- e. calcium;
- f. conductivity;
- g. temperature;
- h. alkalinity;
- i. turbidity;
- j. jar test for ACC #6 (as per §1311.B of this Part);
- k. jar tests for determining optimum coagulant dose (including Step 2 TOC removal per §1309 of this Part); and
- l. other drinking water analytes which are not required to be analyzed in a certified chemical laboratory/drinking water under other requirements of this Part or USEPA requirements.

B. In order to ensure an accurate and true representation of the level of an analyte associated with drinking water, the requirements of Subsection A of this Section shall not be construed to allow an approved chemical laboratory/drinking water off-site to perform a physical or chemical determination of an analyte when such analyte cannot be satisfactorily fixed, preserved, or transported (e.g., disinfectant residual levels, etc.).

C. An approved chemical laboratory/drinking water shall perform all analyses using the laboratory methodology specifically required to be used under the provisions of this Part for such analyte.

D. Particularly for distribution system monitoring, nothing herein shall be construed to prevent a public water system from determining the residual disinfectant concentrations for free, combined, or total chlorine by use of DPD colorimetric test kits.

1. When using a DPD colorimetric test kit and the concentration of chlorine is found to be equivalent to or above the top range limit of such test kit, proper dilution of a fresh sample of water using distilled or deionized water shall be performed and the test repeated to determine the true level of chlorine residual present in the water. This may be accomplished using a 1:2 dilution. One part fresh sample of water to be tested to a total of 2 parts of water in the sample vial. For example, 5 ml (1 part) fresh sample of water to be tested, with 5 ml of distilled or deionized water added for a total of 10 ml (2 parts) of water in the vial. The diluted sample is run as usual; however, the result determined is then multiplied by 2 to obtain the true level of chlorine present in the water sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1199 (June 2004).

§1505. Staffing, Equipment, Quality Control and Records

A. There shall be sufficient staff to perform the tests required.

B. There shall be sufficient supplies, equipment and space to perform the required volume of work with optimal accuracy, precision, timeliness and safety.

1. All approved chemical laboratories/drinking water for public water systems that use chlorine dioxide shall be provided with an amperometric titrator with platinum-platinum electrodes capable of measuring chlorite to a minimum accuracy of plus or minus 0.05 mg/L.

2. pH must be conducted using a pH meter with a minimum accuracy of plus or minus 0.2 pH units.

3. Water temperature must be measured using a thermometer or thermocouple with a minimum accuracy of plus or minus 0.5 degrees Celsius (0.5°C).

C. An approved chemical laboratory/drinking water shall ensure that satisfactory provisions are maintained for an instrumentation preventative maintenance program, an acceptable quality control program, and an approved proficiency testing program covering all of the various types of analyses performed.

D. An approved chemical laboratory/drinking water shall ensure that records and reports are satisfactorily maintained and retrievable. Copies of records and reports for any off-site approved chemical laboratory/drinking water shall be filed in a folder identifying the public water system by name as well as its public water system identification number (PWS ID #).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1200 (June 2004).

Subchapter B. Procedures to become an Approved Chemical Laboratory/Drinking Water

§1507. Application and Approval

A. All public water systems which provide treatment (other than chlorination) to the water shall submit a completed "Request for Approved Chemical Laboratory/Drinking Water" form to the state health officer. If the public water system uses one or more off-site laboratories, it shall be the responsibility of the public water system to notify each such off-site laboratory to submit its own completed "Request for Approved Chemical Laboratory/Drinking Water" form to the state health officer.

B. The "Request for Approved Chemical Laboratory/Drinking Water" form shall list all analytes run by the laboratory as well as the associated laboratory methodology. In addition, laboratories holding the status of an approved chemical laboratory/drinking water shall maintain a readily available list of the names and PWS ID #s of all public water systems it currently serves.

C. Based upon a satisfactory review of the contents of the submittal (along with a signed statement by any off-site laboratory agreeing to allow unannounced inspections of the laboratory facilities, including any applicable records, by the state health officer), the state health officer shall issue a Certificate of Approval to the public water system or off-site laboratory granting it the status of a "DHH-OPH Approved Chemical Laboratory/Drinking Water." Each laboratory facility receiving a Certificate of Approval under this Subsection shall prominently display such certificate.

D. Any correspondence, certificate, advertisement, laboratory results, etc., to or from a "DHH-OPH Approved Chemical Laboratory/Drinking Water" shall state prominently in bold lettering the following statement:

1. This DHH-OPH Approved Chemical Laboratory/Drinking Water does not meet the higher criteria required by DHH-OPH to be classified as a "DHH-OPH Certified Chemical Laboratory/Drinking Water;" therefore, any results reported from this laboratory for drinking water parameters which are required to be analyzed in a certified chemical laboratory are officially deemed invalid.

2. Any sample results for a public water system which are officially deemed invalid for failure to have them analyzed in a certified chemical laboratory/drinking water may result in a monitoring violation if replacement samples are not collected and properly analyzed by a certified chemical laboratory/drinking water within the prescribed monitoring period. Any monitoring or analytical violations require public notification as prescribed in Section 313 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1200 (June 2004).

Subchapter C. Consequences of Non-Compliance

§1509. Public Notification

A. If it becomes apparent either through laboratory reporting, on-site visits, or any other means that the DHH-OPH Approved Chemical Laboratory/Drinking Water's either intentionally or unintentionally not using or improperly using the required analytical methodology to perform an accurate and precise determination of an analyte associated with drinking water, the "DHH-OPH Approved Chemical Laboratory/Drinking Water's" Certificate of Approval shall be immediately suspended or revoked by the state health officer, and all public water systems utilizing such laboratory shall provide public notification as prescribed in Section 313 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 30:1200 (June 2004).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#074

RULE

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

Home and Community Based Services Waivers New Opportunities Waiver (LAC 50:XXI.Chapters 137-141)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services has adopted LAC 50:XXI.Subpart 11 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Rule governing the establishment of the New Opportunities Waiver in accordance with Section 1915(c) of the Social Security Act and the approved waiver application document and attachments.

Title 50 PUBLIC HEALTH MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13701. Introduction

A. The New Opportunities Waiver (NOW), hereafter referred to as NOW, is designed to enhance the long term services and supports available to individuals with developmental disabilities or mental retardation, who would otherwise require an intermediate care facility for the mentally retarded (ICF-MR) level of care. The mission of NOW is to utilize the principle of self determination and supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, NOW includes a self-direction option. This allows for greater flexibility in hiring, training, and general service delivery issues. NOW replaces the current Mentally Retarded/Developmentally Disabled (MR/DD) waiver after recipients of that waiver have been transitioned into NOW.

B. All NOW services are accessed through the case management agency of the recipient's choice. All services must be prior authorized and delivered in accordance with the Bureau of Community Supports and Services (BCSS) approved comprehensive plan of care (CPOC). The CPOC shall be developed using a person-centered process coordinated by the individual's case manager.

C. Providers must maintain adequate documentation to support service delivery and compliance with the approved plan of care and will provide said documentation at the request of BCSS.

D. In order for the NOW provider to bill for services, the individual and the direct service provider, professional or other practitioner rendering service must be present at the time the service is rendered. The service must be documented in service notes describing the service rendered and progress towards the recipient's personal outcomes and CPOC.

E. Only the following NOW services shall be provided for or billed for the same hours on the same day as any other NOW service:

1. substitute family care;
2. residential habilitation; and
3. skilled nursing services. Skilled nursing services may be provided with:
 - a. substitute family care;
 - b. residential habilitation;
 - c. day habilitation;
 - d. supported employment (all three modules);and/or
- e. employment related training.

F. The average recipient expenditures for all waiver services shall not exceed the average Medicaid expenditures for ICF-MR services.

G. Providers shall follow the regulations and requirements as specified by the bureau in the NOW provider manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004).

§13703. Recipient Qualifications for Eligibility

A. In order to qualify for NOW, an individual must be 3 years of age or older, offered a waiver opportunity (slot) and meet all of the following criteria:

1. meet the definitions for mental retardation or developmentally disability as specified in R.S. 28:380;
2. be on the Mentally Retarded/Developmentally Disabled (MR/DD) Request for Services Registry (RFSR);
3. meet the financial eligibility requirements for the Medicaid Program;
4. meet the medical requirements;
5. meet the requirements for an ICF-MR level of care which requires active treatment of mental retardation or a developmental disability under the supervision of a qualified mental retardation or developmental disability professional;
6. meet the health and welfare assurance requirements;
7. be a resident of Louisiana; and
8. be a citizen of the United States or a qualified alien.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004).

§13705. Discharge Criteria

A. Recipients shall be discharged from the NOW Program if one of the following criteria is met:

1. loss of Medicaid eligibility as determined by the parish Medicaid Office;
2. loss of eligibility for an ICF-MR level of care as determined by the Regional BCSS office;
3. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;
4. change of residence to another state with the intent to become a resident of that state;
5. admission to an ICF-MR facility or nursing facility with the intent to stay and not to return to waiver services. The waiver recipient may return to waiver services when documentation is received from the treating physician that the admission is temporary and shall not exceed 90 days. The recipient will be discharged from the waiver on the ninety-first day if the recipient is still in the ICF/MR or nursing facility;
6. the health and welfare of the waiver recipient cannot be assured in the community through the provision of reasonable amounts of waiver services as determined by the regional BCSS Office, i.e., the waiver recipient presents a danger to himself or others;
7. failure to cooperate in either the eligibility determination process, or the initial or annual implementation of the approved Comprehensive Plan of Care (CPOC) or the responsibilities of the NOW recipient; or
8. continuity of services is interrupted as a result of the recipient not receiving NOW services during a period of 30 or more consecutive days. This does not include interruptions in NOW services because of hospitalization, institutionalization (such as ICFs-MR or nursing facilities),

or non-routine lapses in services where the family agrees to provide all needed or paid natural supports. This interruption can not exceed 90 days and there is a documented expectation from the treating physician that the individual will return to the NOW services. During this 90-day period, BCSS will not authorize payment for NOW services;

9. acceptance of Hospice Medicaid State Plan Services. Once a NOW recipient accepts hospice services, they will be discharged from the NOW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1202 (June 2004).

Chapter 139. Covered Services

§13901. Individualized and Family Support Services

A. Individualized and Family Support (IFS) are direct support and assistance services provided in the home or the community that allow the recipient to achieve and/or maintain increased independence, productivity, enhanced family functioning and inclusion in the community or for the relief of the primary caregiver. Transportation is included in the reimbursement for these services. Reimbursement for these services includes the development of a service plan for the provision of these services, based on the BCSS-approved CPOC.

1. IFS-Day (IFS-D) services will be authorized during waking hours for up to 16 hours when natural supports are unavailable in order to provide continuity of services to the recipient. Waking hours are the period of time when the recipient is awake and not limited to traditional daytime hours.

a. Additional hours of IFS day services beyond the 16 hours can be approved based on documented need, which can include medical or behavioral and specified in the BCSS approved CPOC.

2. IFS-Night (IFS-N) services are direct support and assistance provided to individuals during sleeping hours for a minimum of eight hours for recipients receiving 24 hour supports and for all other recipients the night IFS service hours will be based on need. The IFS-N worker must be awake, alert, and immediately available and in the same residence as the recipient to be able to respond to the recipient's immediate needs. Night hours is the period of time when the recipient is asleep and there is a reduced frequency and intensity of required assistance and is not limited to traditional nighttime hours.

B. IFS services may be shared by related waiver recipients who live together or up to three unrelated waiver recipients who live together. Waiver recipients may share IFS services staff when agreed to by the recipients and health and welfare can be assured for each individual. Shared IFS services, hereafter referred to as shared support services, may be either day or night services.

C. IFS (day or night) services include:

1. assisting and prompting with the following activities of daily living (ADL):

- a. personal hygiene;
- b. dressing;
- c. bathing;
- d. grooming;
- e. eating;
- f. toileting;

- g. ambulation or transfers;
 - h. other personal care and behavioral support needs;
- and
- i. any medical task which can be delegated.
2. assisting and/or training in the performance of tasks related to maintaining a safe, healthy and stable home, such as:

- a. housekeeping;
 - b. laundry;
 - c. cooking;
 - d. evacuating the home in emergency situations;
 - e. shopping; and
 - f. money management.
3. personal support and assistance in participating in community, health, and leisure activities;
4. support and assistance in developing relationships with neighbors and others in the community and in strengthening existing informal social networks and natural supports;
5. enabling and promoting individualized community supports targeted toward inclusion into meaningful integrated experiences; and
6. providing orientation and information to acute hospital nursing staff concerning the recipient's specific Activities of Daily Living (ADL's), communication, positioning and behavioral needs. All medical decisions will be made by appropriate medical staff.

D. Exclusions. The following exclusions apply to IFS services.

1. Reimbursement shall not be paid for services furnished by a legally responsible relative. A legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian, or the recipient's spouse.

2. In compliance with licensing regulations, IFS-D and IFS-N services shall not include services provided in the IFS-D or IFS-N worker's residence, regardless of the relationship, unless the worker's residence is a certified foster care home.

3. Individual and family support services (both day and night) will not be authorized or provided to the recipient while the recipient is in a center based respite facility.

E. Staffing Criteria and Limitations

1. IFS-D or IFS-N services may be provided by a member of the recipient's family, provided that the recipient does not live in the family member's residence and the family member is not the legally responsible relative as defined in §13901.D.1.

2. Family members who provide IFS services must meet the same standards as providers or direct care staff who are unrelated to the individual.

3. An IFS-D or N worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the BCSS-approved CPOC. An IFS-D or N shared supports worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the BCSS-approved CPOC.

F. Place of Service

1. IFS services shall be provided in the State of Louisiana. Consideration shall be given to requests for the

provision of IFS services outside the state on a case-by-case basis for time-limited periods or emergencies.

2. Provision of IFS services shall not be authorized outside of the United States or the Territories of the United States.

G. Provider Requirements. Providers must possess a current, valid license as a Personal Care Attendant agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1202 (June 2004).

§13903. Center-Based Respite Care

A. Center-Based Respite (CBR) Care is temporary, short-term care provided to a recipient with mentally retarded or developmental disabilities who requires support and/or supervision in his/her day-to-day life due to the absence or relief of the primary caregiver. While receiving center-based respite care, the recipient's routine is maintained in order to attend school, work or other community activities/outings. The respite center is responsible for providing transportation for community outings, as that is included as part of their reimbursement. Individual and family support services (both day and night) will not be authorized or provided while the recipient is in a center-based respite facility.

B. Exclusions. The cost of room and board is not included in the reimbursement paid to the respite center.

C. Service Limits. CBR services shall not exceed 720 hours per recipient, per CPOC year.

D. Provider Requirements. The provider shall possess a current, valid license as a respite care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1203 (June 2004).

§13905. Community Integration Development

A. Community Integration Development (CID) facilitates the development of opportunities to assist recipients who are 18 years and older in becoming involved in their community through the creation of natural supports. The purpose of CID is to encourage and foster the development of meaningful relationships in the community reflecting the recipient's choices and values. Objectives outlined in the Comprehensive Plan of Care will afford opportunities to increase community inclusion, participation in leisure/recreational activities, and encourage participation in volunteer and civic activities. Reimbursement for this service includes the development of a service plan. The recipient must be present in order to receive this service. The recipient may share CID services with one other NOW recipient.

B. Transportation costs are included in the reimbursement for CID services.

C. Service Limitations. Services shall not exceed 60 hours per recipient per CPOC year which includes the combination of shared and non-shared community integration development.

D. Provider Qualifications. The provider must possess a current, valid license as a Supervised Independent Living agency or Personal Care Attendant agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1203 (June 2004).

§13907. Residential Habilitation-Supported Independent Living

A. Residential Habilitation-Supported Independent Living (SIL) assists the recipient to acquire, improve or maintain those social and adaptive skills necessary to enable an individual to reside in the community and to participate as independently as possible. SIL services include assistance and/or training in the performance of tasks such as personal grooming, housekeeping and money management. Payment for this service includes oversight and administration and the development of service plans for the enhancement of socialization with age-appropriate activities that provide enrichment and may promote wellness. The service plan should include initial, introduction, and exploration for positive outcomes for the recipient for community integration development. These services also assist the individual in obtaining financial aid, housing, advocacy and self-advocacy training as appropriate, emergency support, trained staff and assisting the recipient in accessing other programs for which he/she qualifies. SIL recipients must be 18 years or older.

B. Place of Service. Services are provided in the recipient's residence and/or in the community. The recipient's residence includes his/her apartment or house, provided that he/she does not live in the residence of any legally responsible relative. An exception will be considered when the recipient lives in the residence of a spouse or disabled parent, or a parent age 70 or older. Family members who are not legally responsible relatives as defined in §13901.D.1, can be SIL workers provided they meet the same qualifications as any other SIL worker.

C. Exclusions

1. Legally responsible relatives may not be SIL providers.

2. SIL shall not include the cost of:

- a. meals or the supplies needed for preparation;
- b. room and board;
- c. home maintenance, or upkeep and improvement;
- d. direct or indirect payment to members of the recipient's legally responsible relative;
- e. routine care and supervision which could be expected to be provided by a family member; or
- f. activities or supervision for which a payment is made by a source other than Medicaid, e.g., Office for Citizens with Developmental Disabilities (OCDD), etc.

3. SIL Services cannot be provided in a Substitute Family Care setting.

D. Service Limit. SIL services are limited to one service per day, per CPOC year, except when the recipient is in center based respite. When a recipient living in an SIL setting is admitted to a center based respite facility, the SIL provider shall not bill the SIL per diem beginning with the date of admission to the center based respite facility and through the date of discharge from the center based respite facility.

E. Provider Qualifications. The provider must possess a current, valid license for the Supervised Independent Living module issued by the Department of Social Services, Bureau of Licensing.

F. Provider Responsibilities

1. Minimum direct services by the SIL agency include three documented contacts per week by the SIL provider agency, with at least one contact being face-to-face in addition to the approved direct support hours.

2. The provider must furnish back up staff that is available on a 24-hour basis.

3. Residential habilitation services shall be coordinated with any services listed in the BCSS-approved CPOC, and may serve to reinforce skills or lessons taught in school, therapy or other settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1204 (June 2004).

§13909. Substitute Family Care

A. Substitute Family Care (SFC) provides for day programming, transportation, independent living training, community integration, homemaker, chore, attendant care and companion services, and medication oversight (to the extent permitted under state law) to recipients residing in a licensed substitute family care home. The service is a stand-alone family living arrangement for individuals age 18 and older. The SFC house parents assume the direct responsibility for the individual's physical, social, and emotional well-being and growth, including family ties. There shall be no more than three individuals living in a Substitute Family Care setting who are unrelated to the SFC provider. Immediate family members (mother, father, brother and/or sister) cannot be substitute family care parents. Reimbursement for this service includes the development of a service plan based on the approved CPOC.

B. Service Limits. SFC services are limited to one service per day.

C. Provider Qualifications. The provider must possess a current, valid license as a Substitute Family Care agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1204 (June 2004).

§13911. Day Habilitation

A.1. Day habilitation is provided in a community based setting and provides the recipient assistance with social and adaptive skills necessary to enable the recipient to participate as independently as possible in the community. These services focus on socialization with meaningful age-appropriate activities which provide enrichment and promote wellness, as indicated in the person-centered plan. Day habilitation services must be directed by a service plan and provide assistance and/or training in the performance of tasks related to acquiring, maintaining or improving skills including, but not limited to:

- a. personal grooming;
- b. housekeeping;
- c. laundry;
- d. cooking;
3. shopping; and
- f. money management.

2. Day Habilitation services shall be coordinated with any therapy, employment-related training, or supported employment models that the recipient may be receiving. The

recipient does not receive payment for the activities in which they are engaged. The recipient must be 18 years of age or older in order to receive day habilitation services.

B. Service Limits. Services can be provided one or more hours per day but not to exceed eight hours per day or 8,320 1/4 hour units of service per Comprehensive Plan of Care (CPOC) year.

C. Licensing Requirements. The provider must possess a current, valid license as an adult day care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1204 (June 2004).

§13913. Supported Employment

A. Supported employment is competitive work in an integrated work setting, or employment in an integrated work setting in which the individuals are working toward competitive work that is consistent with the strengths, resources, priorities, interests, and informed choice of individuals for whom competitive employment has not traditionally occurred. The recipient must be 18 years of age or older in order to receive supported employment services.

B. These are services provided to individuals who are not served by Louisiana Rehabilitation Services, need more intense, long-term follow along and usually cannot be competitively employed because supports cannot be successfully phased out.

C. Supported employment is conducted in a variety of settings, particularly work sites in which persons without disabilities are employed. Supported employment includes activities needed by waiver recipients to sustain paid work, including supervision and training and is based on an individualized service plan. Supported employment includes assistance and prompting with:

1. personal hygiene;
 2. dressing;
 3. grooming;
 4. eating;
 5. toileting;
 6. ambulation or transfers;
 7. other personal care and behavioral support needs;
- and
8. any medical task which can be delegated.

D. Supported Employment Models. Reimbursement for supported employment includes an individualized service plan for each model.

1. A one-to-one model of supported employment is a placement strategy in which an employment specialist (job coach) places a person into competitive employment, provides training and support and then gradually reduces time and assistance at the work site. This service is time limited to six to eight weeks in duration.

2. Follow along services are designed for individuals who are in supported employment and have been placed in a work site and only require minimum oversight not to exceed two visits per month for follow along at the job site and cannot exceed 24 visits per CPOC year.

3. Mobile Work Crew/Enclave is an employment setting in which a group of two or more recipients, but fewer than eight perform work in a variety of locations under the supervision of a permanent employment specialist (job

coach/supervisor). This service is up to eight hours a day, five days per week.

E. Service Exclusions

1. Services shall not be used in conjunction or simultaneously with any other waiver service, except substitute family care, residential habilitation supported independent living, and skilled nursing services.

2. When supported employment services are provided at a work site in which persons without disabilities are employees, payment will be made only for the adaptations, supervision and training required by individuals receiving waiver services as a result of their disabilities, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

3. Services are not available to individuals who are eligible to participate in programs funded under Section 110 of the Rehabilitation Act of 1973 or Section 602(16) and (17) of the Individuals with Disabilities Education Act, 20 U.S.C. 1401(16) and (71).

F. Service Limits

1. One-to-One intensive services shall not exceed 1,280 1/4 hour units per CPOC year. Services shall be limited to eight hours a day, five days a week, for six to eight weeks.

2. Follow along services shall not exceed 24 days per CPOC year.

3. Mobile Crew/Enclave services shall not exceed 8,320 1/4 hour units of service per CPOC year, without additional documentation. This is eight hours per day, five days per week.

G. Licensing Requirements. The provider must possess a current valid license as an Adult Day Care Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004).

§13915. Transportation for Day Habilitation and Supported Employment Models

A. Transportation provided between the recipient's residence and the site of the day habilitation or supported employment model, or between the day habilitation and supported employment model site (if the recipient receives services in more than one place) is reimbursable when day habilitation or supported employment model has been provided. Reimbursement will be a daily rate for a round trip fare. A round trip is defined as transportation from the recipient's place of residence and return to the recipient's place of residence. The round trip shall be documented in the provider's transportation log.

B. Licensing Requirements. Transportation providers must possess a current valid license as an Adult Day Care Center. The licensed provider must carry \$1,000,000 liability insurance on the vehicles used in transporting the recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004)

§13917. Employment-Related Training

A. Employment-related training consists of paid employment for recipients for whom competitive employment at or above the minimum wage is unlikely, and

who need intensive ongoing support to perform in a work setting because of their disabilities. Services are aimed at providing recipients with opportunities for employment and related training in work environments one to eight hours a day, one to five days a week at a commensurate wage in accordance with United States Department of Labor regulations and guidelines. The recipient must be 18 years or older in order to receive employment-related training services. Reimbursement for these services includes transportation and requires an individualized service plan.

B. Employment-related training services include, but are not limited to:

1. assistance and prompting in the development of employment related skills. This may include:
 - a. assistance with personal hygiene;
 - b. dressing;
 - c. grooming;
 - d. eating;
 - e. toileting;
 - f. ambulation or transfers;
 - g. behavioral support needs; and
 - h. any medical task which can be delegated;
2. employment at a commensurate wage at a provider facility for a set or variable number of hours;
3. observation of an employee of an area business in order to obtain information to make an informed choice regarding vocational interest;
4. instruction on how to use equipment;
5. instruction on how to observe basic personal safety skills;
6. assistance in planning appropriate meals for lunch while at work;
7. instruction on basic personal finance skills;
8. information and counseling to a recipient and, as appropriate, his/her family on benefits planning and assistance in the process.

C. Exclusions. The following service exclusions apply to employment-related training.

1. Services are not available to recipients who are eligible to participate in programs funded under Section 110 of the Rehabilitation Act of 1973 or Section 602(16) and (17) of the Individuals with Disabilities Education Act, 20 U.S.C. 1401(16) and (71).

D. Service Limits. Services shall not exceed eight hours a day, five days a week, and cannot exceed 8,320 1/4 hour units of service per CPOC year.

E. Licensing Requirements. The provider must possess a current, valid license as an Adult Day Care Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004).

§13919. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the home or a vehicle that are necessary to ensure the health, welfare, and safety of the recipient or that enable him/her to function with greater independence in the home and/or community. Without these services, the recipient would require additional supports or institutionalization.

B. Such adaptations may include:

1. installation of non-portable ramps and grab-bars;

2. widening of doorways;
3. modification of bathroom facilities; or
4. installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies for the welfare of the individual.

C. Requirements for Authorization. Items reimbursed through NOW funds shall be supplemental to any adaptations furnished under the Medicaid State Plan.

1. Any service covered under the Medicaid State Plan shall not be authorized by NOW. The environmental accessibility adaptation(s) must be delivered, installed, operational, and reimbursed in the CPOC year in which it was approved. Three written itemized detailed bids, including drawings with the dimensions of the existing and proposed floor plans relating to the modification, must be obtained and submitted for prior authorization. Modifications may be applied to rental or leased property with the written approval of the landlord. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the recipient.

2. Three bids may not be required if the environmental accessibility adaptations are available from a single source supplier due to the distance of the recipient's home from other environmental accessibility adaptations providers. The justification and agreement by the service planning/support team for not providing three bids must be included with any request for prior approval.

3. Excluded are those adaptations or improvements to the residence that are of general utility or maintenance and are not of direct medical or remedial benefit to the individual, including, but not limited to:

- a. air conditioning or heating;
- b. flooring;
- c. roofing, installation or repairs;
- d. smoke and carbon monoxide detectors, sprinklers, fire extinguishers, or hose; or
- e. furniture or appliances.

4. Adaptations which add to the total square footage or add to the total living area under the roof of the residence are excluded from this benefit.

5. Home modification is not intended to cover basic construction cost.

6. Excluded are those vehicle adaptations which are of general utility or for maintenance of the vehicle or repairs to adaptations.

D. Service Limits. There is a cap of \$4,000 per recipient for environmental accessibility adaptations. Once a recipient reaches 90 percent or greater of the cap and the account has been dormant for three years, the recipient may access another \$4,000. Any additional environmental accessibility expenditures during the dormant period reset the three-year time frame.

E. Provider Qualifications. The provider must be an enrolled Medicaid provider and comply with applicable state and local laws governing licensure and/or certification. All persons performing the services (building contractors, plumbers, electricians, engineers, etc.) must meet all state or local requirements for licensure or certification. When state and local building or housing code standards are applicable, modifications to the home shall meet such standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1206 (June 2004).

§13921. Specialized Medical Equipment and Supplies

A. Specialized Medical Equipment and Supplies (SMES) are devices, controls, or appliances which enable the recipient to:

1. increase his/her ability to perform the activities of daily living;
2. ensure safety; or
3. perceive and control the environment in which he/she lives.

B. The service includes medically necessary durable and nondurable medical equipment not covered under the Medicaid State Plan. NOW will not cover non-medically necessary items. All items shall meet applicable standards of manufacture, design and installation.

C. All alternate funding sources that are available to the recipient shall be pursued before a request for the purchase or lease of specialized equipment and supplies will be considered.

D. Exclusion. Excluded are specialized equipment and supplies that are of general utility or maintenance, but are not of direct medical or remedial benefit to the individual. Refer to the New Opportunities Waiver Provider Manual for a list of examples.

E. Service Limitations. There is a cap of \$4,000 per individual for specialized equipment and supplies. Once a recipient reaches 90 percent or greater of the cap and the account has been dormant for three years, the recipient may access another \$4,000. Any additional specialized equipment and supplies expenditures during the dormant period reset the three-year time frame.

F. Provider Qualifications. Providers must be enrolled in the Medicaid Program as a durable medical equipment provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1207 (June 2004).

§13923. Personal Emergency Response Systems

A. Personal Emergency Response Systems (PERS) is a rented electronic device connected to the person's phone and programmed to signal a response center which enables an individual to secure help in an emergency.

B. Recipient Qualifications. Personal emergency response systems (PERS) services are available to those persons who:

1. live alone without the benefit of a natural emergency back-up system;
2. live alone and would otherwise require extensive IFS services or other NOW services;
3. need support due to cognitive limitations until they are educated on the use of PERS;
4. have a demonstrated need for quick emergency back-up;
5. live with older or disabled care; or
6. are unable to use other communications systems as they are not adequate to summon emergency assistance.

C. Coverage of the PERS is limited to the rental of the electronic device. PERS services shall include the cost of maintenance and training the recipient to use the equipment.

D. Reimbursement will be made for a one time installation fee for the PERS unit. A monthly fee will be paid for the maintenance of the PERS.

E. Provider Qualifications. The provider must be an enrolled Medicaid provider of the Personal Emergency Response System.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1207 (June 2004).

§13925. Professional Consultation

A. Professional consultation are services designed to evaluate, develop programs, and train natural and formal care givers to implement training or therapy programs, which will increase the individual's independence, participation, and productivity in his/her home, work, and community. These services are not meant to be long-term on-going services. They are normally meant to be short-term or intermittent services to develop critical skills which may be self-managed by the individual or maintained by natural and formal care givers. The recipient must be present in all aspects of the consultation in order for the professional to receive payment for these services. Service intensity, frequency and duration will be determined by individual need. These services may include assessments or periodic reassessments, and may be direct or indirect. Documentation of services provided must be available on-site. The professional consultation services are to be used only when the services are not covered under the Medicaid State Plan. The recipients must be 21 years or older in order to receive professional consultation services.

B. Professional consultation shall include the following services:

1. consultation provided by a licensed registered nurse regarding those medically necessary nursing services ordered by a physician that exceed the service limits for home health services that do not meet the skilled nursing criteria under the Medicaid State Plan. Services must comply with the Louisiana Nurse Practice Act. Consultations may address health care needs related to prevention and primary care activities;

2. evaluation and education performed by a licensed psychologist as specified by state law and licensure. These services are for the treatment of behavioral or mental conditions that address personal outcomes and goals desired by the recipient and his/her team. Services must be reasonable and necessary to preserve and improve or maintain adaptive behaviors or decrease maladaptive behaviors of a person with mental retardation or developmental disabilities. Consultation provides the recipient, family, care givers, or team with information necessary to plan and implement plans for the recipient;

3. highly specialized consultation services furnished by a licensed clinical social worker and designed to meet the unique counseling needs of individuals with mental retardation and development disabilities. Counseling may address areas such as human sexuality, depression, anxiety disorders, and social skills. Services must only address those personal outcomes and goals listed in the BCSS approved CPOC.

C. Service Limits. Professional consultation services are limited to a \$750 cap per individual per CPOC year for the combined range of professional consultations.

D. Provider Qualifications. The provider of professional consultation services must possess a current valid license as a personal care attendant (PCA), supervised independent living (SIL) or home health (HH) agency. Each professional rendering service must:

1. possess a current valid Louisiana license to practice in his/her field;
2. have at least one year experience in his/her field of expertise, post licensure; and
3. be contracted or employed with an enrolled PCA, SIL or HH agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1207 (June 2004).

§13927. Professional Services

A. Professional services are services designed to increase the individual's independence, participation and productivity in the home, work, and community. The recipient must be 21 years of age or older in order to receive these services. Professional services are to be used only when the services are not covered under the Medicaid State Plan. Professional services must be delivered with the recipient present and be provided based on the approved CPOC and an individualized service plan. Professional services are limited to the following services.

1. Psychological services are direct services performed by a licensed psychologist, as specified by state law and licensure. These services are for the treatment of a behavioral or mental condition that addresses personal outcomes and goals desired by the recipient and his or her team. Services must be reasonable and necessary to preserve and improve or maintain adaptive behaviors or decrease maladaptive behaviors of a person with mental retardation or developmental disabilities. Service intensity, frequency, and duration will be determined by individual need.

2. Social work services are highly specialized direct counseling services furnished by a licensed clinical social worker and designed to meet the unique counseling needs of individuals with mental retardation and developmental disabilities. Counseling may address areas such as human sexuality, depression, anxiety disorders, and social skills. Services must only address those personnel outcomes and goals listed in the BCSS approved CPOC.

3. Nursing services are medically necessary direct services provided by a licensed registered nurse or licensed practical nurse. Services must be ordered by a physician and comply with the Louisiana Nurse Practice Act. Direct services may address health care needs related to prevention and primary care activities, treatment and diet. Reimbursement is only available for the direct service performed by a nurse, and not for the supervision of a nurse performing the hands-on direct service.

B. Service Limits. There shall be a \$1,500 cap per recipient per CPOC year for the combined range of professional services.

C. Provider Qualifications. The provider of professional services must possess a current valid license as a personal care attendant, supervised independent living or home health

agency. Each professional rendering service must possess a current valid Louisiana license to practice in his/her field and have at least one year of experience post licensure in their area of expertise and be contracted or employed with an enrolled PCA, SIL, or HH agency.

D. Nonreimbursable Activities. The following activities are not reimbursable:

1. friendly visiting, attending meetings;
2. time spent on paperwork or travel;
3. time spent writing reports and progress notes;
4. time spent on staff training;
5. time spent on the billing of services; and
6. other nonMedicaid reimbursable activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1208 (June 2004).

§13929. Skilled Nursing Services

A. Skilled Nursing services are medically necessary nursing services ordered by a physician and provided to a medically fragile recipient in or outside of his/her home. Skilled nursing services shall be provided by a licensed, enrolled home health agency using licensed nurses. All Medicaid State Plan services must be utilized before accessing this service.

B. Recipient Criteria. The recipient must be 21 years of age or older and have a diagnosis of a chronic disease which requires the vigilance of a licensed nurse to provide evaluation and management of a disease; thereby limiting the need for frequent acute or emergency services. Skilled nursing services require a physician's order documenting medical necessity and individual nursing service plan. These services must be included in the individual's BCSS-approved CPOC. Skilled nursing services shall be available to individuals who are medically fragile with chronic conditions who meet one of the following criteria:

1. have unstable or uncontrolled diabetes and are insulin dependent;
2. have insufficient respiratory capacity requiring use of oxygen therapy, a ventilator, and/or tracheotomy;
3. require hydration, nutrition, and/or medication via a gastro-tube;
4. have severe musculo-skeletal conditions/non-ambulatory status that requires increased monitoring and/or the treatment of decubitus;
5. have kidney failure requiring dialysis;
6. have cancer requiring radiation/chemotherapy;
7. require end-of-life care not covered by hospice services;
8. require the use of life-sustaining equipment to ensure sufficient body function (a ventilator, a suction machine, pulse oximeters, apnea monitors, or nebulizers); or
9. require the administration of medications which by law must be administered by a licensed nurse via mediports, central lines, or intravenous therapy.

C. When there is more than one recipient in the home receiving skilled nursing services, services may be shared and payment must be coordinated with the service authorization system and each recipient's BCSS approved CPOC

D. Provider Qualifications. The provider must possess a current valid license as a home health agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1208 (June 2004).

§13931. One Time Transitional Expenses

A. One time transitional expenses are those allowable expenses incurred by recipients who are being transitioned from an ICF-MR to their own home or apartment in the community of their choice. "Own home" shall mean the recipient's own place of residence and does not include any family members home or substitute family care homes. The recipient must be 18 years or older in order to receive this service.

B. Allowable transitional expenses include:

1. the purchase of essential furnishings such as:
 - a. bedroom and living room furniture;
 - b. table and chairs;
 - c. window blinds;
 - d. eating utensils; and
 - e. food preparation items;
2. moving expenses required to occupy and use a community domicile;
3. health and safety assurances, such as pest eradication, allergen control, or one-time cleaning prior to occupancy;
4. nonrefundable security deposits.

C. Service Limits. Set-up expenses are capped at \$3,000 over a recipient's lifetime.

D. Service Exclusion. Transitional expenses shall not constitute payment for housing, rent, or refundable security deposits.

E. Provider Qualifications. This service shall only be provided by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) with coordination of appropriate entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004).

§13933. Transitional Professional Support Services

A. Transitional Professional Support Services is a system using specialized staff and resources to intervene and stabilize in a situation caused by any severe behavioral or medical circumstance that could result in loss of a current community-based living arrangement. These services are limited to recipients who have transitioned out of a public developmental center and have reached the cap for professional services and professional consultation for the recipient's CPOC year. The recipient must be present for all services provided.

B. Recipient Criteria. These services are available for recipients who meet all of the following criteria:

1. a developmental disability or one or more concurrent diagnosis:
 - a. mental health diagnosis of Autism or other pervasive developmental disorder;
 - b. a history of recurrent challenging behaviors that risk injury to self or others, or result in significant property damage; or
 - c. a documented need for professional services and or professional consultation, or services available under the

Medicaid State Plan with a statement of necessity by the treating psychiatrist/psychologist and an individual service plan in the individual's BCSS approved CPOC; or

2. an individual with an acute illness or injury in which the acute condition process requires an added vigilance by a licensed nurse to provide surveillance, early identification and treatment of disease symptoms to avert and/or delay the consequence of advanced complications of the acute condition, thereby limiting the likelihood of a permanent debilitation state (such acute conditions may include trauma resulting in amputation of a limb, or care required after major surgeries); and

3. the need exists with supporting documentation from a medical doctor, including:

- a. a letter of medical necessity;
- b. a physician's order;
- c. an individual nursing service plan.

C. Exclusion. All Medicaid State Plan services must be utilized before accessing this service.

D. Provider Qualifications. Providers of transitional professional support services must possess a current, valid license as a PCA, SIL, or HH agency. Each professional rendering service must possess a valid Louisiana license to practice in his/her field and one year of experience in their field of expertise post licensure.

E. Provider Responsibility. An agency that fulfills this role must possess specialized staff and resources to intervene in and stabilize a situation caused by any severe behavioral or medical circumstance that could result in loss of a current community-based living arrangement. The provider must develop and maintain a current service plan that details the program goals, plans, and expected outcomes from all individuals providing these services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004).

§13935. Consumer Directed Service

A. The consumer directed initiative is a payment mechanism and a self-determination option for NOW recipients in the Department of Health and Hospitals Regions 1, 2, and 9. This is a voluntary option where the waiver recipient or his or her authorized representative may choose what services and/or supports best fit their individual needs through the person-centered planning process, and as documented on the BCSS-approved CPOC. The waiver recipient selecting this option will be required to use a contracted fiscal agent to provide designated functions on his/her behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004).

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the recipient. One quarter hour (15 minutes) is the standard unit of service, which covers both service provision and administrative costs.

1. Center-Based Respite;

2. Community Integration Development:
 - a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient;
 3. Day Habilitation;
 4. Employment Related Training;
 5. Individualized and Family Support-Day and Night:
 - a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient; and
 - b. services furnished to three recipients who choose to share supports will be reimbursed at 66 percent of the full rate for each recipient;
 6. Professional Consultation;
 7. Professional Services;
 8. Skilled Nursing Services:
 - a. services furnished to two recipients who choose to share supports will be reimbursed at 75 percent of the full rate for each recipient; and
 - b. services furnished to three recipients who choose to share supports will be reimbursed at 66 percent of the full rate for each recipient;
 9. Supported Employment, One-to-One Intensive and Mobile Crew/Enclave;
 10. Transitional Professional Support Services.
- B. The following services are to be paid at cost, based on the need of the individual and when the service has been prior authorized and on the CPOC:
 1. environmental accessibility adaptations;
 2. specialized medical equipment and supplies; and
 3. transitional expenses.
- C. The following services are paid through a per diem:
 1. substitute family care;
 2. residential habitation-supported independent living;
 and
 3. supported employment-follow along.
- D. The following service is paid through a monthly rate:
 1. maintenance of the personal emergency response system.
- E. The following service is paid through a one time fixed cost:
 1. installation of the personal emergency response system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004).

Implementation of this Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#071

RULE

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

**Durable Medical Equipment Program
HIPAA Implementation**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the Rules governing the billing and reimbursement of all durable medical equipment. Current Standard Healthcare Common Procedure Coding System (HCPCS) codes and modifiers shall be used to bill for all durable medical equipment, prosthetics, orthotics and supplies.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#069

RULE

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

**Early and Periodic Screening, Diagnosis
and Treatment Program - Eyeglasses
(LAC 50:XV.8501)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.8501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the current rules governing billing and reimbursement for Early and Periodic Screening, Diagnosis and Treatment eyeglasses to conform to HIPAA compliant standardized procedure codes.

Title 50
PUBLIC HEALTH MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 85. Durable Medical Equipment—Eyeglasses
§8501. Eye Care

A. ...

B. Billing and Reimbursement. The Health Care Common Procedure Coding System (HCPCS) shall be used to bill for EPSDT eyewear. Claims for EPSDT eye wear shall be reimbursed in accordance with the Louisiana Medicaid Eye Wear Fee Schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:180 (February 2003), amended LR 30:1211 (June 2004).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#070

RULE

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

Inpatient Hospitals—Private
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2003-2004 General Appropriation Act, which states, "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid for inpatient services rendered in private (non-state) acute hospitals, including long term hospitals. The reimbursement paid for inpatient services to private (non-state) hospitals with a Medicaid inpatient days utilization rate of less than 25 percent shall be as follows: in state fiscal year 2003-2004 only, 98.75 percent (a 1.25 percent reduction) of the per diem rates in effect on September 30, 2003 and for subsequent years, a 99.2 percent (a 0.8 percent reduction) of the per diem rates in effect on September 30, 2003 for private hospitals.

The Medicaid inpatient days utilization rate shall be calculated based on the filed cost report for the period ending in state fiscal year 2002 and received by the

department prior to April 30, 2003. Only Medicaid covered days for inpatient hospital services, which include newborn days and distinct part psychiatric units, are included in this calculation. Inpatient stays covered by Medicare Part A can not be included in the determination of the Medicaid inpatient days utilization rate. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction. Also, inpatient services provided to fragile newborns or critically ill children in either a Level III Regional Neonatal Intensive Care Unit or a Level I Pediatric Intensive Care Unit, shall be excluded from this reimbursement reduction if the units have been recognized by the Department on or before January 1, 2003.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#072

RULE

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

State Owned or Operated Hospitals
Inpatient Psychiatric Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for inpatient psychiatric services provided in a state owned or operated free-standing psychiatric hospital or distinct part psychiatric unit to a per diem rate based on the 50th percentile facility for costs as reported on the cost report for the year ending between July 1, 2001 and June 30, 2002. The costs utilized to determine the 50th percentile facility will include all free-standing psychiatric hospitals and distinct part psychiatric units providing services to Medicaid recipients in the state. Costs will be trended to the midpoint of the rate year using the Medicare PPS Market Basket Index. The application of inflationary adjustments in subsequent years shall be contingent on the appropriation of funds by the legislature.

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0406#073

RULE

Department of Natural Resources Office of Conservation

Ground Water Management (LAC 43:VI.Chapters 1-7)

Editor's Note: In accordance with OSR uniform formatting procedure, these rules have been moved from Title 33 to Title 43 for topical placement.

R.S. 38:3097 et seq. states that Commissioner of Conservation (commissioner) has authority to make rules for the determination of critical ground water areas and possible limitation of access to ground water sources, response to emergency situations and prior notification of new water well construction.

Failure to have hearing procedures for critical ground water area applications and procedures for collecting information on proposed well locations may endanger the commissioner's ability to manage the ground water resources of the state. R.S. 38:3097 et seq. specifically requires that public hearings be held in such matters and the attached Rules provide the mechanism to meet that requirement.

Title 43

NATURAL RESOURCES

Part VI. Water Resources Management

Subpart 1. Ground Water Management

Chapter 1. General Provisions

§101. Applicability

A. The Rules and Regulations of this Subpart shall be applicable to the commissioner's jurisdiction regarding:

1. critical ground water areas;
2. ground water emergencies; and
3. management of the state's ground water resources.

B. The rules shall not alter or change the right of the commissioner to call a hearing for the purpose of taking action with respect to any matter within the commissioner's jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004).

§103. Definitions

A. The words defined herein shall have the following meanings when used in these Rules and Regulations for this Subpart. All other words used and not defined shall have their usual meanings unless specifically defined in Title 38 of the Louisiana Revised Statutes.

Aquifer—A ground water bearing stratum of permeable rock, sand, or gravel.

Beneficial Use—The technologically feasible use of ground water for domestic, municipal, industrial, agricultural, recreational, or therapeutic purposes or any other advantageous purpose.

Commission—Ground Water Resources Commission authorized by R.S. 38:3097.4.

Commissioner—Commissioner of Conservation.

Critical Ground Water Area—An area in which, under current usage and normal environmental conditions, sustainability of an aquifer is not being maintained due to either movement of a salt water front or water level decline,

or subsidence, resulting in unacceptable environmental, economic, social, or health impacts, or causing a serious adverse impact to an aquifer, considering the areal and temporal extent of all such impacts.

Domestic Well—A well used exclusively to supply the household needs of the owner lessee or his family. Uses may include drinking, cooking, washing, sanitary purposes, lawn and garden watering and caring for pets. Domestic wells shall also include wells used on private farms and ranches for the feeding and caring of pets and watering of lawns, excluding livestock, crops, and ponds

Ground Water—Water suitable for any beneficial purpose percolating below the earth's surface which contains less than 10,000 mg/l total dissolved solids, including water suitable for domestic use or supply for a domestic water system.

Ground Water Emergency—An unanticipated occurrence as a result of a natural force or a man-made act which causes a ground water source to become immediately unavailable for beneficial use for the foreseeable future or drought conditions determined by the commissioner to warrant the temporary use of drought relief wells to assure the sustained production of agricultural products in the state.

Large Volume Well—A well with an 8 inch or greater diameter screen size or as further defined within these regulations.

Person—Any natural person, corporation, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind, or any governmental entity.

Replacement Well—A well located within 1,000 feet of the original well and within the same property boundary as the original well, installed within the same aquifer over an equivalent interval with an equivalent pumping rate, and used for the same purpose as the original well.

Spacing—The distance a water well may be located in relation to an existing or proposed water well, regardless of property boundaries.

Sustainability—The development and use of ground water in a manner that can be maintained for the present and future time without causing unacceptable environmental, economic, social, or health consequences.

User—Any person who is making any beneficial use of ground water from a well or wells owned or operated by such person.

Well or Water Well—Any well drilled or constructed for the principal purpose of producing ground water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004).

Chapter 3. Critical Ground Water Area Application Procedure

§301. Who May Apply—Applicant

A. Any owner of a well that is significantly and adversely affected as a result of the movement of salt water front, water level decline, or subsidence in or from the aquifer drawn on by such well shall have the right to file an application to request the commissioner to declare that an area underlain by such aquifer(s) is a critical ground water area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1212 (June 2004).

§303. Notice of Intent to File an Application

A. The applicant shall have published a Notice of Intent to file an application for a critical ground water area designation the official parish journal of each parish affected by the proposed application. Such notice shall include:

1. name, address, and telephone number of the applicant;
2. a brief description of the subject matter of the proposed application;
3. a brief description of location including parish(es), section(s), township(s), range(s), and a map, which shall be sufficiently clear to readily identify the location of the proposed area;
4. a statement that, if the area is designated a critical ground water area, ground water use may be restricted;
5. a statement indicating where in the application can be viewed; and
6. a statement that all comments should be sent to:
Commissioner of Conservation
Post Office Box 94275
Baton Rouge, LA 70804-9275
ATTN: Director, Ground Water Resources Division

B. A Notice of Intent to file an application for the removal or modification of a critical ground water area designation shall be published in the official parish journal of each parish affected by the proposed application. Such notice shall include:

1. name, address, and telephone number of the applicant;
2. a brief description of the subject matter of the proposed application;
3. a brief description of location including parish(es) section(s), township(s), range(s), and a map, which shall be sufficiently clear to readily identify the location of the proposed area;
4. a statement that, if the critical ground water area designation is removed or modified, current restrictions, if any, shall be rescinded or modified;
5. a statement indicating where in the application can be viewed; and
6. a statement that all comments should be sent to:
Commissioner of Conservation
Post Office Box 94275
Baton Rouge, LA 70804-9275
ATTN: Director, Ground Water Resources Division

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1584 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1213 (June 2004).

§305. Application Content

A. An application for a critical ground water area designation or for the removal or a modification of a critical ground water area designation shall be filed with the commissioner of conservation at the above address no sooner than 30 days and no later than 60 days after

publication of the Notice of Intent. Five copies of the application shall be filed, and must include:

1. the name, address, telephone number, and signature of the applicant;
2. a statement identifying the applicant's interest which is or may be affected by the subject matter of the application;
3. identification of the source of ground water (aquifer) to which the application applies;
4. identification of the proposed critical ground water area or area proposed to be modified or removed from a critical ground water area designation, including but not limited to:
 - a. its location [section(s), township(s), range(s) and parish(es)];
 - b. a map clearly identifying the boundaries of the subject area of the application, such as but not limited to:
 - i. U.S. Geological Survey topographic map(s) of appropriate scale (1:24,000, 1:62,500, 1:100,000); or
 - ii. LA-DOTD Louisiana parish map(s) outlining the perimeter of the area; or
 - iii. a digital map submitted in vector and/or raster formats, including the supporting metadata;
5. statement of facts and evidence supporting one of the following claims:

- a. that no action would likely negatively impact ground water resources in the aquifer, if the application is pursuant to §307.A;

- b. that alleviation of stress to the aquifer has occurred; if the application is pursuant to §307.B;

6. the proof of publication of Notice of Intent to apply to the commissioner.

B. Direct action by the commissioner for Critical Ground Water Area Hearing

1. The commissioner may initiate a hearing to consider action with respect to a specific ground water area.

2. The commissioner shall notify the public pursuant to §303 and §501.A prior to issuing an order.

3. The information presented by the commissioner at the hearing shall include but not be limited to information pursuant to §305.A and §307.

C. Application for Groundwater Emergency Hearing

1. Notwithstanding the provisions of Subsections A and B hereof, the commissioner may initiate action in response to an application of an interested party or upon the commissioner's own motion in response to a ground water emergency.
2. Subsequent to adoption of a proposed emergency order that shall include designation of a critical ground water area and/or adoption of a emergency management plan for an affected aquifer, the commissioner shall promptly schedule a public hearing pursuant to §501.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1213 (June 2004).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1213 (June 2004).

§307. Criteria for a Critical Ground Water Area Designation

A. Application for designation of a critical ground water area shall contain a statement of facts and supporting evidence substantiating that under current usage and normal

environmental conditions, sustainability of an aquifer is not being maintained resulting in unacceptable environmental, economic, social, or health impacts, or causing a serious adverse impact to an aquifer, considering the areal and temporal extent of all such impacts caused by at least one of the following criteria:

1. water level decline; and/or
2. movement of a saltwater front; and/or
3. subsidence in or from the aquifer caused by overall withdrawals.

B. If the applicant is applying for modification or removal of a critical ground water area designation, the application must contain a statement of facts and supporting evidence substantiating the alleviation of the original cause of designation.

C. Applicant shall also submit recommendations regarding the critical ground water area including but not be limited to the following:

1. the proposed boundaries of the critical ground water area; and
2. a proposal to preserve and manage the ground water resources in the critical ground water area pursuant to R.S. 38:3097.6.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1213 (June 2004).

§309. Review of Critical Ground Water Area Application

A. Within 30 days of receipt of an application pursuant to §305.A, the commissioner shall notify the applicant whether the application is administratively complete.

B. If the commissioner determines an application is incomplete, the applicant shall be notified in writing of the information needed to make such application administratively complete.

C. The applicant shall have 180 days to respond to a request by the commissioner for more information.

D. The commissioner may reject and return any application determined to be:

1. without merit or frivolous; or
2. incomplete after the applicant's response to the commissioner's request for more information, unless the remaining information required by the commissioner is minor in its nature.

E. Using available data, an analysis shall be made by the commissioner to determine if the area under consideration meets the criteria to be designated a critical ground water area or can be modified or removed from a critical ground water area designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1585 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1214 (June 2004).

§311. Recordkeeping

A. The commissioner shall compile and maintain at the Office of Conservation a record of all public documents relating to any application, hearing, or decision filed with or by the commissioner.

B. The commissioner shall make records available for public inspection free of charge and provide copies at a reasonable cost during all normal business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1214 (June 2004).

Chapter 5. Hearings

§501. Notice of Hearings

A. Critical Ground Water Area Preliminary Hearing Pursuant to §305.A or §305.B

1. Upon determination that an application is administratively complete and if the commissioner deems it necessary, a preliminary public hearing may be scheduled at a location determined by the commissioner in the locality of the area affected by the application.

2. Notice of the preliminary hearing shall contain the date, time and location of the hearing and the location of materials available for public inspection.

3. Such notice shall be published in the official state journal and in the official parish journal of each parish affected by the application at least 30 calendar days before the date of such hearing.

4. The commissioner shall send a copy of the notice or similar notification to the applicant, any person requesting notice, and local, state and federal agencies that the commissioner determines may have an interest in the decision relating to the application.

B. Critical Ground Water Area Hearing Pursuant to §305.C and §505.B

1. Should the commissioner determine that a preliminary hearing is not necessary, a draft order shall be issued, pursuant to R.S. 38:3097.6.A and a hearing shall be scheduled, pursuant to this Subsection.

2. The commissioner shall notify the public of any hearing initiated by the commissioner as a result of an action, a minimum of 15 days prior to the hearing.

3. Hearings initiated by the commissioner shall be held in the locality of those affected by the draft order.

4. Notice of the hearing shall contain the date, time and location of the hearing and the location of materials available for public inspection.

5. Such notice shall be published in the official state journal and in the official parish journal of each parish affected by the commissioner's petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1214 (June 2004).

§503. Rules of Conduct

A. Hearings scheduled pursuant to this subpart shall be fact-finding in nature and cross-examination of the witnesses shall be limited to the commissioner and staff.

1. The commissioner, or a designee, shall serve as presiding officer, and shall have the discretion to establish reasonable limits upon the time allowed for statements.

2. The applicant may first present all relative information supporting their proposal followed by testimony

and/or evidence from local, state and federal agencies and others.

3. All interested parties shall be permitted to appear and present testimony, either in person or by their representatives.

4. All hearings shall be recorded verbatim.

5. Copies of the transcript shall be available for public inspection at the Office of Conservation.

6. The testimony and all evidence received shall be made part of the administrative record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1214 (June 2004).

§505. Decision of the Commissioner

A. Following hearings held pursuant to §305.C or §501.A, the commissioner shall issue a written decision in the form of a draft order based on scientifically sound data gathered from the application, the participants in the public hearing, and any other relevant information. The draft order shall contain a statement of findings, and shall include but shall not be limited to:

1. the designation of the critical ground water area boundaries; and

2. the recommended plan to preserve and manage the ground water resources of the critical ground water area pursuant to R.S. 38:3097.6.B.

B. The commissioner shall make the draft order and proposed plan to preserve and manage ground water resources of the proposed critical ground water area available to the applicant, participants in the original application hearing and any other persons requesting a copy thereof. The commissioner in accordance with §501.B shall initiate hearings on the draft order and proposed management controls in the locality of those affected by the commissioner's draft order.

C. Final Orders. The commissioner shall adopt the final orders and plan to preserve and manage ground water resources after completion of §501.B. The final orders shall be made a part of the permanent records of the commissioner in accordance with §311 and shall be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Groundwater Management Commission, LR 28:1586 (July 2002), amended by the Department of Natural Resources, Office of Conservation, LR 30:1215 (June 2004).

§507. Right of Appeal

A. Critical Ground Water Area Designation orders of the commissioner may be appealed only to the Nineteenth Judicial District Court as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1215 (June 2004).

Chapter 7. Water Well Notification Requirements in Non-Critical Ground Water Areas

§701. Applicability

A. All new water wells, pursuant to Subsections B and C of this Section, are required to be installed by a licensed

water-well drilling contractor, pursuant to LAC 46:LXXXIX, and registered through the Department of Transportation and Development (DOTD) pursuant to LAC 57:I et seq. within 30 days after completion.

B. All new water wells except those types specifically listed in §701.C require a water well notification form be submitted to the commissioner by the owner of the well at least 60 days prior to installation.

C. All new water wells of the following types require a water well notification form be submitted to the commissioner by the owner of the well no later than 60 days after installation:

1. domestic well;
2. replacement well;
3. drilling rig supply well;
4. drought relief well;

a. use of the drought relief well type must be approved by the commissioner, pursuant to R.S. 38:3097.3(C)(9), prior to installation; and

5. all other wells the commissioner exempts for just cause:

a. there shall be no just cause exemptions granted for large volume wells;

b. the commissioner shall base exemptions on, but not be limited to:

- i. proximity to other wells;
- ii. beneficial use; or
- iii. latest scientific data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1215 (June 2004).

§703. Notification Requirements

A. Pursuant to R.S. 38:3097.3.C(4)(a), the commissioner is authorized to collect the following information on the water well notification form:

1. date drilled or estimated date to be drilled;
2. name of driller;
3. current ownership;
4. projected location of the well in longitude and latitude;
5. depth;
6. casing size; and
7. other reasonable information required by the commissioner.

B. Pursuant to §703.A.7, the following reasonable information is required by the commissioner on the water well notification form:

1. purpose of form, including but not limited to:
 - a. prior notification, pursuant to §701.B;
 - b. post notification, pursuant to §701.C;
 - c. well exempted for just cause, pursuant to R.S. 38:3097.3.C(4)(a)(v);
 - d. drought well authorization, pursuant to R.S. 38:3097.3.C(9);
 - e. information change; or
 - f. cancellation of notification because well not drilled;
2. well information, including but not limited to:
 - a. owner's well number;
 - b. well use;
 - c. aquifer screened; and

- d. estimated pumping rate;
- 3. well location, including but not limited to:
 - a. parish; and
 - b. longitude and latitude; or
 - c. if longitude and latitude is unavailable;
 - i. a map with the well location marked; or
 - ii. a hand drawn map that includes enough detail so that someone unfamiliar with the area can find the well;
 - 4. drilling contractor, including but not limited to:
 - a. driller's contact information;
 - b. driller's license number; and
 - c. third party or consultant's contact information;
 - 5. owner's signature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1215 (June 2004).

§705. Notification Review Process

A. The commissioner shall review the submitted information, pursuant to §701.B, within 30 days.

- 1. The commissioner may:
 - a. issue an order placing restrictions on the well; or
 - b. request further reasonable information; or
 - c. take no action.
- 2. Should the commissioner request additional reasonable information for new wells, pursuant to §705.A.1, the commissioner shall have an additional 30 days from the date the information is received to review the water well notification form.

B. For a large volume well, the commissioner may, within 30 days after receiving prior notification, pursuant to §701.B, issue to the owner an order fixing:

- 1. allowable production;
- 2. spacing; and
- 3. metering.

C. For all other wells in a non-critical ground water area, the commissioner may issue an order to the owner within 30 days of receiving prior notification, pursuant to §701.B, which may only fix spacing of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1216 (June 2004).

§707. Right of Appeal

A. Within 30 days of the date of the correspondence regarding Paragraphs 1 and 2 of this Subsection, the applicant may appeal to the Ground Water Resources Commission to determine one of the following:

- 1. the reasonableness of the commissioner's request, pursuant to Section §705.A; or
- 2. the justification for the commissioner's well restriction order, pursuant to Section §705.B and C.

B. The appeal shall be addressed to:

Ground Water Resources Commission
 Post Office Box 94275
 Baton Rouge, LA 70804-9275
 ATTN: Chairperson, Ground Water Resources Commission

C. The commission may make a determination within 45 days from the date of the appeal, pursuant to R.S.

38:3097.3.C(4)(b)(iii), regarding the reasonableness of the commissioner's request, pursuant to Subsection A.1 of this Section.

D. The commission may review the appeal of an applicant, pursuant to Subsection A.2 of this Section, and may make a determination regarding the commissioner's well restriction order.

1. The commission may reject the commissioner's order and require the commissioner to reconsider such order.

2. An order that has been returned to the commissioner twice shall be considered a final decision.

E. A final decision of the commissioner may be appealed only to the Nineteenth Judicial District Court as provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3097 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1216 (June 2004).

James H. Welsh
 Commissioner

0406#037

RULE

**Department of Natural Resources
 Office of Conservation
 Pipeline Division**

Hazardous Liquids Pipeline Safety
 (LAC 33:V.30452 and 30905)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq., the Office of Conservation hereby amends the following Rule with changes to the pipeline safety hazardous liquids regulations. This Rule is identical to federal regulations found in 49 CFR Part 195, which are applicable in Louisiana.

This Rule consists of amendments affecting pipeline integrity management in high consequence areas and guidance standards for implementation of integrity management programs.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 304. Transportation of Hazardous Liquids by Pipeline Operation and Maintenance [49 CFR 195.400]

§30452. Pipeline Integrity Management in High Consequence Areas [49 CFR 195.452]

A. - J.5.c. ...

6. Repealed.

K. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 30:1216 (June 2004).

§30905. Appendix C to Subpart 3 Guidance for Implementation of Integrity Management Program [49 CFR Part 195 Appendix C]

I.-II.B.ii. ...

Age of pipeline:	Assume 30 years old (refer to "Age of Pipeline" risk table)	Risk Value=5
Pressure tested:	Tested once during construction	Risk Value=5
Coated:	(yes/no) <input checked="" type="radio"/> yes	
Coating Condition:	Recent excavation of suspected areas showed holidays in coating (potential corrosion risk)	Risk Value=5
Cathodically Protected:	(yes/no) <input checked="" type="radio"/> yes	Risk Value=1
Date cathodic protection installed:	Five years after pipeline was constructed (Cathodic protection installed within one year of the pipeline's construction is generally considered low risk.)	Risk Value=3
Close interval survey:	(yes/no) <input checked="" type="radio"/> no	Risk Value=5
Internal Inspection tool used:	(yes/no) <input checked="" type="radio"/> yes	
Date of pig run?	In last five years	Risk Value=1
Anomalies found:	(yes/no) <input checked="" type="radio"/> yes, but do not pose an immediate safety risk or environmental hazard	Risk Value=3
Leak History:	yes, one spill in last 10 years. (refer to "Leak History" risk table)	Risk Value=2
Product transported:	Diesel fuel. Product low risk. (refer to "Product" risk table)	Risk Value=1

II.B.iii.-VII.F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Natural Resources, Pipeline Division, LR 29:2840 (December 2003), amended LR 30:1217 (June 2004).

James H. Welsh
Commissioner

0406#040

RULE

**Department of Natural Resources
Office of Conservation
Pipeline Division**

Natural Gas Pipeline Safety
(LAC 43:XIII.Chapters 1-65)

The Louisiana Office of Conservation has amended LAC 43:XIII.101 et seq. in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These Rules amend the minimum pipeline safety requirements for natural gas pipelines with new codification, technical changes and the addition of new requirements.

There will be negligible costs to directly affected persons or natural gas pipeline operators. Benefits will be realized by persons near natural gas pipelines through safer construction and operation standards imposed by the Rule amendments. Moreover, Louisiana presently receives approximately

\$441,000 in federal funds and \$660,000 in pipeline fees to administer the Natural Gas Pipeline Safety Program. Failure to amend the Louisiana rules to make them consistent with federal regulations would cause the state to lose federal funding.

The following table shows the previous placement and the new placement of the Sections being promulgated.

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Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation Pipeline Safety

Subpart 1. General Provisions

Chapter 1. General

§101. Applicability

A. This regulation shall apply to all persons engaged in the transportation of gas by pipeline within the state of Louisiana, including the transportation of gas within the coastal zone limits as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

B. Notwithstanding the criteria in §101.A above, this regulation shall apply only to those persons identified in the certification or agreement in effect, pursuant to Section 5 of the Natural Gas Pipeline Safety Act of 1968, as amended (Federal Act), duly executed by the secretary of the Department of Natural Resources and the United States Secretary of Transportation.

C. As to gas odorization, this regulation shall apply to all persons engaged in the business of handling, storing, selling, or distributing natural and other toxic or combustible odorless gases, except as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:508 (July 1984), LR 18:852 (August 1992), LR 20:442 (April 1994), LR 27:1535 (September 2001), LR 30:1219 (June 2004).

§103. Purpose

A. The purpose of these rules is to establish minimum requirements for the design, construction, quality of materials, location, testing, operation and maintenance of facilities used in the gathering, transmission and distribution of gas, to safeguard life or limb, health, property and public welfare and to provide that adequate service will be maintained by gas utilities operating under the jurisdiction of the commissioner of conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:509 (July 1984), LR 30:1219 (June 2004).

§105. Incorporation by Reference

A. Any documents or portions thereof incorporated by reference in this Part are included in this Part as though set out in full. When only a portion of a document is referenced, the remainder is not incorporated in this Part.

B. To the extent consistent with this regulation, all persons shall be governed by the provisions of Parts 191, 192, 199 and 40 of Part 49 of the *Code of Federal Regulations*, sometimes hereinafter referred to as the *Federal Code*, including all standards or specifications

referenced therein, insofar as same are applicable and in effect on the date of this regulation, and by any deletions, additions, revisions, or amendments thereof, made after said date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:509 (July 1984), LR 24:1306 (July 1998), LR 30:1219 (June 2004).

§107. Deviations from the Regulations

A. There shall be no deviation from Part XIII except after authorization by the commissioner. If hardship results from application of any provisions, rules, standards, and specifications herein prescribed because of special facts, application may be made to the commissioner to waive compliance with such regulation in accordance with Section 3(e) of the Natural Gas Pipeline Safety Act of 1968. Each request for such waiver shall be accompanied by a full and complete justification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:509 (July 1984), LR 30:1220 (June 2004).

§109. Recommendation for Revision of Regulations

A. For the purpose of keeping the provisions, rules, standards, and specifications of this regulation effective, any persons subject to this regulation, either individually or collectively, shall file an application setting forth such recommended changes in rules, standards, or specifications as they deem necessary to keep this regulation effective in keeping with the purpose, scope, and intent thereof. However, nothing herein shall preclude other interested parties from initiating appropriate formal proceedings to have the commissioner of conservation consider any changes they deem appropriate, or the commissioner of conservation from acting upon his own motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:509 (July 1984), LR 30:1220 (June 2004).

§111. Records, Reports

A. All persons subject to this regulation shall maintain records, such as plans, programs, specifications, maps and permits, necessary to establish compliance with this regulation. Such records shall be available for inspection at all times by the commissioner.

B. Every person who engages in the sale or transportation of gas subject to the jurisdiction of the commissioner shall file with the commissioner a list including the names, addresses and telephone numbers of responsible officials or such persons who may be contacted in the event of an emergency. Such a list shall be kept current.

C. Notices, reports and plans pertinent to facilities covered by §101 of this regulation and which are submitted to the United States Department of Transportation pursuant to the provisions of the federal code shall be forwarded simultaneously to the commissioner. These filings shall be deemed in full compliance with all obligations imposed for submitting such notices and reports, and when

accomplished, shall release and relieve the person making same from further responsibility therefor.

D. Where a person is required to prepare and submit a report of an accident or incident pertinent to facilities covered by §101 of this regulation to a federal agency in compliance with the outstanding order of such agency, a copy of such report shall be submitted to the commissioner in lieu of filing a similar report which may be required by the state.

E. To accomplish the purpose of Section 557(G) of the Act the commissioner may request the filing of additional information and reports upon such forms and in such manner as prescribed by him.

F. An updated and comprehensive system map(s) containing location and component description information on all facilities (excluding individual service lines), must be maintained by the operator and made available to the commissioner of conservation upon demand. An updated and comprehensive record of individual service lines containing location and component description information must be maintained by the operator and made available to the commissioner of conservation upon demand. The aforementioned maps and records must be accompanied by information showing the location, size and type of pipe, and locations of key valves (system isolation valves), regulator stations, odorization injection and test locations and cathodic protection test locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:218 (April 1983), amended LR 10:510 (July 1984), LR 30:1220 (June 2004).

Subpart 2. Transportation of Natural and Other Gas by Pipeline [49 CFR Part 191]

Chapter 3. Annual Reports, Incident Reports and Safety Related Condition Reports [49 CFR Part 191]

§301. Scope [49 CFR 191.1]

A. This Chapter prescribes requirements for the reporting of incidents, safety-related conditions, and annual pipeline summary data by operators of gas pipeline facilities located in Louisiana. [49 CFR 191.1(a)]

B. This Chapter does not apply to: [49 CFR 191.1(b)]

1. offshore gathering of gas in state waters upstream from the outlet flange of each facility where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream; [49 CFR 191.1(b)(1)]

2. pipelines on the Outer Continental Shelf (OCS) that are producer operated and cross into state waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting RSPA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the administrator, or designee, for approval to operate under RSPA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9. [49 CFR 191.1(b)(2)]

3. pipelines on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from

a producing operator to a transporting operator; or [49 CFR 191.1(b)(3)]

4. onshore gathering of gas outside of the following areas: [49 CFR 191.1(b)(4)]

a. an area within the limits of any incorporated or unincorporated city, town, or village; [49 CFR 191.1(b)(4)(i)]

b. any designated residential or commercial area such as a subdivision, business or shopping center, or community development. [49 CFR 191.1(b)(4)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:218 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 18:854 (August 1992), LR 27:1536 (September 2001), LR 30:1220 (June 2004).

§303. Definitions [49 CFR 191.3]

A. As used in Part XIII and in the RSPA Forms referenced in this Part: [49 CFR 191.3]

Administrator The administrator, research and special programs administration or his or her delegate.

Commissioner The commissioner of Conservation or any person to whom he has delegated authority in the matter concerned.

Gas Natural gas, flammable gas, or gas which is toxic or corrosive.

Incident Any of the following events:

a. an event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility; and

i. a death, or personal injury necessitating inpatient hospitalization; or

ii. estimated property damage, including cost of gas lost, of the operator or others, or both, of \$50,000 or more;

b. an event that results in an emergency shutdown of an LNG facility;

c. an event that is significant, in the judgement of the operator, even though it did not meet the criteria of Subparagraphs a or b.

LNG Facility A liquefied natural gas facility as defined in §193.2007 of Part 193 of the federal pipeline safety regulations.

Master Meter System A pipeline system for distributing gas within, but not limited to, a definable area such as a mobile home park, housing project, apartment complex or university, where the operator purchases meter gas from an outside source for resale through a gas pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as rents.

Municipality A city, parish, or any other political subdivision of a state.

Offshore Beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

Operator A person who engages in the transportation of gas.

Person Any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative

association or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

Pipeline or Pipeline System All parts of those physical facilities through which gas moves in transportation, including but not limited to, pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery station, holders, and fabricated assemblies.

State The state of Louisiana.

Transportation of Gas The gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in or affecting intrastate, interstate or foreign commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:255 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004).

§305. Telephonic Notice of Certain Incidents

[49 CFR 191.5]

A. At the earliest practicable moment, within two hours following discovery, each operator shall give notice in accordance with Subsection B of this Section of each incident as defined in §303. [49 CFR 191.5(a)]

B. Each notice required by Subsection A of this Section shall be made by telephone to 1-(800) 424-8802 (federal) and (225) 342-5585 (day) or (225) 342-5505 (after working hours)(state) and shall include the following information: [49 CFR 191.5(b)]

1. names of operator and person making report and their telephone numbers; [49 CFR 191.5(b)(1)]

2. the location of the incident; [49 CFR 191.5(b)(2)]

3. the time of the incident; [49 CFR 191.5(b)(3)]

4. the number of fatalities and personal injuries, if any; [49 CFR 191.5(b)(4)]

5. all other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages. [49 CFR 191.5(b)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:218 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 20:442 (April 1994), LR 30:1221 (June 2004).

§307. Addressee for Written Reports [49 CFR 191.7]

A. One copy of each written report, required by Part XIII, for intrastate facilities subject to the jurisdiction of the Office of Conservation pursuant to certification under Section 5(a) of the Natural Gas Pipeline Safety Act must be submitted to the Commissioner of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275. One copy of each written report required by Part XIII, must be submitted to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590. Safety-related condition reports required by §323 for intrastate pipeline transportation must be submitted concurrently to that state agency, and if that agency acts as an agent of the secretary with respect to interstate transmission facilities, safety-related condition reports for these facilities must be submitted concurrently to that agency. [49 CFR 191.7]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004).

§309. Distribution System: Incident Report
[49 CFR 191.9]

A. Except as provided in Subsection C of this Section, each operator of a distribution pipeline system shall submit Department of Transportation Form RSPA F 7100.1 as soon as practicable but not more than 30 days after detection of an incident required to be reported under §305. [49 CFR 191.9(a)]

B. When additional relevant information is obtained after the report is submitted under Subsection A of this Section, the operator shall make supplementary reports as deemed necessary with a clear reference by date and subject to the original report. [49 CFR 191.9(b)]

C. The incident report required by this Section need not be submitted with respect to master meter systems or LNG facilities. [49 CFR 191.9(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), amended LR 30:1222 (June 2004).

§311. Distribution System: Annual Report
[49 CFR 191.11]

A. Except as provided in Subsection B of this Section, each operator of a distribution pipeline system shall submit an annual report for that system on Department of Transportation Form RSPA F 7100.1-1. This report must be submitted each year, not later than March 15, for the preceding calendar year. [49 CFR 191.11(a)]

B. The annual report required by this Section need not be submitted with respect to:

1. petroleum gas systems which serve fewer than 100 customers from a single source; [49 CFR 191.11(b)(1)]
2. master meter systems; or [49 CFR 191.11(b)(2)]
3. LNG facilities. [49 CFR 191.11(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR 30:1222 (June 2004).

§313. Distribution Systems Reporting Transmission Pipelines: Transmission or Gathering Systems Reporting Distribution Pipelines
[49 CFR 191.13]

A. Each operator, primarily engaged in gas distribution, who also operates gas transmission or gathering pipelines shall submit separate reports for these pipelines as required by §§315 and 317. Each operator, primarily engaged in gas transmission or gathering, who also operates gas distribution pipelines shall submit separate reports for these pipelines as required by §§309 and 311. [49 CFR 191.13]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR 30:1222 (June 2004).

§315. Transmission and Gathering Systems: Incident Report [49 CFR 191.15]

A. Except as provided in Subsection C of this Section, each operator of a transmission or a gathering pipeline system shall submit Department of Transportation Form RSPA F 7100.2 as soon as practicable but not more than 30 days after detection of an incident required to be reported under §305. [49 CFR 191.15(a)]

B. Where additional related information is obtained after a report is submitted under Subsection A of this Section, the operator shall make a supplemental report as soon as practicable with a clear reference by date and subject to the original report. [49 CFR 191.15(b)]

C. The incident report required by Subsection A of this Section need not be submitted with respect to LNG facilities. [49 CFR 191.15(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR 30:1222 (June 2004).

§317. Transmission and Gathering Systems: Annual Report [49 CFR 191.17]

A. Except as provided in Subsection B of this Section, each operator of a transmission or a gathering pipeline system shall submit an annual report for that system on Department of Transportation Form RSPA 7100.2-1. This report must be submitted each year, not later than March 15, for the preceding calendar year. [49 CFR 191.17(a)]

B. The annual report required by Subsection A of this Section need not be submitted with respect to LNG facilities. [49 CFR 191.17(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:256 (March 1985), LR 30:1222 (June 2004).

§319. Report Forms [49 CFR 191.19]

A. Copies of the prescribed report forms are available without charge upon request from the address given in §307. Additional copies in this prescribed format may be reproduced and used if in the same size and kind of paper. In addition, the information required by these forms may be submitted by any other means that is acceptable to the commissioner/administrator. [49 CFR 191.19]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:256 (March 1985), LR 20:442 (April 1994), LR 24:1307 (July 1998), LR 30:1222 (June 2004).

§321. OMB Control Number Assigned to Information Collection [49 CFR 191.21]

A. This Section displays the control number assigned by the Office of Management and Budget (OMB) to the gas pipeline information collection requirements of the Office of Pipeline Safety pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511. It is the intent of this Section to comply with the requirements of Section 3507(f) of the Paperwork Reduction Act which requires that agencies display a current control number assigned by the Director of

OMB for each agency information collection requirement. [49 CFR 191.21]

OMB Control Number 2137-0522.

Section of 49 CFR Part 191 where identified	Form No.
191.5	Telephonic
191.9	RSPA 7100.1
191.11	RSPA 7100.1-1
191.15	RSPA 7100.2
191.17	RSPA 7100.2-1

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:256 (March 1985), amended LR 20:442 (April 1994), LR 30:1222 (June 2004).

§323. Reporting Safety-Related Conditions
[49 CFR 191.23]

A. Except as provided in Subsection B of this Section, each operator shall report in accordance with §325 the existence of any of the following safety-related conditions involving facilities in service: [49 CFR 191.23(a)]

1. in the case of a pipeline (other than an LNG facility) that operates at a hoop stress of 20 percent or more of its specified minimum yield strength, general corrosion that has reduced the wall thickness to less than that required for the maximum allowable operating pressure, and localized corrosion pitting to a degree where leakage might result; [49 CFR 191.23(a)(1)]

2. unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide, or flood, that impairs the serviceability of a pipeline or the structural integrity or reliability of an LNG facility that contains, controls, or processes gas or LNG; [49 CFR 191.23(a)(2)]

3. any crack or other material defect that impairs the structural integrity or reliability of an LNG facility that contains, controls, or processes gas or LNG; [49 CFR 191.23(a)(3)]

4. any material defect or physical damage that impairs the serviceability of a pipeline that operates at a hoop stress of 20 percent or more of its specified minimum yield strength; [49 CFR 191.23(a)(4)]

5. any malfunction or operating error that causes the pressure of a pipeline or LNG facility that contains or processes gas or LNG to rise above its maximum allowable operating pressure (or working pressure for LNG facilities) plus the build-up allowed for operation of pressure limiting or control devices; [49 CFR 191.23(a)(5)]

6. a leak in a pipeline or LNG facility that contains or processes gas or LNG that constitutes an emergency; [49 CFR 191.23(a)(6)]

7. inner tank leakage, ineffective insulation, or frost heave that impairs the structural integrity of a LNG storage tank; [49 CFR 191.23(a)(7)]

8. any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent or more reduction in operating pressure or shutdown of operation of a pipeline or a LNG facility that contains or processes gas or LNG. [49 CFR 191.23(a)(8)]

B. A report is not required for any safety-related condition that: [49 CFR 191.23(b)]

1. exists on a master meter system or a customer-owned service line; [49 CFR 191.23(b)(1)]

2. is an incident or results in an incident before the deadline for filing the safety-related condition report; [49 CFR 191.23(b)(2)]

3. exists on a pipeline (other than an LNG facility) that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway; or [49 CFR 191.23(b)(3)]

4. is corrected by repair or replacement in accordance with applicable safety standards before the deadline for filing the safety-related condition report, except that reports are required for conditions under Paragraph A.1 of this Section other than localized corrosion pitting on an effectively coated and cathodically protected pipeline. [49 CFR 191.23(b)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1223 (June 2004).

§325. Filing Safety-Related Condition Reports
[49 CFR 191.25]

A. Each report of a safety-related condition under §323.A must be filed concurrently (received by the commissioner and associate administrator, OPS) in writing within five working days (not including Saturday, Sunday, state or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by facsimile (FAX), dial (225) 342-5529 (state) and (202) 366-7128 (federal). [49 CFR 191.25]

B. The report must be headed "Safety-Related Condition Report" and provide the following information: [49 CFR 191.25(b)]

1. name and principal address of operator; [49 CFR 191.25(b)(1)]

2. date of report; [49 CFR 191.25(b)(2)]

3. name, job title, and business telephone number of person submitting the report; [49 CFR 191.25(b)(3)]

4. name, job title, and business telephone number of person who determined that the condition exists; [49 CFR 191.25(b)(4)]

5. date condition was discovered and date condition was first determined to exist; [49 CFR 191.25(b)(5)]

6. location of condition, with reference to the state (and town, city, or parish) or offshore site, and as appropriate, nearest street address, offshore platform, survey station number, milepost, landmark, or name of pipeline; [49 CFR 191.25(b)(6)]

7. description of the condition, including circumstances leading to its discovery, any significant effects of the condition on safety, and the name of the commodity transported or stored; [49 CFR 191.25(b)(7)]

8. the corrective action taken (including reduction of pressure or shutdown) before the report is submitted and the planned follow-up or future corrective action, including the

anticipated schedule for starting and concluding such action. [49 CFR 191.25(b)(8)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1223 (June 2004).

§327. Filing Offshore Pipeline Condition Reports
[49 CFR 191.27]

A. Each operator shall, within 60 days after completion of the inspection of all its underwater pipelines subject to §2712.A, report the following information: [49 CFR 191.27(a)]

1. name and principal address of operator; [49 CFR 191.27(a)(1)]
2. date of report; [49 CFR 191.27(a)(2)]
3. name, job title, and business telephone number of person submitting the report; [49 CFR 191.27(a)(3)]
4. total length of pipeline inspected; [49 CFR 191.27(a)(4)]
5. length and date of installation of each exposed pipeline segment, and location, including, if available, the location according to the Minerals Management Service or state offshore area and block number tract; [49 CFR 191.27(a)(5)]
6. length and date of installation of each pipeline segment, if different from a pipeline segment identified under Paragraph A.5 of this Section, that is a hazard to navigation, and the location, including, if available, the location according to the Minerals Management Service or state offshore area and block number tract. [49 CFR 191.27(a)(6)]

B. The report shall be mailed to the Commissioner of Conservation, Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 and concurrently to the Information Officer, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. [49 CFR 191.27(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:854 (August 1992), amended LR 20:443 (April 1994), LR 30:1224 (June 2004).

Subpart 3. Transportation of Natural or Other Gas By Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 5. General [Subpart A]

§501. Scope of Part [49 CFR 192.1]

A. This Subpart prescribes minimum safety requirements for pipeline facilities and the transportation of gas by pipeline within the state of Louisiana, including pipeline facilities and the transportation of gas within the coastal zone limits as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331). [49 CFR 192.1(a)]

B. This regulation does not apply to: [49 CFR 192.1(b)]

1. offshore gathering of gas in state waters upstream from the outlet flange of each facility where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream; [49 CFR 192.1(b)(1)]
2. pipelines on the Outer Continental Shelf (OCS) that are producer-operated and cross into state waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the

last production facility on the OCS. Safety equipment protecting RSPA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the administrator, or designee, for approval to operate under RSPA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9; [49 CFR 192.1 (b)(2)]

3. pipelines on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator; [49 CFR 192.1 (b)(3)]

4. onshore gathering of gas outside the following areas: [49 CFR 192.1(b)(4)]

a. an area within the limits of any incorporated or unincorporated city, town, or village; [49 CFR 192.1(b)(4)(i)]

b. any designated residential or commercial area such as a subdivision, business or shopping center, or community development; [49 CFR 192.1(b)(4)(ii)]

5. onshore gathering of gas within inlets of the Gulf of Mexico except as provided in §2712; or [49 CFR 192.1(b)(5)]

6. any pipeline system that transports only petroleum gas or petroleum gas/air mixtures to: [49 CFR 192.1(b)(6)]

a. fewer than 10 customers, if no portion of the system is located in a public place; or [49 CFR 192.1(b)(6)(i)]

b. a single customer, if the system is located entirely on the customer's premises (no matter if a portion of the system is located in a public place). [49 CFR 192.1(b)(6)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004).

§503. Definitions [49 CFR 192.3]

A. As used in this Part:

Abandoned Permanently removed from service.

Administrator The administrator, Research and Special Programs Administration or his or her delegate.

Building Any structure in which gas can accumulate.

Business A permanent structure occupied for the express usage of wholesale or retail sales, services, the manufacture or storage of products, or a public building.

Business District An area of two or more businesses within 100 yards (300 feet) of each other and within 100 yards along the linear length of any gas pipeline. The district will extend 100 feet past the defined boundaries of the last business in the district.

Commissioner The commissioner of Conservation or any person to whom he has delegated authority in the matter concerned.

Customer Meter The meter that measures the transfer of gas from an operator to a customer.

Distribution Line A pipeline other than a gathering or transmission line.

Exposed Pipeline A pipeline where the top of the pipe is protruding above the seabed in water less than 15 feet (4.6 meters) deep, as measured from the mean low water.

Gas Natural gas, flammable gas, or gas which is toxic or corrosive.

Gathering Line A pipeline that transports gas from a current production facility to a transmission line or main.

Gulf of Mexico and its Inlets The waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (excluding rivers, tidal marshes, lakes, and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters), as measured from the mean low water.

Hazard to Navigation For the purpose of this Subpart, a pipeline where the top of the pipe is less than 12 inches (305 millimeters) below the seabed in water less than 15 feet (4.6 meters), deep as measured from the mean low water.

High Pressure Distribution System A distribution system in which the gas pressure in the main is higher than the pressure provided to the customer.

Line Section A continuous run of transmission line between adjacent compressor stations, between a compressor station and storage facilities, between a compressor station and a block valve, or between adjacent block valves.

Listed Specification A specification listed in Section I of Appendix B of this Subpart.

Low-Pressure Distribution System A distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the customer.

Main A distribution line that serves as a common source of supply for at least one service line.

Master Meter System A pipeline system for distributing gas within, but not limited to, a definable area such as a mobile home park, housing project, apartment complex or university, where the operator purchases meter gas from an outside source for resale through a gas pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as rents.

Maximum Actual Operating Pressure The maximum pressure that occurs during normal operations over a period of one year.

Maximum Allowable Operating Pressure (MAOP) The maximum pressure at which a pipeline or segment of a pipeline may be operated under this Subpart.

Municipality A city, parish, or any other political subdivision of Louisiana.

Natural Gas Distribution System A company, municipality, or political subdivision that purchases or receives natural gas, and through its own intrastate pipeline system, distributes natural gas to end users in Louisiana such as residential, commercial, industrial, and wholesale customers, and shall include master meter systems.

Non Rural Area

- a. an area within the limits of any incorporated city, town, or village;
- b. any designated residential or commercial area such as a subdivision, business or shopping center, or community development;
- c. any Class 3 or 4 location as defined in §503; or
- d. any other area so designated by the commissioner.

Offshore Beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

Operator A person who engages in the transportation of gas.

Outer Continental Shelf All submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Person Any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

Petroleum Gas Propane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 208 psi (1,434 kPa) gage at 100°F (38°C).

Pipe Any pipe or tubing used in the transportation of gas, including pipe-type holders.

Pipeline All parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.

Pipeline Facility New and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

Production Facility Piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of hydrocarbons, or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting hydrocarbons from the ground and preparing it for transportation by pipeline.)

Public Building A structure which members of the public may congregate such as schools, hospitals, nursing homes, churches, civic centers, post offices, and federal, state and local government buildings.

School System A pipeline system for distributing natural gas to a public or private pre-kindergarten, kindergarten, elementary, secondary, or high school. Upon request for a revision of service by the school, or by the school system of which the school is a component, the local distribution company providing natural gas service to the school shall, within a reasonable period of time and upon mutual agreement, install a meter at the building wall of each building of the school that utilizes natural gas. The gas piping from the outlet of the meter to the inside of the building shall be installed above ground, and shall be maintained by the school in accordance with the requirements of the Office of the State Fire Marshal. The outside piping that is upstream of the meter to the outlet of the meter shall be owned and maintained by the local distribution company in accordance with minimum pipeline safety regulations. The pipeline system of a school that does not request a revision of service described by this Paragraph shall be deemed a special class system, and subject to the requirements of such system.

Service Line A distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial

customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.

Service Regulator—The device on a service line that controls the pressure of gas delivered from a higher pressure to the pressure provided to the customer. A service regulator may serve one customer or multiple customers through a meter header or manifold.

SMYS—Specified minimum yield strength is:

a. for steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in that specification; or

b. for steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with §907.B.

Special Class System—A pipeline system for distributing gas to a federal, state, or local government facility or a private facility performing a government function, where the operator receives or purchases gas from an outside source and distributes the gas through a pipeline system to more than one outlet beyond the meter or regulator, which ultimate outlet may, but need to be, individually metered or charged a fee for the gas. Any exemption from pipeline safety regulation granted to master meter systems will apply to special class systems.

State—Each of the several states, the District of Columbia, and the Commonwealth of Puerto Rico.

Transmission Line—A pipeline, other than a gathering line, that:

a. transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center;

b. operates at a hoop stress of 20 percent or more of SMYS; or

c. transports gas within a storage field.

A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

Transportation of Gas—The gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in or affecting intrastate, interstate or foreign commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004).

§505. Class Locations [49 CFR 192.5]

A. This Section classifies pipeline locations for purposes of this Part. The following criteria apply to classifications under this Section. [49 CFR 192.5(a)]

1. A class location unit is an onshore area that extends 220 yards (200 meters) on either side of the centerline of any continuous one-mile (1.6 kilometers) length of pipeline. [49 CFR 192.5(a)(1)]

2. Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy. [49 CFR 192.5(a)(2)]

B. Except as provided in Subsection C of this Section, pipeline locations are classified as follows: [49 CFR 192.5(b)]

1. a Class 1 location is: [49 CFR 192.5(b)(1)]

a. an offshore area; or [49 CFR 192.5(b)(1)(i)]

b. any class location unit that has 10 or fewer buildings intended for human occupancy; [49 CFR 192.5(b)(1)(ii)]

2. a Class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy; [49 CFR 192.5(b)(2)]

3. a Class 3 location is: [49 CFR 192.5(b)(3)]

a. any class location unit that has 46 or more buildings intended for human occupancy; or [49 CFR 192.5(b)(3)(i)]

b. an area where the pipeline lies within 100 yards (91 meters) of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least five days a week for 10 weeks in any 12-month period (the days and weeks need not be consecutive); [49 CFR 192.5(b)(3)(ii)]

4. a Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent. [49 CFR 192.5(b)(4)]

C. The length of Class locations 2, 3, and 4 may be adjusted as follows. [49 CFR 192.5(c)]

1. A Class 4 location ends 220 yards (200 meters) from the nearest building with four or more stories above ground. [49 CFR 192.5(c)(1)]

2. When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards (200 meters) from the nearest building in the cluster. [49 CFR 192.5(c)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998), LR 27:1537 (September 2001), LR 30:1226 (June 2004).

§507. Incorporation by Reference [49 CFR 192.7]

A. Any documents or portions thereof incorporated by reference in this Part are included in this Part as though set out in full. When only a portion of a document is referenced, the remainder is not incorporated in this Part. [49 CFR 192.7(a)]

B. All incorporated materials are available for inspection in the Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC, and at the Office of the *Federal Register*, 800 North Capitol Street, NW, Suite 700, Washington, DC. These materials have been approved for incorporation by reference by the Director of the *Federal Register* in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. In addition, the incorporated materials are available from the respective organizations listed in §5101, Appendix A to this Part. [49 CFR 192.7(b)]

C. The full titles for the publications incorporated by reference in this Part are provided in §5101, Appendix A to this Part. Numbers in parentheses indicate applicable editions. Earlier editions of documents listed or editions of documents formerly listed in previous editions of §5101, Appendix A may be used for materials and components

manufactured, designed, or installed in accordance with those earlier editions at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR for a listing of the earlier listed editions or documents. [49 CFR 192.7(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004).

§509. Gathering Lines [49 CFR 192.9]

A. Except as provided in §§501 and 1110, each operator of a gathering line must comply with the requirements of this Subpart applicable to transmission lines. [49 CFR 192.9]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:1307 (July 1998), LR 30:1227 (June 2004).

§510. Outer Continental Shelf Pipelines [49 CFR 192.10]

A. Operators of transportation pipelines on the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act 43 U.S.C. 1331) must identify on all their respective pipelines the specific points at which operating responsibility transfers to a producing operator. For those instances in which the transfer points are not identifiable by a durable marking, each operator will have until September 15, 1998 to identify the transfer points. If it is not practicable to durably mark a transfer point and the transfer point is located above water, the operator must depict the transfer point on a schematic located near the transfer point. If a transfer point is located subsea, then the operator must identify the transfer point on a schematic which must be maintained at the nearest upstream facility and provided to RSPA upon request. For those cases in which adjoining operators have not agreed on a transfer point by September 15, 1998 the regional director and the MMS regional supervisor will make a joint determination of the transfer point. [49 CFR 192.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1537 (September 2001), amended LR 30:1227 (June 2004).

§511. Petroleum Gas Systems [49 CFR 192.11]

A. Each plant that supplies petroleum gas by pipeline to a natural gas distribution system must meet the requirements of this Subpart and ANSI/NFPA 58 and 59. [49 CFR 192.11(a)]

B. Each pipeline system subject to this Subpart that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this Subpart and of ANSI/NFPA 58 and 59. [49 CFR 192.11(b)]

C. In the event of a conflict between this Subpart and ANSI/NFPA 58 and 59, ANSI/NFPA 58 and 59 prevail. [49 CFR 192.11(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998), LR 30:1227 (June 2004).

§513. General [49 CFR 192.13]

A. No person may operate a segment of pipeline that is readied for service after March 12, 1971, or in the case of an offshore gathering line, after July 31, 1977, unless: [49 CFR 192.13(a)]

1. the pipeline has been designed, installed, constructed; initially inspected, and initially tested in accordance with this Subpart; or [49 CFR 192.13(a)(1)]

2. the pipeline qualifies for use under this Subpart in accordance with §514. [49 CFR 192.13(a)(2)]

B. No person may operate a segment of pipeline that is replaced, relocated, or otherwise changed after November 12, 1970, or in the case of an offshore gathering line, after July 31, 1977, unless that replacement, relocation, or change has been made in accordance with this Subpart. [49 CFR 192.13(b)]

C. Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this Part. [49 CFR 192.13(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 30:1227 (June 2004).

§514. Conversion to Service Subject to This Part [49 CFR 192.14]

A. A steel pipeline previously used in service not subject to Part XIII qualifies for use under this Part if the operator prepares and follows a written procedure to carry out the following requirements. [49 CFR 192.14(a)]

1. The design, construction, operation, and maintenance history of the pipeline must be reviewed and, where sufficient historical records are not available, appropriate tests must be performed to determine if the pipeline is in a satisfactory condition for safe operation. [49 CFR 192.14(a)(1)]

2. The pipeline right-of-way, all aboveground segments of the pipeline, and appropriately selected underground segments must be visually inspected for physical defects and operating conditions which reasonably could be expected to impair the strength or tightness of the pipeline. [49 CFR 192.14(a)(2)]

3. All known unsafe defects and conditions must be corrected in accordance with this Part. [49 CFR 192.14(a)(3)]

4. The pipeline must be tested in accordance with Chapter 23 of this Subpart to substantiate the maximum allowable operating pressure permitted by Chapter 27 of this Subpart. [49 CFR 192.14(a)(4)]

B. Each operator must keep for the life of the pipeline a record of investigations, tests, repairs, replacements, and alterations made under the requirements of Subsection A of this Section. [49 CFR 192.14(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:512 (July 1984), LR 30:1227 (June 2004).

§515. Rules of Regulatory Construction
[49 CFR 192.15]

- A. As used in this regulation: [49 CFR 192.15(a)]
Includes "including but not limited to;"
May "is permitted to" or "is authorized to;"
May not "is not permitted to" or "is not authorized to;"
Shall "is used in the mandatory and imperative sense."

B. In Part XIII: [49 CFR 192.15(b)]

1. words importing the singular include the plural; [49 CFR 192.15(b)(1)]
2. words importing the plural include the singular; and [49 CFR 192.15(b)(2)]
3. words importing the masculine gender include the feminine. [49 CFR 192.15(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:509 (July 1984), LR 30:1228 (June 2004).

§516. Customer Notification [49 CFR 192.16]

A. This Section applies to each operator of a service line who does not maintain the customer's buried piping up to entry of the first building downstream, or, if the customer's buried piping does not enter a building, up to the principal gas utilization equipment or the first fence (or wall) that surrounds that equipment. For the purpose of this Section, customer's buried piping does not include branch lines that serve yard lanterns, pool heaters, or other types of secondary equipment. Also, maintain means monitor for corrosion according to §2117 if the customer's buried piping is metallic, survey for leaks according to §2923, and if an unsafe condition is found, shut off the flow of gas, advise the customer of the need to repair the unsafe condition, or repair the unsafe condition. [49 CFR 192.16(a)]

B. Each operator shall notify each customer once in writing of the following information. [49 CFR 192.16(b)]

1. The operator does not maintain the customer's buried piping. [49 CFR 192.16(b)(1)]
2. If the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage. [49 CFR 192.16(b)(2)]
3. Buried gas piping should be: [49 CFR 192.16(b)(3)]
 - a. periodically inspected for leaks; [49 CFR 192.16(b)(3)(i)]
 - b. periodically inspected for corrosion if the piping is metallic; and [49 CFR 192.16(b)(3)(ii)]
 - c. repaired if any unsafe condition is discovered. [49 CFR 192.16(b)(3)(iii)]

4. When excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand. [49 CFR 192.16(b)(4)]

5. The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping. [49 CFR 192.16(b)(5)]

C. Each operator shall notify each customer not later than August 14, 1996 or 90 days after the customer first receives gas at a particular location, whichever is later. However, operators of master meter systems may continuously post a general notice in a prominent location frequented by customers. [49 CFR 192.16(c)]

D. Each operator must make the following records available for inspection by the administrator or a state agency participating under 49 U.S.C. 60105 or 60106: [49 CFR 192.16(d)]

1. a copy of the notice currently in use; and [49 CFR 192.16(d)(1)]

2. evidence that notices have been sent to customers within the previous three years. [49 CFR 192.16(d)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:1307 (July 1998), amended LR 27:1537 (September 2001), LR 30:1228 (June 2004).

Chapter 7. Materials [Subpart B]

§701. Scope [49 CFR 192.51]

A. This Chapter prescribes minimum requirements for the selection and qualification of pipe and components for use in pipelines. [49 CFR 192.51]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:512 (July 1984), LR 30:1228 (June 2004).

§703. General [49 CFR 192.53]

A. Materials for pipe and components must be: [49 CFR 192.53]

1. able to maintain the structural integrity of the pipeline under temperature and other environment conditions that may be anticipated; [49 CFR 192.53(a)]

2. chemically compatible with any gas that they transport and with any other material in the pipeline with which they are in contact; and [49 CFR 192.53(b)]

3. qualified in accordance with the applicable requirements of this Chapter. [49 CFR 192.53(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:512 (July 1984), LR 30:1228 (June 2004).

§705. Steel Pipe [49 CFR 192.55]

A. New steel pipe is qualified for use under this Subpart if: [49 CFR 192.55(a)]

1. it was manufactured in accordance with a listed specification; [49 CFR 192.55(a)(1)]

2. it meets the requirements of: [49 CFR 192.55(a)(2)]

a. Section II of §5103, Appendix B to this Subpart; or [49 CFR 192.55(a)(2)(i)]

b. if it was manufactured before November 12, 1970, either Section II or III of §5103, Appendix B to this Subpart; or [49 CFR 192.55(a)(2)(ii)]

3. it is used in accordance with Subsection C or D of this Section. [49 CFR 192.55(a)(3)]

B. Used steel pipe is qualified for use under this Subpart if: [49 CFR 192.55(b)]

1. it was manufactured in accordance with a listed specification and it meets the requirements of Paragraph II-C of §5103, Appendix B to this Subpart; [49 CFR 192.55(b)(1)]

2. it meets the requirements of: [49 CFR 192.55(b)(2)]

a. Section II of §5103, Appendix B to this Subpart; or [49 CFR 192.55(b)(2)(i)]

b. if it was manufactured before November 12, 1970, either Section II or III of §5103, Appendix B to this Subpart; [49 CFR 192.55(b)(2)(ii)]

3. it has been used in an existing line of the same or higher pressure and meets the requirements of Paragraph II-C of §5103, Appendix B to this Subpart; or [49 CFR 192.55(b)(3)]

4. it is used in accordance with Subsection C of this Section. [49 CFR 192.55(b)(4)]

C. New or used steel pipe may be used at a pressure resulting in a hoop stress of less than 6,000 psi (41 MPa) where no close coiling or close bending is to be done, if visual examination indicates that the pipe is in good condition and that it is free of split seams and other defects that would cause leakage. If it is to be welded, steel pipe that has not been manufactured to a listed specification must also pass the weldability tests prescribed in Paragraph II-B of §5103, Appendix B to this Subpart. [49 CFR 192.55(c)]

D. Steel pipe that has not been previously used may be used as replacement pipe in a segment of pipeline if it has been manufactured prior to November 12, 1970, in accordance with the same specification as the pipe used in constructing that segment of pipeline. [49 CFR 192.55(d)]

E. New steel pipe that has been cold expanded must comply with the mandatory provisions of API Specification 5L. [49 CFR 192.55(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:512 (July 1984), LR 27:1537 (September 2001), LR 30:1228 (June 2004).

§709. Plastic Pipe [49 CFR 192.59]

A. New plastic pipe is qualified for use under this Subpart if: [49 CFR 192.59(a)]

1. it is manufactured in accordance with a listed specification; and [49 CFR 192.59(a)(1)]

2. it is resistant to chemicals with which contact may be anticipated. [49 CFR 192.59(a)(2)]

B. Used plastic pipe is qualified for use under this Subpart if: [49 CFR 192.59(b)]

1. it was manufactured in accordance with a listed specification; [49 CFR 192.59(b)(1)]

2. it is resistant to chemicals with which contact may be anticipated; [49 CFR 192.59(b)(2)]

3. it has been used only in natural gas service; [49 CFR 192.59(b)(3)]

4. its dimensions are still within the tolerances of the specification to which it was manufactured; and [49 CFR 192.59(b)(4)]

5. it is free of visible defects. [49 CFR 192.59(b)(5)]

C. For the purpose of Paragraphs A.1 and B.1 of this Section, where pipe of a diameter included in a listed specification is impractical to use, pipe of a diameter between the sizes included in a listed specification may be used if it: [49 CFR 192.59(c)]

1. meets the strength and design criteria required of pipe included in that listed specification; and [49 CFR 192.59(c)(1)]

2. is manufactured from plastic compounds which meet the criteria for material required of pipe included in that listed specification. [49 CFR 192.59(c)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:512 (July 1984), LR 30:1229 (June 2004).

§713. Marking of Materials [49 CFR 192.63]

A. Except as provided in Subsection D of this Section each valve, fitting, length of pipe, and other component must be marked: [49 CFR 192.63(a)]

1. as prescribed in the specification or standard to which it was manufactured, except that thermoplastic fittings must be marked in accordance with ASTM D 2513; or [49 CFR 192.63(a)(1)]

2. to indicate size, material, manufacturer, pressure rating, and temperature rating, and as appropriate, type, grade, and model. [49 CFR 192.63(a)(2)]

B. Surfaces of pipe and components that are subject to stress from internal pressure may not be field die stamped. [49 CFR 192.63(b)]

C. If any item is marked by die stamping, the die must have blunt or rounded edges that will minimize stress concentrations. [49 CFR 192.63(c)]

D. Subsection A of this Section does not apply to items manufactured before November 12, 1970, that meet all of the following. [49 CFR 192.63(d)]

1. The item is identifiable as to type, manufacturer, and model. [49 CFR 192.63(d)(1)]

2. Specifications or standards giving pressure, temperature, and other appropriate criteria for the use of items are readily available. [49 CFR 192.63(d)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:512 (July 1984), LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:1308 (July 1998), LR 30:1229 (June 2004).

§715. Transportation of Pipe [49 CFR 192.65]

A. In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by railroad unless: [49 CFR 192.65]

1. the transportation is performed in accordance with API RP 5L1; [49 CFR 192.65(a)]

2. in the case of pipe transported before November 12, 1970, the pipe is tested in accordance with Chapter 23 of this Subpart to at least 1.25 times the maximum allowable operating pressure if it is to be installed in a Class 1 location and to at least 1.5 times the maximum allowable operating pressure if it is to be installed in a Class 2, 3, or 4 location. Notwithstanding any shorter time period permitted under Chapter 23 of this Subpart, the test pressure must be maintained for at least eight hours. [49 CFR 192.65(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:513 (July 1984), LR 20:444 (April 1994), LR 30:1229 (June 2004).

Chapter 9. Pipe Design [Subpart C]

§901. Scope [49 CFR 192.101]

A. This Chapter prescribes the minimum requirements for the design of pipe. [49 CFR 192.101]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:513 (July 1984), LR 30:1229 (June 2004).

§903. General [49 CFR 192.103]

A. Pipe must be designed with sufficient wall thickness, or must be installed with adequate protection, to withstand anticipated external pressures and loads that will be imposed on the pipe after installation. [49 CFR 192.103]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:513 (July 1984), LR 30:1230 (June 2004).

§905. Design Formula for Steel Pipe [49 CFR 192.105]

A. The design pressure for steel pipe is determined in accordance with the following formula: [49 CFR 192.105(a)]

$$P = (2St/D) \times F \times E \times T$$

- P = Design pressure in pounds per square inch (kPa) gauge
- S = Yield strength in pounds per square inch (kPa) determined in accordance with §907
- D = Nominal outside diameter of the pipe in inches (millimeters)
- t = Nominal wall thickness of the pipe in inches (millimeters).
If this is unknown, it is determined in accordance with §909. Additional wall thickness required for concurrent external loads in accordance with §903 may not be included in computing design pressure.
- F = Design factor determined in accordance with §911
- E = Longitudinal joint factor determined in accordance with §913
- T = Temperature derating factor determined in accordance with §915

B. If steel pipe that has been subjected to cold expansion to meet the SMYS is subsequently heated, other than by welding or stress relieving as a part of welding, the design pressure is limited to 75 percent of the pressure determined under Subsection A of this Section if the temperature of the pipe exceeds 900°F (482°C) at any time or is held above 600°F (316°C) for more than one hour. [49 CFR 192.105(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:513 (July 1984), LR 24:1308 (July 1998), LR 27:1537 (September 2001), LR 30:1230 (June 2004).

§907. Yield Strength (S) for Steel Pipe [49 CFR 192.107]

A. For pipe that is manufactured in accordance with a specification listed in Section I of §5103, Appendix B to this Subpart, the yield strength to be used in the design formula in §905 is the SMYS stated in the listed specification, if that value is known. [49 CFR 192.107(a)]

B. For pipe that is manufactured in accordance with a specification not listed in Section I of §5103, Appendix B to this Subpart or whose specification or tensile properties are unknown, the yield strength to be used in the design formula is §905 is one of the following: [49 CFR 192.107(b)]

1. if the pipe is tensile tested in accordance with Section II-D of §5103, Appendix B to this Subpart, the lower of the following: [49 CFR 192.107(b)(1)]

a. 80 percent of the average yield strength determined by the tensile tests: [49 CFR 192.107(b)(1)(i)]

b. the lowest yield strength determined by the tensile tests: [49 CFR 192.107(b)(1)(ii)]

2. if the pipe is not tensile tested as provided in Paragraph B.1 of this Section, 24,000 psi (165 MPa). [49 CFR 192.107(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:513 (July 1984), LR 30:1230 (June 2004).

§909. Nominal Wall Thickness (t) for Steel Pipe [49 CFR 192.109]

A. If the nominal wall thickness for steel pipe is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. [49 CFR 192.109(a)]

B. However, if the pipe is of uniform grade, size, and thickness and there are more than 10 lengths, only 10 percent of the individual lengths, but not less than 10 lengths, need be measured. The thickness of the lengths that are not measured must be verified by applying a gauge set to the minimum thickness found by the measurement. The nominal wall thickness to be used in the design formula in §905 is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness used may not be more than 1.14 times the smallest measurement taken on pipe less than 20 inches (508 millimeters) in outside diameter, nor more than 1.11 times the smallest measurement taken on pipe 20 inches (508 millimeters) or more in outside diameter. [49 CFR 192.109(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:513 (July 1984), LR 27:1537 (September 2001), LR 30:1230 (June 2004).

§911. Design Factor (F) for Steel Pipe [49 CFR 192.111]

A. Except as otherwise provided in Subsections B, C, and D of this Section, the design factor to be used in the design formula in §905 is determined in accordance with the following table. [49 CFR 192.111(a)]

Class Location	Design Factor (F)
1	0.72
2	0.60
3	0.50
4	0.40

B. A design factor of 0.60 or less must be used in the design formula in §905 for steel pipe in Class 1 locations that: [49 CFR 192.111(b)]

1. crosses the right-of-way of an unimproved public road, without a casing; [49 CFR 192.111(b)(1)]

2. crosses without a casing, or makes a parallel encroachment on, the right-of-way of either a hard surfaced road, a highway, a public street, or a railroad; [49 CFR 192.111(b)(2)]

3. is supported by a vehicular, pedestrian, railroad, or pipeline bridge; or [49 CFR 192.111(b)(3)]

4. is used in a fabricated assembly, (including separators, mainline valve assemblies, cross-connections, and river crossing headers) or is used within five pipe diameters in any direction from the last fitting of a fabricated assembly, other than a transition piece or an elbow used in place of a pipe bend which is not associated with a fabricated assembly. [49 CFR 192.111(b)(4)]

C. For Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in §905 for uncased steel pipe that crosses the right-of-way of a hard surfaced road, a highway, a public street, or a railroad. [49 CFR 192.111(c)]

D. For Class 1 and Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in §905 for: [49 CFR 192.111(d)]

1. steel pipe in a compressor station, regulating station, or measuring station; and [49 CFR 192.111(d)(1)]

2. steel pipe, including a pipe riser, on a platform located offshore or in inland navigable waters. [49 CFR 192.111(d)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:513 (July 1984), LR 30:1230 (June 2004).

§913. Longitudinal Joint Factor (E) for Steel Pipe [49 CFR 192.113]

A. The longitudinal joint factor to be used in the design formula in §905 is determined in accordance with the following table.

Specification	Pipe Class	Longitudinal Joint Factor (E)
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM A 106	Seamless	1.00
	Seamless	1.00
ASTM A 333/A 333M	Seamless	1.00
	Electric resistance welded	1.00
	Double submerged arc welded	1.00
	Electric fusion welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric fusion welded	1.00
ASTM A 672	Electric fusion welded	1.00
ASTM A 691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	.60
Other	Pipe over 4 inches (102 millimeters)	.80
Other	Pipe 4 inches (102 millimeters) or less	.60

B. If the type of longitudinal joint cannot be determined, the joint factor to be used must not exceed that designated for "Other." [49 CFR 192.113]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:514 (July 1984), LR 18:855 (August 1992), LR 20:444 (April 1994), LR 27:1538 (September 2001), LR 30:1231 (June 2004).

§915. Temperature Derating Factor (T) for Steel Pipe [49 CFR 192.115]

A. The temperature derating factor to be used in the design formula in §905 is determined as follows.

Gas Temp. in degrees Fahrenheit (Celsius)	Temp. derating factor (T)
250°F (121°C) or less	1.000
300°F (149°C)	0.967
350°F (177°C)	0.933
400° F (204°C)	0.900
450°F (232°C)	0.867

B. For intermediate gas temperatures, the derating factor is determined by interpolation. [49 CFR 192.115]

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:514 (July 1984), LR 20:444 (April 1994), LR 27:1538 (September 2001), LR 30:1231 (June 2004).

§921. Design of Plastic Pipe [49 CFR 192.121]

A. Subject to the limitations of §923, the design pressure for plastic pipe is determined in accordance with either of the following formulas.

$$P = 2S \frac{t}{(D - t)} 0.32$$

$$P = \frac{2S}{(SDR - 1)} 0.32$$

where:

P = Design pressure, gauge, psig (kPa)

S = For thermoplastic pipe, the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 73°F (23°C), 100°F (38°C), 120°F (49°C), or 140°F (60°C); for reinforced thermosetting plastic pipe, 11,000 psi (75,842 kPa)

t = Specified wall thickness, in. (mm)

D = Specified outside diameter, in (mm)

SDR= Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10. [49 CFR 192.121]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004).

§923. Design Limitations for Plastic Pipe [49 CFR 192.123]

A. The design pressure may not exceed a gauge pressure of 100 psig (689 kPa) for plastic pipe used in: [49 CFR 192.123(a)]

1. distribution systems; or [49 CFR 192.123(a)(1)]

2. Classes 3 and 4 locations. [49 CFR 192.123(a)(2)]

B. Plastic pipe may not be used where operating temperatures of the pipe will be: [49 CFR 192.123(b)]

1. below -20°F (-29°C), or -40°F (-40°C) if all pipe and pipeline components whose operating temperature will be below -20°F (-29°C) have a temperature rating by the manufacturer consistent with that operating temperature; or [49 CFR 192.123(b)(1)]

2. above the following applicable temperatures: [49 CFR 192.123(b)(2)]

a. for thermoplastic pipe, the temperature at which the long-term hydrostatic strength used in the design formula under §921 is determined; [49 CFR 192.123(b)(2)(i)]

b. for reinforced thermosetting plastic pipe, 150°F (66°C). [49 CFR 192.123(b)(2)(ii)]

C. The wall thickness for thermoplastic pipe may not be less than 0.062 in. (1.57 millimeters). [49 CFR 192.123(c)]

D. The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table. [49 CFR 192.123(d)]

Nominal Size in Inches (Millimeters)	Minimum Wall Thickness Inches (Millimeters)
2 (51)	0.060 (1.52)
3 (76)	0.060 (1.52)
4 (102)	0.070 (1.78)
6 (152)	0.100 (2.54)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004).

§925. Design of Copper Pipe [49 CFR 192.125]

A. Copper pipe used in mains must have a minimum wall thickness of 0.065 inches (1.65 millimeters) and must be hard drawn. [49 CFR 192.125(a)]

B. Copper pipe used in service lines must have wall thickness not less than that indicated in the following table. [49 CFR 192.125(b)]

Standard Size Inch (millimeter)	Nominal O.D. Inch (millimeter)	Wall Thickness Inch (millimeter)	
		Nominal	Tolerance
1/2 (13)	.625 (16)	0.040 (1.06)	0.0035 (0.0889)
5/8 (16)	.750 (19)	0.042 (1.07)	0.0035 (0.0889)
3/4 (19)	.875 (22)	0.045 (1.14)	0.004 (0.102)
1 (25)	1.125 (29)	0.050 (1.27)	0.004 (0.102)
1 1/4 (32)	1.375 (35)	0.055 (1.40)	0.0045 (0.1143)
1 1/2 (38)	1.625 (41)	0.060 (1.52)	0.0045 (0.1143)

C. Copper pipe used in mains and service lines may not be used at pressures in excess of 100 psi (689 kPa) gauge. [49 CFR 192.125(c)]

D. Copper pipe that does not have an internal corrosion resistant lining may not be used to carry gas that has an average hydrogen sulfide content of more than 0.3 grains/100 ft³ (6.9/m³) under standard conditions. Standard conditions refers to 60°F and 14.7 psia (15.6°C and one atmosphere) of gas. [49 CFR 192.125(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 27:1539 (September 2001), LR 30:1232 (June 2004).

Chapter 11. Design of Pipeline Components [Subpart D]

§1101. Scope [49 CFR 192.141]

A. This Chapter prescribes minimum requirements for the design and installation of pipeline components and facilities. In addition, it prescribes requirements relating to protection against accidental overpressuring. [49 CFR 192.141]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1232 (June 2004).

§1103. General Requirements [49 CFR 192.143]

A. Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings without impairment of its serviceability with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service. However, if design based upon unit stresses is impractical for a particular component, design may be based upon a pressure rating established by the manufacturer by pressure testing that component or a prototype of the component. [49 CFR 192.143]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1232 (June 2004).

§1104. Qualifying Metallic Components [49 CFR 192.144]

A. Notwithstanding any requirement of Part XIII which incorporates by reference an edition of a document listed in §5101, Appendix A to this Subpart, a metallic component manufactured in accordance with any other edition of that document is qualified for use under this Part if: [49 CFR 192.144]

1. it can be shown through visual inspection of the cleaned component that no defect exists which might impair the strength or tightness of the component; and [49 CFR 192.144(a)]

2. the edition of the document under which the component was manufactured has equal or more stringent requirements for the following as an edition of that document currently or previously listed in §5101, Appendix A: [49 CFR 192.144(b)]

- a. pressure testing; [49 CFR 192.144(b)(1)]
- b. materials; and [49 CFR 192.144(b)(2)]
- c. pressure and temperature ratings. [49 CFR 192.144(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, amended LR 10:515 (July 1984), LR 30:1232 (June 2004).

§1105. Valves [49 CFR 192.145]

A. Except for cast iron and plastic valves, each valve must meet the minimum requirements, or equivalent, of API 6D. A valve may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those requirements. [49 CFR 192.145(a)]

B. Each cast iron and plastic valve must comply with the following. [49 CFR 192.145(b)]

1. The valve must have a maximum service pressure rating for temperatures that equal or exceed the maximum service temperature. [49 CFR 192.145(b)(1)]

2. The valve must be tested as part of the manufacturing, as follows. [49 CFR 192.145(b)(2)]

a. With the valve in the fully open position, the shell must be tested with no leakage to a pressure at least 1.5 times the maximum service rating. [49 CFR 192.145(b)(2)(i)]

b. After the shell test, the seat must be tested to a pressure no less than 1.5 times the maximum service pressure rating. Except for swing check valves, test pressure during the seat test must be applied successively on each side of the closed valve with the opposite side open. No visible leakage is permitted. [49 CFR 192.145(b)(2)(ii)]

c. After the last pressure test is completed, the valve must be operated through its full travel to demonstrate freedom from interference. [49 CFR 192.145(b)(2)(iii)]

C. Each valve must be able to meet the anticipated operating conditions. [49 CFR 192.145(c)]

D. No valve having shell components made of ductile iron may be used at pressures exceeding 80 percent of the pressure ratings for comparable steel valves at their listed temperature. However, a valve having shell components made of ductile iron may be used at pressures up to 80 percent of the pressure ratings for comparable steel valves at their listed temperature, if: [49 CFR 192.145(d)]

1. the temperature-adjusted service pressure does not exceed 1,000 psi (7 MPa) gauge; and [49 CFR 192.145(d)(1)]

2. welding is not used on any ductile iron component in the fabrication of the valve shells or their assembly. [49 CFR 192.145(d)(2)]

E. No valve having pressure containing parts made of ductile iron may be used in the gas pipe components of compressor stations. [49 CFR 192.145(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 27:1539 (September 2001), LR 30:1232 (June 2004).

§1107. Flanges and Flange Accessories **[49 CFR 192.147]**

A. Each flange or flange accessory (other than cast iron) must meet the minimum requirements of ASME/ANSI B16.5, MSS SP-44, or the equivalent. [49 CFR 192.147(a)]

B. Each flange assembly must be able to withstand the maximum pressure at which the pipeline is to be operated and to maintain its physical and chemical properties at any temperature to which it is anticipated that it might be subjected in service. [49 CFR 192.147(b)]

C. Each flange on a flanged joint in cast iron pipe must conform in dimensions, drilling, face and gasket design to ASME/ANSI B16.1 and be cast integrally with the pipe, valve, or fitting. [49 CFR 192.147(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 18:856 (August 1992), LR 20:444 (April 1994), LR 30:1233 (June 2004).

§1109. Standard Fittings [49 CFR 192.149]

A. The minimum metal thickness of threaded fittings may not be less than specified for the pressures and temperatures in the applicable standards referenced in Part XIII, or their equivalent. [49 CFR 192.149(a)]

B. Each steel butt-welding fitting must have pressure and temperature ratings based on stresses for pipe of the same or equivalent material. The actual bursting strength of the fitting must at least equal the computed bursting strength of pipe of the designated material and wall thickness, as determined by a prototype that was tested to at least the pressure required for the pipeline to which it is being added. [49 CFR 192.149(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1233 (June 2004).

§1110. Passage of Internal Inspection Devices **[49 CFR 192.150]**

A. Except as provided in Subsections B and C of this Section, each new transmission line and each line section of a transmission line where the line pipe, valve, fitting, or other line component is replaced must be designed and constructed to accommodate the passage of instrumented internal inspection devices. [49 CFR 192.150(a)]

B. This Section does not apply to: [49 CFR 192.150(b)]

1. manifolds; [49 CFR 192.150(b)(1)]

2. station piping such as at compressor stations, meter stations, or regulator stations; [49 CFR 192.150(b)(2)]

3. piping associated with storage facilities, other than a continuous run of transmission line between a compressor station and storage facilities; [49 CFR 192.150(b)(3)]

4. cross-overs; [49 CFR 192.150(b)(4)]

5. sizes of pipe for which an instrumented internal inspection device is not commercially available; [49 CFR 192.150(b)(5)]

6. transmission lines, operated in conjunction with a distribution system which are installed in Class 4 locations; [49 CFR 192.150(b)(6)]

7. offshore pipelines, other than transmission lines 10 inches (254 millimeters) or greater in nominal diameter, that transport gas to onshore facilities; and [49 CFR 192.150(b)(7)]

8. other piping that, under 49 CFR Part 190.9 and LAC 43:XI.Subpart 3 the commissioner/administrator finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices. [49 CFR 192.150(b)(8)]

C. An operator encountering emergencies, construction time constraints or other unforeseen construction problems need not construct a new or replacement segment of a transmission line to meet Subsection A of this Section, if the operator determines and documents why an impracticability prohibits compliance with Subsection A of this Section. Within 30 days after discovering the emergency or construction problem the operator must petition, under 49 CFR Part 190.9 and LAC 43:XI.Subpart 3 for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied, within one year after the date of the notice of the denial, the operator must modify

that segment to allow passage of instrumented internal inspection devices. [49 CFR 192.150(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:821 (August 1995), amended LR 27:1539 (September 2001), LR 30:1233 (June 2004).

§1111. Tapping [49 CFR 192.151]

A. Each mechanical fitting used to make a hot tap must be designed for at least the operating pressure of the pipeline. [49 CFR 192.151(a)]

B. Where a ductile iron pipe is tapped, the extent of full-thread engagement and the need for the use of outside-sealing service connections, tapping saddles, or other fixtures must be determined by service conditions. [49 CFR 192.151(b)]

C. Where a threaded tap is made in cast iron or ductile iron pipe, the diameter of the tapped hole may not be more than 25 percent of the nominal diameter of the pipe unless the pipe is reinforced, except that: [49 CFR 192.151(c)]

1. existing taps may be used for replacement service, if they are free of cracks and have good threads; and [49 CFR 192.151(c)(1)]

2. a 1 1/4 inch (32 millimeters) tap may be made in a 4 inch (102 millimeters) cast iron or ductile iron pipe, without reinforcement. [49 CFR 192.151(c)(2)]

D. However, in areas where climate, soil, and service conditions may create unusual external stresses on cast iron pipe, unreinforced taps may be used only on 6 inch (152 millimeters) or larger pipe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 27:1539 (September 2001), LR 30:1234 (June 2004).

§1113. Components Fabricated by Welding [49 CFR 192.153]

A. Except for branch connections and assemblies of standard pipe and fittings joined by circumferential welds, the design pressure of each component fabricated by welding, whose strength cannot be determined, must be established in accordance with Paragraph UG-101 of Section VIII, Division 1 of the ASME Boiler and Pressure Vessel Code. [49 CFR 192.153(a)]

B. Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with Section VIII, Division 1, or Section VIII, Division 2 of the ASME Boiler and Pressure Vessel Code, except for the following: [49 CFR 192.153(b)]

1. regularly manufactured butt-welding fittings; [49 CFR 192.153(b)(1)]

2. pipe that has been produced and tested under a specification listed in §5103, Appendix B to this Subpart; [49 CFR 192.153(b)(2)]

3. partial assemblies such as split rings or collars; [49 CFR 192.153(b)(3)]

4. prefabricated units that the manufacturer certifies have been tested to at least twice the maximum pressure to which they will be subjected under the anticipated operating conditions. [49 CFR 192.153(b)(4)]

C. Orange-peel bull plugs and orange-peel swages may not be used on pipelines that are to operate at a hoop stress of 20 percent or more of the SMYS of the pipe. [49 CFR 192.153(c)]

D. Except for flat closures designed in accordance with Section VIII of the ASME Boiler and Pressure Code, flat closures and fish tails may not be used on pipe that either operates at 100 psi (689 kPa) gage, or more, or is more than 3 inches (76 millimeters) nominal diameter. [49 CFR 192.153(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:516 (July 1984), LR 20:444 (April 1994), LR 27:1539 (September 2001), LR 30:1234 (June 2004).

§1115. Welded Branch Connections [49 CFR 192.155]

A. Each welded branch connection made to pipe in the form of a single connection, or in a header or manifold as a series of connections, must be designed to ensure that the strength of the pipeline system is not reduced, taking into account the stresses in the remaining pipe wall due to the opening in the pipe or header, the shear stresses produced by the pressure acting on the area of the branch opening, and any external loadings due to thermal movement, weight, and vibration. [49 CFR 192.155]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:224 (April 1983), amended LR 10:516 (July 1984), LR 30:1234 (June 2004).

§1117. Extruded Outlets [49 CFR 192.157]

A. Each extruded outlet must be suitable for anticipated service conditions and must be at least equal to the design strength of the pipe and other fittings in the pipeline to which it is attached. [49 CFR 192.157]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:224 (April 1983), amended LR 10:516 (July 1984), LR 30:1234 (June 2004).

§1119. Flexibility [49 CFR 192.159]

A. Each pipeline must be designed with enough flexibility to prevent thermal expansion or contraction from causing excessive stresses in the pipe or components, excessive bending or unusual loads at joints, or undesirable forces or moments at points of connection to equipment, or at anchorage or guide points. [49 CFR 192.159]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:224 (April 1983), amended LR 10:516 (July 1984), LR 30:1234 (June 2004).

§1121. Supports and Anchors [49 CFR 192.161]

A. Each pipeline and its associated equipment must have enough anchors or supports to: [49 CFR 192.161(a)]

1. prevent undue strain on connected equipment; [49 CFR 192.161(a)(1)]

2. resist longitudinal forces caused by a bend or offset in the pipe; and [49 CFR 192.161(a)(2)]

3. prevent or damp out excessive vibration. [49 CFR 192.161(a)(3)]

B. Each exposed pipeline must have enough supports or anchors to protect the exposed pipe joints from the

maximum end force caused by internal pressure and any additional forces caused by temperature expansion or contraction or by the weight of the pipe and its contents. [49 CFR 192.161(b)]

C. Each support or anchor on an exposed pipeline must be made of durable, noncombustible material and must be designed and installed as follows. [49 CFR 192.161(c)]

1. Free expansion and contraction of the pipeline between supports or anchors may not be restricted. [49 CFR 192.161(c)(1)]

2. Provision must be made for the service conditions involved. [49 CFR 192.161(c)(2)]

3. Movement of the pipeline may not cause disengagement of the support equipment. [49 CFR 192.161(c)(3)]

D. Each support on an exposed pipeline operated at a stress level of 50 percent or more of SMYS must comply with the following. [49 CFR 192.161(d)]

1. A structural support may not be welded directly to the pipe. [49 CFR 192.161(d)(1)]

2. The support must be provided by a member that completely encircles the pipe. [49 CFR 192.161(d)(2)]

3. If an encircling member is welded to a pipe, the weld must be continuous and cover the entire circumference. [49 CFR 192.161(d)(3)]

E. Each underground pipeline that is connected to a relatively unyielding line or other fixed object must have enough flexibility to provide for possible movement, or it must have an anchor that will limit the movement of the pipeline. [49 CFR 192.161(e)]

F. Except for offshore pipelines, each underground pipeline that is being connected to new branches must have a firm foundation for both the header and the branch to prevent detrimental lateral and vertical movement. [49 CFR 192.161(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:224 (April 1983), amended LR 10:516 (July 1984), LR 30:1234 (June 2004).

§1123. Compressor Stations: Design and Construction **[49 CFR 192.163]**

A. Location of compressor building. Except for a compressor building on a platform located offshore or in inland navigable waters, each main compressor building of a compressor station must be located on property under the control of the operator. It must be far enough away from adjacent property, not under control of the operator, to minimize the possibility of fire being communicated to the compressor building from structures on adjacent property. There must be enough open space around the main compressor building to allow the free movement of fire-fighting equipment. [49 CFR 192.163(a)]

B. Building construction. Each building on a compressor station site must be made of noncombustible materials if it contains either: [49 CFR 192.163(b)]

1. pipe more than 2 inches (51 millimeters) in diameter that is carrying gas under pressure; or [49 CFR 192.163(b)(1)]

2. gas handling equipment other than gas utilization equipment used for domestic purposes. [49 CFR 192.163(b)(2)]

C. Exits. Each operating floor of a main compressor building must have at least two separated and unobstructed exits located so as to provide a convenient possibility of escape and an unobstructed passage to a place of safety. Each door latch on an exit must be of a type which can be readily opened from the inside without a key. Each swinging door located in an exterior wall must be mounted to swing outward. [49 CFR 192.163(c)]

D. Fenced Areas. Each fence around a compressor station must have at least two gates located so as to provide a convenient opportunity for escape to a place of safety, or have other facilities affording a similarly convenient exit from the area. Each gate located within 200 feet (61 meters) of any compressor plant building must open outward and, when occupied, must be openable from the inside without a key. [49 CFR 192.163(d)]

E. Electrical Facilities. Electrical equipment and wiring installed in compressor stations must conform to the National Electrical Code, ANSI/NFPA 70, so far as that code is applicable. [49 CFR 192.163(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:224 (April 1983), amended LR 10:516 (July 1984), LR 20:445 (April 1994), LR 27:1539 (September 2001), LR 30:1235 (June 2004).

§1125. Compressor Stations: Liquid Removal **[49 CFR 192.165]**

A. Where entrained vapors in gas may liquefy under the anticipated pressure and temperature conditions, the compressor must be protected against the introduction of those liquids in quantities that could cause damage. [49 CFR 192.165(a)]

B. Each liquid separator used to remove entrained liquids at a compressor station must: [49 CFR 192.165(b)]

1. have a manually operable means of removing these liquids; [49 CFR 192.165(b)(1)]

2. where slugs of liquid could be carried into the compressors, have either automatic liquid removal facilities, an automatic compressor shutdown device, or a high liquid level alarm; and [49 CFR 192.165(b)(2)]

3. be manufactured in accordance with Section VIII of the ASME Boiler and Pressure Vessel Code, except that liquid separators constructed of pipe and fittings without internal welding must be fabricated with a design factor of 0.4, or less. [49 CFR 192.165(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:224 (April 1983), amended LR 10:516 (July 1984), LR 30:1235 (June 2004).

§1127. Compressor Stations: Emergency Shutdown **[49 CFR 192.167]**

A. Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following. [49 CFR 192.167(a)]

1. It must be able to block gas out of the station and blow down the station piping. [49 CFR 192.167(a)(1)]

2. It must discharge gas from the blowdown piping at a location where the gas will not create a hazard. [49 CFR 192.167(a)(2)]

3. It must provide means for the shutdown of gas compressing equipment, gas fires, and electrical facilities in the vicinity of gas headers and in the compressor building, except, that: [49 CFR 192.167(a)(3)]

a. electrical circuits that supply emergency lighting required to assist station personnel in evacuating the compressor building and the area in the vicinity of the gas headers must remain energized; and [49 CFR 192.167(a)(3)(i)]

b. electrical circuits needed to protect equipment from damage may remain energized. [49 CFR 192.167(a)(3)(ii)]

4. It must be operable from at least two locations, each of which is: [49 CFR 192.167(a)(4)]

a. outside the gas area of the station; [49 CFR 192.167(a)(4)(i)]

b. near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and [49 CFR 192.167(a)(4)(ii)]

c. not more than 500 feet (153 meters) from the limits of the station. [49 CFR 192.167(a)(4)(iii)]

B. If a compressor station supplies gas directly to a distribution system with no other adequate source of gas available, the emergency shut-down system must be designed so that it will not function at the wrong time and cause an unintended outage on the distribution system. [49 CFR 192.167(b)]

C. On a platform located offshore or in inland navigable waters, the emergency shutdown system must be designed and installed to actuate automatically by each of the following events: [49 CFR 192.167(c)]

1. in the case of an unattended compressor station: [49 CFR 192.167(c)(1)]

a. when the gas pressure equals the maximum allowable operating pressure plus 15 percent; or [49 CFR 192.167(c)(1)(i)]

b. when an uncontrolled fire occurs on the platform; and [49 CFR 192.167(c)(1)(ii)]

2. in the case of a compressor station in a building: [49 CFR 192.167(c)(2)]

a. when an uncontrolled fire occurs in the building; or [49 CFR 192.167(c)(2)(i)]

b. when the concentration of gas in air reaches 50 percent or more of the lower explosive limit in a building which has a source of ignition. [49 CFR 192.167(c)(2)(ii)]

D. For the purpose of Subparagraph C.2.b of this Section, an electrical facility which conforms to Class 1, Group D of the National Electrical Code is not a source of ignition. [49 CFR 192.167(c)(2)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:224 (April 1983), amended LR 10:517 (July 1984), LR 27:1540 (September 2001), LR 30:1235 (June 2004).

§1129. Compressor Stations: Pressure Limiting Devices [49 CFR 192.169]

A. Each compressor station must have pressure relief or other suitable protective devices of sufficient capacity and sensitivity to ensure that the maximum allowable operating

pressure of the station piping and equipment is not exceeded by more than 10 percent. [49 CFR 192.169(a)]

B. Each vent line that exhausts gas from the pressure relief valves of a compressor station must extend to a location where the gas may be discharged without hazard. [49 CFR 192.169(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:225 (April 1983), amended LR 10:517 (July 1984), LR 30:1236 (June 2004).

§1131. Compressor Stations: Additional Safety Equipment [49 CFR 192.171]

A. Each compressor station must have adequate fire protection facilities. If fire pumps are a part of these facilities, their operation may not be affected by the emergency shutdown system. [49 CFR 192.171(a)]

B. Each compressor station prime mover, other than an electrical induction or synchronous motor, must have an automatic device to shut down the unit before the speed of either the prime mover or the driven unit exceeds a maximum safe speed. [49 CFR 192.171(b)]

C. Each compressor unit in a compressor station must have a shutdown or alarm device that operates in the event of inadequate cooling or lubrication of the unit. [49 CFR 192.171(c)]

D. Each compressor station gas engine that operates with pressure gas injection must be equipped so that stoppage of the engine automatically shuts off the fuel and vents the engine distribution manifold. [49 CFR 192.171(d)]

E. Each muffler for a gas engine in a compressor station must have vent slots or holes in the baffles of each compartment to prevent gas from being trapped in the muffler. [49 CFR 192.171(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:225 (April 1983), amended LR 10:517 (July 1984), LR 20:445 (April 1994), LR 30:1236 (June 2004).

§1133. Compressor Stations: Ventilation [49 CFR 192.173]

A. Each compressor station building must be ventilated to ensure that employees are not endangered by the accumulation of gas in rooms, sumps, attics, pits, or other enclosed places. [49 CFR 192.173]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:225 (April 1983), amended LR 10:517 (July 1984), LR 30:1236 (June 2004).

§1135. Pipe-Type and Bottle-Type Holders [49 CFR 192.175]

A. Each pipe-type and bottle-type holder must be designed so as to prevent the accumulation of liquids in the holder, in connecting pipe, or in auxiliary equipment, that might cause corrosion or interfere with the safe operation of the holder. [49 CFR 192.175(a)]

B. Each pipe-type or bottle-type holder must have minimum clearance from other holders in accordance with the following formula. [49 CFR 192.175(b)]

$$C = (D \times P \times F) / (48.33) \quad (C = (3D \times P \times F) / 1,000)$$

in which:

- C = minimum clearance between pipe containers or bottles in inches (millimeters);
- D = outside diameter of pipe containers or bottles in inches (millimeters);
- P = maximum allowable operating pressure, psi(kPa) gage;
- F = design factor as set forth in §911 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:225 (April 1983), amended LR 10:517 (July 1984), LR 27:1540 (September 2001), LR 30:1236 (June 2004).

§1137. Additional Provisions for Bottle-Type Holders [49 CFR 192.177]

A. Each bottle-type holder must be: [49 CFR 192.177(a)]

1. located on a site entirely surrounded by fencing that prevents access by unauthorized persons and with minimum clearance from the fence as follows: [49 CFR 192.177(a)(1)]

Maximum Allowable Operating Pressure	Minimum Clearance Feet (meters)
Less than 1,000 psi (7 Mpa) gage	25 (7.6)
1,000 psi (7 Mpa) gage or more	100 (31)

2. designed using the design factors set forth in §911; and [49 CFR 192.177(a)(2)]

3. buried with a minimum cover in accordance with §1727. [49 CFR 192.177(a)(3)]

B. Each bottle-type holder manufactured from steel that is not weldable under field conditions must comply with the following. [49 CFR 192.177(b)]

1. A bottle-type holder made from alloy steel must meet the chemical and tensile requirements for the various grades of steel in ASTM A 372/A 372M. [49 CFR 192.177(b)(1)]

2. The actual yield-tensile ratio of the steel may not exceed 0.85. [49 CFR 192.177(b)(2)]

3. Welding may not be performed on the holder after it has been heat treated or stress relieved, except that copper wires may be attached to the small diameter portion of the bottle end closure for cathodic protection if a localized thermit welding process is used. [49 CFR 192.177(b)(3)]

4. The holder must be given a mill hydrostatic test at a pressure that produces a hoop stress at least equal to 85 percent of the SMYS. [49 CFR 192.177(b)(4)]

5. The holder, connection pipe, and components must be leak tested after installation as required by Chapter 23 of this Subpart. [49 CFR 192.177(b)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:225 (April 1983), amended LR 10:517 (July 1984), LR 18:856 (August 1992), LR 20:445 (April 1994), LR 27:1540 (September 2001), LR 30:1237 (June 2004).

§1139. Transmission Line Valves [49 CFR 192.179]

A. Each transmission line, other than offshore segments, must have sectionalizing block valves spaced as follows, unless in a particular case the commissioner/administrator finds that alternative spacing would provide an equivalent level of safety: [49 CFR 192.179(a)]

1. each point on the pipeline in a Class 4 location must be within 2 1/2 miles (4 kilometers) of a valve; [49 CFR 192.179(a)(1)]

2. each point on the pipeline in a Class 3 location must be within 4 miles (6.4 kilometers) of a valve; [49 CFR 192.179(a)(2)]

3. each point on the pipeline in a Class 2 location must be within 7 1/2 miles (12 kilometers) of a valve; [49 CFR 192.179(a)(3)]

4. each point on the pipeline in a Class 1 location must be within 10 miles (16 kilometers) of a valve. [49 CFR 192.179(a)(4)]

B. Each sectionalizing block valve on a transmission line, other than offshore segments, must comply with the following. [49 CFR 192.179(b)]

1. The valve and the operating device to open or close the valve must be readily accessible and protected from tampering and damage. [49 CFR 192.179(b)(1)]

2. The valve must be supported to prevent settling of the valve or movement of the pipe to which it is attached. [49 CFR 192.179(b)(2)]

C. Each section of a transmission line, other than offshore segments, between main line valves must have a blow-down valve with enough capacity to allow the transmission line to be blown down as rapidly as practicable. Each blow-down discharge must be located so the gas can be blown to the atmosphere without hazard and, if the transmission line is adjacent to an overhead electric line, so that the gas is directed away from the electrical conductors. [49 CFR 192.179(c)]

D. Offshore segments of transmission lines must be equipped with valves or other components to shut off the flow of gas to an offshore platform in an emergency. [49 CFR 192.179(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:225 (April 1983), amended LR 10:518 (July 1984), LR 24:1308 (July 1998), LR 27:1540 (September 2001), LR 30:1237 (June 2004).

§1141. Distribution Line Valves [49 CFR 192.181]

A. Each high-pressure distribution system must have valves spaced so as to reduce the time to shut down a section of main in an emergency. The valve spacing is determined by the operating pressure, the size of the mains, and the local physical conditions. [49 CFR 192.181(a)]

B. Each regulator station controlling the flow or pressure of gas in a distribution system must have a valve installed on the inlet piping at a distance from the regulator station sufficient to permit the operation of the valve during an emergency that might preclude access to the station. [49 CFR 192.181(b)]

C. Each valve on a main installed for operating or emergency purposes must comply with the following. [49 CFR 192.181(c)]

1. The valve must be placed in a readily accessible location so as to facilitate its operation in an emergency. [49 CFR 192.181(c)(1)]

2. The operating stem or mechanism must be readily accessible. [49 CFR 192.181(c)(2)]

3. If the valve is installed in a buried box or enclosure, the box or enclosure must be installed so as to avoid

transmitting external loads to the main. [49 CFR 192.181(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:225 (April 1983), amended LR 10:518 (July 1984), LR 30:1237 (June 2004).

§1143. Vaults: Structural Design Requirements
[49 CFR 192.183]

A. Each underground vault or pit for valves, pressure relieving, pressure limiting, or pressure regulating stations, must be able to meet the loads which may be imposed upon it, and to protect installed equipment. [49 CFR 192.183(a)]

B. There must be enough working space so that all of the equipment required in the vault or pit can be properly installed, operated, and maintained. [49 CFR 192.183(b)]

C. Each pipe entering, or within, a regulator vault or pit must be steel for sizes 10 inches (254 millimeters), and less, except that control and gage piping may be copper. Where pipe extends through the vault or pit structure, provision must be made to prevent the passage of gases or liquids through the opening and to avert strains in the pipe. [49 CFR 192.183(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 27:1540 (September 2001), LR 30:1238 (June 2004).

§1145. Vaults: Accessibility [49 CFR 192.185]

A. Each vault must be located in an accessible location and, so far as practical, away from: [49 CFR 192.185]

1. street intersections or points where traffic is heavy or dense; [49 CFR 192.185(a)]

2. points of minimum elevation, catch basins, or places where the access cover will be in the course of surface waters; and [49 CFR 192.185(b)]

3. water, electric, steam, or other facilities. [49 CFR 192.185(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 30:1238 (June 2004).

§1147. Vaults: Sealing, Venting, and Ventilation
[49 CFR 192.187]

A. Each underground vault or closed top pit containing either a pressure regulating or reducing station, or a pressure limiting or relieving station, must be sealed, vented or ventilated, as follows. [49 CFR 192.187]

1. When the internal volume exceeds 200 cubic feet (5.7 cubic meters): [49 CFR 192.187(a)]

a. the vault or pit must be ventilated with two ducts, each having at least the ventilating effect of a pipe 4 inches (102 millimeters) in diameter; [49 CFR 192.187(a)(1)]

b. the ventilation must be enough to minimize the formulation of combustible atmosphere in the vault or pit; and [49 CFR 192.187(a)(2)]

c. the ducts must be high enough above grade to disperse any gas-air mixtures that might be discharged. [49 CFR 192.187(a)(3)]

2. When the internal volume is more than 75 cubic feet (2.1 cubic meters) but less than 200 cubic feet (5.7 cubic meters): [49 CFR 192.187(b)]

a. if the vault or pit is sealed, each opening must have a tight fitting cover without open holes through which an explosive mixture might be ignited, and there must be a means for testing the internal atmosphere before removing the cover; [49 CFR 192.187(b)(1)]

b. if the vault or pit is vented, there must be a means of preventing external sources of ignition from reaching the vault atmosphere; or [49 CFR 192.187(b)(2)]

c. if the vault or pit is ventilated, Paragraphs 1 or 3 of this Subsection applies. [49 CFR 192.187(b)(3)]

3. If a vault or pit covered by Paragraph 2 of this Subsection is ventilated by openings in the covers or gratings and the ratio of the internal volume, in cubic feet, to the effective ventilating area of the cover or grating, in square feet, is less than 20 to 1, no additional ventilation is required. [49 CFR 192.187(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 27:1540 (September 2001), LR 30:1238 (June 2004).

§1149. Vaults: Drainage and Waterproofing
[49 CFR 192.189]

A. Each vault must be designated so as to minimize the entrance of water. [49 CFR 192.189(a)]

B. A vault containing gas piping may not be connected by means of a drain connection to any other underground structure. [49 CFR 192.189(b)]

C. Electrical equipment in vaults must conform to the applicable requirements of Class 1, Group D, of the National Electrical Code, ANSI/NFPA 70. [49 CFR 192.189(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 24:1309 (July 1998), LR 30:1238 (June 2004).

§1151. Design Pressure of Plastic Fittings
[49 CFR 192.191]

A. Thermosetting fittings for plastic pipe must conform to ASTM D 2517. [49 CFR 192.191(a)]

B. Thermoplastic fittings for plastic pipe must conform to ASTM D 2513. [49 CFR 192.191(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 30:1238 (June 2004).

§1153. Valve Installation in Plastic Pipe
[49 CFR 192.193]

A. Each valve installed in plastic pipe must be designed so as to protect the plastic material against excessive torsional or shearing loads when the valve or shutoff is operated, and from any other secondary stresses that might be exerted through the valve or its enclosure. [49 CFR 192.193]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:227 (April 1983), amended LR 10:519 (July 1984), LR 30:1238 (June 2004).

§1155. Protection against Accidental Overpressuring
[49 CFR 192.195]

A. General requirements. Except as provided in §1157, each pipeline that is connected to a gas source so that the maximum allowable operating pressure could be exceeded as the result of pressure control failure or of some other type of failure, must have pressure relieving or pressure limiting devices that meet the requirements of §§1159 and 1161. [49 CFR 192.195(a)]

B. Additional requirements for distribution systems. Each distribution system that is supplied from a source of gas that is at a higher pressure than the maximum allowable operating pressure for the system must: [49 CFR 192.195(b)]

1. have pressure regulation devices capable of meeting the pressure, load, and other service conditions that will be experienced in normal operation of the system, and that could be activated in the event of failure of some portion of the system; and [49 CFR 192.195(b)(1)]

2. be designed so as to prevent accidental overpressuring. [49 CFR 192.195(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:227 (April 1983), amended LR 10:519 (July 1984), LR 30:1239 (June 2004).

§1157. Control of the Pressure of Gas Delivered from High-Pressure Distribution Systems
[49 CFR 192.197]

A. If the maximum actual operating pressure of the distribution system is 60 psi (414 kPa) gage, or less, and a service regulator having the following characteristics is used, no other pressure limiting device is required: [49 CFR 192.197(a)]

1. a regulator capable of reducing distribution line pressure to pressures recommended for household appliances; [49 CFR 192.197(a)(1)]

2. a single port valve with proper orifice for the maximum gas pressure at the regulator inlet; [49 CFR 192.197(a)(2)]

3. a valve seat made of resilient material designed to withstand abrasion of the gas, impurities in gas, cutting by the valve, and to resist permanent deformation when it is pressed against the valve port; [49 CFR 192.197(a)(3)]

4. pipe connections to the regulator not exceeding 2 inches (51 millimeters) in diameter; [49 CFR 192.197(a)(4)]

5. a regulator that, under normal operating conditions, is able to regulate the downstream pressure within the necessary limits of accuracy and to limit the buildup of pressure under no-flow conditions to prevent a pressure that would cause the unsafe operation of any connected and properly adjusted gas utilization equipment; [49 CFR 192.197(a)(5)]

6. a self-contained service regulator with no external static or control lines. [49 CFR 192.197(a)(6)]

B. If the maximum actual operating pressure of the distribution system is 60 psi (414 kPa) gage or less, and a service regulator that does not have all of the characteristics listed in Subsection A of this Section is used, or if the gas contains materials that seriously interfere with the operation of service regulators, there must be suitable protective

devices to prevent unsafe overpressuring of the customer's appliances if the service regulator fails. [49 CFR 192.197(b)]

C. If the maximum actual operating pressure of the distribution system exceeds 60 psi (414 kPa) gage, one of the following methods must be used to regulate and limit, to the maximum safe value, the pressure of gas delivered to the customer: [49 CFR 192.197(c)]

1. a service regulator having the characteristics listed in Subsection A of this Section, and another regulator located upstream from the service regulator. The upstream regulator may not be set to maintain a pressure higher than 60 psi (414 kPa) gage. A device must be installed between the upstream regulator and the service regulator to limit the pressure on the inlet of the service regulator to 60 psi (414 kPa) gage or less in case the upstream regulator fails to function properly. This device may be either a relief valve or an automatic shutoff that shuts, if the pressure on the inlet of the service regulator exceeds the set pressure [60 psi (414 kPa) gage or less], and remains closed until manually reset; [49 CFR 192.197(c)(1)]

2. a service regulator and a monitoring regulator set to limit, to a maximum safe value, the pressure of the gas delivered to the customer; [49 CFR 192.197(c)(2)]

3. a service regulator with a relief valve vented to the outside atmosphere, with the relief valve set to open so that the pressure of gas going to the customer does not exceed a maximum safe value. The relief valve may either be built into the service regulator or it may be a separate unit installed downstream from the service regulator. This combination may be used alone only in those cases where the inlet pressure on the service regulator does not exceed the manufacturer's safe working pressure rating of the service regulator, and may not be used where the inlet pressure on the service regulator exceeds 125 psi (862 kPa) gage. For higher inlet pressure, the methods in Paragraphs 1 or 2 of this Subsection must be used; [49 CFR 192.197(c)(3)]

4. a service regulator and an automatic shutoff device that closes upon a rise in pressure downstream from the regulator and remains closed until manually reset. [49 CFR 192.197(c)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:227 (April 1983), amended LR 10:519 (July 1984), LR 18:856 (August 1992), LR 27:1541 (September 2001), LR 30:1239 (June 2004).

§1159. Requirements for Design of Pressure Relief and Limiting Devices [49 CFR 192.199]

A. Except for rupture discs, each pressure relief or pressure limiting device must: [49 CFR 192.199]

1. be constructed of materials such that the operation of a device will not be impaired by corrosion; [49 CFR 192.199(a)]

2. have valves and valve seats that are designed not to stick in a position that will make the device inoperative; [49 CFR 192.199(b)]

3. be designed and installed so that it can be readily operated to determine if the valve is free, can be tested to determine the pressure at which it will operate, and can be tested for leakage when in the closed position; [49 CFR 192.199(c)]

4. have support made of noncombustible material; [49 CFR 192.199(d)]

5. have discharge stacks, vents, or outlet ports designed to prevent accumulation of water, ice, or snow, located where gas can be discharged into the atmosphere without undue hazard; [49 CFR 192.199(e)]

6. be designed and installed so that the size of the openings, pipe, and fittings located between the system to be protected and the pressure relieving device, and the size of the vent line, are adequate to prevent hammering of the valve and to prevent impairment of relief capacity; [49 CFR 192.199(f)]

7. where installed at a district regulator station to protect a pipeline system from overpressuring, be designed and installed to prevent any single incident such as an explosion in a vault or damage by a vehicle from affecting the operation of both the overpressure protective device and the district regulator; and [49 CFR 192.199(g)]

8. except for a valve that will isolate the system under protection from its source of pressure, be designed to prevent unauthorized operation of any stop valve that will make the pressure relief valve or pressure limiting device inoperative. [49 CFR 192.199(h)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:227 (April 1983), amended LR 10:520 (July 1984), LR 30:1239 (June 2004).

§1161. Required Capacity of Pressure Relieving and Limiting Stations [49 CFR 192.201]

A. Each pressure relief station or pressure limiting station or group of those stations installed to protect a pipeline must have enough capacity, and must be set to operate, to insure the following: [49 CFR 192.201(a)]

1. in a low pressure distribution system, the pressure may not cause the unsafe operation of any connected and properly adjusted gas utilization equipment; [49 CFR 192.201(a)(1)]

2. in pipelines other than a low pressure distribution system: [49 CFR 192.201(a)(2)]

a. if the maximum allowable operating pressure is 60 psi (414 kPa) gage or more, the pressure may not exceed the maximum allowable operating pressure plus 10 percent, or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower; [49 CFR 192.201(a)(2)(i)]

b. if the maximum allowable operating pressure is 12 psi (83 kPa) gage or more, but less than 60 psi (414 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 6 psi (41 kPa) gage; or [49 CFR 192.201(a)(2)(ii)]

c. if the maximum allowable operating pressure is less than 12 psi (83 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 50 percent. [49 CFR 192.201(a)(2)(iii)]

B. When more than one pressure regulating or compressor station feeds into a pipeline, relief valves or other protective devices must be installed at each station to ensure that the complete failure of the largest capacity regulator or compressor, or any single run of lesser capacity regulators or compressors in that station, will not impose pressures on any part of the pipeline or distribution system in excess of those for which it was designed, or against

which it was protected, whichever is lower. [49 CFR 192.201(b)]

C. Relief valves or other pressure limiting devices must be installed at or near each regulator station in a low-pressure distribution system, with a capacity to limit the maximum pressure in the main to a pressure that will not exceed the safe operating pressure for any connected and properly adjusted gas utilization equipment. [49 CFR 192.201(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:228 (April 1983), amended LR 10:520 (July 1984), LR 27:1541 (September 2001), LR 30:1240 (June 2004).

§1163. Instrument, Control, and Sampling Pipe and Components [49 CFR 192.203]

A. Applicability. This Section applies to the design of instrument, control, and sampling pipe and components. It does not apply to permanently closed systems, such as fluid-filled temperature-responsive devices. [49 CFR 192.203(a)]

B. Materials and Design. All materials employed for pipe and components must be designed to meet the particular conditions of service and the following. [49 CFR 192.203(b)]

1. Each takeoff connection and attaching boss, fitting, or adapter must be made of suitable material, be able to withstand the maximum service pressure and temperature of the pipe or equipment to which it is attached, and be designed to satisfactorily withstand all stresses without failure by fatigue. [49 CFR 192.203(b)(1)]

2. Except for takeoff lines that can be isolated from sources of pressure by other valving, a shutoff valve must be installed in each takeoff line as near as practicable to the point of takeoff. Blowdown valves must be installed where necessary. [49 CFR 192.203(b)(2)]

3. Brass or copper material may not be used for metal temperatures greater than 400°F (204°C). [49 CFR 192.203(b)(3)]

4. Pipe or components that may contain liquids must be protected by heating or other means from damage due to freezing. [49 CFR 192.203(b)(4)]

5. Pipe or components in which liquids may accumulate must have drains or drips. [49 CFR 192.203(b)(5)]

6. Pipe or components subject to clogging from solids or deposits must have suitable connections for cleaning. [49 CFR 192.203(b)(6)]

7. The arrangement of pipe, components, and supports must provide safety under anticipated operating stresses. [49 CFR 192.203(b)(7)]

8. Each joint between sections of pipe, and between pipe and valves or fittings, must be made in a manner suitable for the anticipated pressure and temperature condition. Slip type expansion joints may not be used. Expansion must be allowed for by providing flexibility within the system itself. [49 CFR 192.203(b)(8)]

9. Each control line must be protected from anticipated causes of damage and must be designed and installed to prevent damage to any one control line from making both the regulator and the over-pressure protective device inoperative. [49 CFR 192.203(b)(9)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:228 (April 1983), amended LR 10:520 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 27:1541 (September 2001), LR 30:1240 (June 2004).

Chapter 13. Welding of Steel in Pipelines [Subpart E]
§1301. Scope [49 CFR 192.221]

A. This Chapter prescribes minimum requirements for welding steel materials in pipelines. [49 CFR 192.221(a)]

B. This Chapter does not apply to welding that occurs during the manufacture of steel pipe or steel pipeline components. [49 CFR 192.221(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:228 (April 1983), amended LR 10:521 (July 1984), LR 30:1241 (June 2004).

§1305. Welding: General [49 CFR 192.225]

A. Welding must be performed by a qualified welder in accordance with welding procedures qualified to produce welds meeting the requirements of this Chapter. The quality of the test welds used to qualify the procedures shall be determined by destructive testing. [49 CFR 192.225(a)]

B. Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used. [49 CFR 192.225(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:228 (April 1983), amended LR 10:521 (July 1984), LR 30:1241 (June 2004).

§1307. Qualification of Welders [49 CFR 192.227]

A. Except as provided in Subsection B of this Section, each welder must be qualified in accordance with Section 3 of API Standard 1104 or Section IX of the ASME Boiler and Pressure Vessel Code. However, a welder qualified under an earlier edition than listed in §5101, Appendix A of this Subpart may weld but may not requalify under that earlier edition. [49 CFR 192.227(a)]

B. A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS by performing an acceptable test weld, for the process to be used, under the test set forth in Section I of §5105, Appendix C of this Subpart. Each welder who is to make a welded service line connection to a main must first perform an acceptable test weld under Section II of §5105. Appendix C of this Subpart as a requirement of the qualifying test. [49 CFR 192.227(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 30:1241 (June 2004).

§1309. Limitations on Welders [49 CFR 192.229]

A. No welder whose qualification is based on nondestructive testing may weld compressor station pipe and components. [49 CFR 192.229(a)]

B. No welder may weld with a particular welding process unless, within the preceding six calendar months, he

has engaged in welding with that process. [49 CFR 192.229(b)]

C. A welder qualified under §1307.A: [49 CFR 192.229(c)]

1. may not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding six calendar months the welder has had one weld tested and found acceptable under Section 3 or 6 of API Standard 1104, except that a welder qualified under an earlier edition previously listed in §5101, Appendix A of this Subpart may weld but may not requalify under that earlier edition; and [49 CFR 192.229(c)(1)]

2. may not weld on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS unless the welder is tested in accordance with Paragraph C.1 of this Section or requalifies under Paragraph D.1 or D.2 of this Section. [49 CFR 192.229(c)(2)]

D. A welder qualified under §1307.B may not weld unless: [49 CFR 192.229(d)]

1. within the preceding 15 calendar months, but at least once each calendar year, the welder has requalified under §1307.B; or [49 CFR 192.229(d)(1)]

2. within the preceding 7 1/2 calendar months, but at least twice each calendar year, the welder has had: [49 CFR 192.229(d)(2)]

a. a production weld cut out, tested, and found acceptable in accordance with the qualifying test; or [49 CFR 192.229(d)(2)(i)]

b. for welders who work only on service lines 2 inches (51 millimeters) or smaller in diameter, two sample welds tested and found acceptable in accordance with the test in Section III of §5105, Appendix C of this Subpart. [49 CFR 192.229(d)(2)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 27:1541 (September 2001), LR 30:1241 (June 2004).

§1311. Protection from Weather [49 CFR 192.231]

A. The welding operation must be protected from weather conditions that would impair the quality of the completed weld. [49 CFR 192.231]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 30:1241 (June 2004).

§1313. Miter Joints [49 CFR 192.233]

A. A miter joint on steel pipe to be operated at a pressure that produces a hoop stress of 30 percent or more of SYMS may not deflect the pipe more than 3°. [49 CFR 192.233(a)]

B. A miter joint on steel pipe to be operated at a pressure that produces a hoop stress of less than 30 percent, but more than 10 percent of SMYS may not deflect the pipe more than 12 1/2° and must be a distance equal to one pipe diameter or more away from any other miter joint, as measured from the crotch of each joint. [49 CFR 192.233(b)]

C. A miter joint on steel pipe to be operated at a pressure that produces a hoop stress of 10 percent or less of SMYS may not deflect the pipe more than 90°. [49 CFR 192.233(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 30:1241 (June 2004).

§1315. Preparation for Welding [49 CFR 192.235]

A. Before beginning any welding, the welding surfaces must be clean and free of any material that may be detrimental to the weld, and the pipe or component must be aligned to provide the most favorable condition for depositing the root bead. This alignment must be preserved while the root bead is being deposited. [49 CFR 192.235]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:522 (July 1984), LR 30:1242 (June 2004).

§1321. Inspection and Test of Welds [49 CFR 192.241]

A. Visual inspection of welding must be conducted to insure that: [49 CFR 192.241(a)]

1. the welding is performed in accordance with the welding procedure; and [49 CFR 192.241(a)(1)]

2. the weld is acceptable under Subsection C of this Section. [49 CFR 192.241(a)(2)]

B. The welds on a pipeline to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS must be nondestructively tested in accordance with §1323, except that welds that are visually inspected and approved by a qualified welding inspector need not be nondestructively tested if: [49 CFR 192.241(b)]

1. the pipe has a nominal diameter of less than 6 inches (152 millimeters); or [49 CFR 192.241(b)(1)]

2. the pipeline is to be operated at a pressure that produces a hoop stress of less than 40 percent of SMYS and the welds are so limited in number that nondestructive testing is impractical. [49 CFR 192.241(b)(2)]

C. The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 6 of API Standard 1104. However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if the Appendix to API Standard 1104 applies to the weld, the acceptability of the weld may be further determined under that Appendix. [49 CFR 192.241(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:522 (July 1984), LR 24:1309 (July 1998), LR 27:1541 (September 2001), LR 30:1242 (June 2004).

§1323. Nondestructive Testing [49 CFR 192.243]

A. Nondestructive testing of welds must be performed by any process, other than trepanning, that will clearly indicate defects that may affect the integrity of the weld. [49 CFR 192.243(a)]

B. Nondestructive testing of welds must be performed: [49 CFR 192.243(b)]

1. in accordance with written procedures; and [49 CFR 192.243(b)(1)]

2. by persons who have been trained and qualified in the established procedures and with the equipment employed in testing. [49 CFR 192.243(b)(2)]

C. Procedures must be established for the proper interpretation of each nondestructive test of a weld to ensure the acceptability of the weld under §1321.C. [49 CFR 192.243(c)]

D. When nondestructive testing is required under §1321.B, the following percentages of each day's field butt welds, selected at random by the operator, must be nondestructively tested over their entire circumference: [49 CFR 192.243(d)]

1. in Class 1 locations, except offshore, at least 10 percent; [49 CFR 192.243(d)(1)]

2. in Class 2 locations, at least 15 percent; [49 CFR 192.243(d)(2)]

3. in Class 3 and Class 4 locations, at crossings of major or navigable rivers, offshore, and within railroad or public highway rights-of-way, including tunnels, bridges, and overhead road crossings, 100 percent unless impracticable, in which case at least 90 percent. Nondestructive testing must be impracticable for each girth weld not tested; [49 CFR 192.243(d)(3)]

4. at pipeline tie-ins, including tie-ins of replacement sections, 100 percent. [49 CFR 192.243(d)(4)]

E. Except for a welder whose work is isolated from the principal welding activity, a sample of each welder's work for each day must be nondestructively tested, when nondestructive testing is required under §1321.B. [49 CFR 192.243(e)]

F. When nondestructive testing is required under §1321.B, each operator must retain, for the life of the pipeline, a record showing by milepost, engineering station, or by geographic feature, the number of girth welds made, the number nondestructively tested, the number rejected, and the disposition of the rejects. [49 CFR 192.243(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:522 (July 1984), LR 24:1309 (July 1998), LR 30:1242 (June 2004).

§1325. Repair or Removal of Defects [49 CFR 192.245]

A. Each weld that is unacceptable under §1321.C must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipeline vessel, a weld must be removed if it has a crack that is more than eight percent of the weld length. [49 CFR 192.245(a)]

B. Each weld that is repaired must have the defect removed down to sound metal and the segment to be repaired must be preheated if conditions exist which would adversely affect the quality of the weld repair. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability. [49 CFR 192.245(b)]

C. Repair of a crack, or of any defect in a previously repaired area must be in accordance with written weld repair procedures that have been qualified under §1305. Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair. [49 CFR 192.245(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:522 (July 1984), LR 30:1242 (June 2004).

Chapter 15. Joining of Materials Other Than by Welding [Subpart F]

§1501. Scope [49 CFR 192.271]

A. This Chapter prescribes minimum requirements for joining materials in pipelines, other than by welding. [49 CFR 192.271(a)]

B. This Chapter does not apply to joining during the manufacture of pipe or pipeline components. [49 CFR 192.271(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:523 (July 1984), LR 30:1243 (June 2004).

§1503. General [49 CFR 192.273]

A. The pipeline must be designed and installed so that each joint will sustain the longitudinal pullout or thrust forces caused by contraction or expansion of the piping or by anticipated external or internal loading. [49 CFR 192.273(a)]

B. Each joint must be made in accordance with written procedures that have been proved by test or experience to produce strong gastight joints. [49 CFR 192.273(b)]

C. Each joint must be inspected to insure compliance with this Chapter. [49 CFR 192.273(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:523 (July 1984), LR 30:1243 (June 2004).

§1505. Cast Iron Pipe [49 CFR 192.275]

A. Each caulked bell and spigot joint in cast iron pipe must be sealed with mechanical leak clamps. [49 CFR 192.275(a)]

B. Each mechanical joint in cast iron pipe must have a gasket made of a resilient material as the sealing medium. Each gasket must be suitably confined and retained under compression by a separate gland or follower ring. [49 CFR 192.275(b)]

C. Cast iron pipe may not be joined by threaded joints. [49 CFR 192.275(c)]

D. Cast iron may not be joined by brazing. [49 CFR 192.275(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:523 (July 1984), LR 18:856 (August 1992), LR 20:445 (April 1994), LR 30:1243 (June 2004).

§1507. Ductile Iron Pipe [49 CFR 192.277]

A. Ductile iron pipe may not be joined by threaded joints. [49 CFR 192.277(a)]

B. Ductile iron pipe may not be joined by brazing. [49 CFR 192.277(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:230 (April 1983), amended LR 10:523 (July 1984), LR 18:856 (August 1992), LR 30:1243 (June 2004).

§1509. Copper Pipe [49 CFR 192.279]

A. Copper pipe may not be threaded except that copper pipe used for joining screw fittings or valves may be threaded if the wall thickness is equivalent to the comparable

size of Schedule 40 or heavier wall pipe listed in Table C1 of ASME/ANSI B16.5. [49 CFR 192.279]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 18:856 (August 1992), LR 20:445 (April 1994), LR 30:1243 (June 2004).

§1511. Plastic Pipe [49 CFR 192.281]

A. General. A plastic pipe joint that is joined by solvent cement, adhesive, or heat fusion may not be disturbed until it has properly set. Plastic pipe may not be joined by a threaded joint or miter joint. [49 CFR 192.281(a)]

B. Solvent Cement Joints. Each solvent cement joint on plastic pipe must comply with the following. [49 CFR 192.281(b)]

1. The mating surfaces of the joint must be clean, dry, and free of material which might be detrimental to the joint. [49 CFR 192.281(b)(1)]

2. The solvent cement must conform to ASTM Designation D 2513. [49 CFR 192.281(b)(2)]

3. The joint may not be heated to accelerate the setting of the cement. [49 CFR 192.281(b)(3)]

C. Heat-Fusion Joints. Each heat-fusion joint on plastic pipe must comply with the following. [49 CFR 192.281(c)]

1. A butt heat-fusion joint must be joined by a device that holds the heater element square to the ends of the piping, compresses the heated ends together, and holds the pipe in proper alignment while the plastic hardens. [49 CFR 192.281(c)(1)]

2. A socket heat-fusion joint must be joined by a device that heats the mating surfaces of the joint uniformly and simultaneously to essentially the same temperature. [49 CFR 192.281(c)(2)]

3. An electrofusion joint must be joined utilizing the equipment and techniques of the fittings' manufacturer or equipment and techniques shown, by testing joints to the requirements of §1513.A.1.c, to be at least equivalent to those of the fittings' manufacturer. [49 CFR 192.281(c)(3)]

4. Heat may not be applied with a torch or other open flame. [49 CFR 192.281(c)(4)]

D. Adhesive Joints. Each adhesive joint on plastic pipe must comply with the following. [49 CFR 192.281(d)]

1. The adhesive must conform to ASTM Designation D 2517. [49 CFR 192.281(d)(1)]

2. The materials and adhesive must be compatible with each other. [49 CFR 192.281(d)(2)]

E. Mechanical Joints. Each compression type mechanical joint on plastic pipe must comply with the following. [49 CFR 192.281(e)]

1. The gasket material in the coupling must be compatible with the plastic. [49 CFR 192.281(e)(1)]

2. A rigid internal tubular stiffener, other than a split tubular stiffener, must be used in conjunction with the coupling. [49 CFR 192.281(e)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 30:1243 (June 2004).

§1513. Plastic Pipe; Qualifying Joining Procedures
[49 CFR 192.283]

A. Heat Fusion, Solvent Cement, and Adhesive Joints. Before any written procedure established under §1503.B is used for making plastic pipe joints by a heat fusion, solvent cement, or adhesive method, the procedure must be qualified by subjecting specimen joints made according to the procedure to the following tests: [49 CFR 192.283(a)]

1. the burst test requirements of: [49 CFR 192.283(a)(1)]

a. in the case of thermoplastic pipe, Paragraph 6.6 (Sustained Pressure Test) or Paragraph 6.7 (Minimum Hydrostatic Burst Pressure (Quick Burst)) of ASTM D 2513; [49 CFR 192.283(a)(1)(i)]

b. in the case of thermosetting plastic pipe, Paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or Paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517; or [49 CFR 192.283(a)(1)(ii)]

c. in the case of electrofusion fittings for polyethylene pipe and tubing, Paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), Paragraph 9.2 (Sustained Pressure Test), Paragraph 9.3 (Tensile Strength Test), or Paragraph 9.4 (Joint Integrity Tests) or ASTM Designation F1055; [49 CFR 192.283(a)(1)(iii)]

2. for procedures intended for lateral pipe connections, subject a specimen joint made from pipe sections joined at right angles according to the procedure to a force on the lateral pipe until failure occurs in the specimen. If failure initiates outside the joint area, the procedure qualifies for use; and [49 CFR 192.283(a)(2)]

3. for procedures intended for nonlateral pipe connections, follow the tensile test requirements of ASTM-D638, except that the test may be conducted at ambient temperature and humidity. If the specimen elongates no less than 25 percent or failure initiates outside the joint area, the procedure qualifies for use. [49 CFR 192.283(a)(3)]

B. Mechanical Joints. Before any written procedure established under §1503.B is used for making mechanical plastic pipe joints that are designed to withstand tensile forces, the procedure must be qualified by subjecting five specimen joints made according to the procedure to the following tensile test: [49 CFR 192.283(b)]

1. use an apparatus for the test as specified in ASTM D 638 (except for conditioning); [49 CFR 192.283(b)(1)]

2. the specimen must be of such length that the distance between the grips of the apparatus and the end of the stiffener does not affect the joint strength; [49 CFR 192.283(b)(2)]

3. the speed of testing is 0.20 in. (5.0 mm) per minute, plus or minus 25 percent; [49 CFR 192.283(b)(3)]

4. pipe specimens less than 4 in. (102 mm.) in diameter are qualified if the pipe yields to an elongation of no less than 25 percent or failure initiates outside the joint area; [49 CFR 192.283(b)(4)]

5. pipe specimens 4 in. (102 mm) and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 100°F (38°C) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five test results or the manufacturer's rating, whichever is lower

must be used in the design calculations for stress; [49 CFR 192.283(b)(5)]

6. each specimen that fails at the grips must be retested using new pipe; [49 CFR 192.283(b)(6)]

7. results obtained pertain only to the specific outside diameter, and material of the pipe tested, except that testing of a heavier wall pipe may be used to qualify pipe of the same material but with a lesser wall thickness. [49 CFR 192.283(b)(7)]

C. A copy of each written procedure being used for joining plastic pipe must be available to the persons making and inspecting joints. [49 CFR 192.283(c)]

D. Pipe or fittings manufactured before July 1, 1980, may be used in accordance with procedures that the manufacturer certifies will produce a joint as strong as the pipe. [49 CFR 192.283(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:1541 (September 2001), LR 30:1244 (June 2004).

§1515. Plastic Pipe; Qualifying Persons to Make Joints
[49 CFR 192.285]

A. No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by: [49 CFR 192.285(a)]

1. appropriate training or experience in the use of the procedure; and [49 CFR 192.285(a)(1)]

2. making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in Subsection B of this Section. [49 CFR 192.285(a)(2)]

B. The specimen joint must be: [49 CFR 192.285(b)]

1. visually examined during and after assembly or joining and found to have the same appearance as a joint or photographs of a joint that is acceptable under the procedure; and [49 CFR 192.285(b)(1)]

2. in the case of a heat fusion, solvent cement, or adhesive joint: [49 CFR 192.285(b)(2)]

a. tested under any one of the test methods listed under §1513.A applicable to the type of joint and material being tested; [49 CFR 192.285(b)(2)(i)]

b. examined by ultrasonic inspection and found not to contain flaws that would cause failure; or [49 CFR 192.285(b)(2)(ii)]

c. cut into at least three longitudinal straps, each of which is: [49 CFR 192.285(b)(2)(iii)]

i. visually examined and found not to contain voids or discontinuities on the cut surfaces of the joint area; and [49 CFR 192.285(b)(2)(iii)(A)]

ii. deformed by bending, torque, or impact, and if failure occurs, it must not initiate in the joint area. [49 CFR 192.285(b)(2)(iii)(B)]

C. A person must be requalified under an applicable procedure, if during any 12-month period that person: [49 CFR 192.285(c)]

1. does not make any joints under that procedure; or [49 CFR 192.285(c)(1)]

2. has three joints or 3 percent of the joints made, whichever, is greater, under that procedure that are found

unacceptable by testing under §2313. [49 CFR 192.285(c)(2)]

D. Each operator shall establish a method to determine that each person making joints in plastic pipelines in the operator's system is qualified in accordance with this Section. [49 CFR 192.285(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:524 (July 1984), LR 30:1244 (June 2004).

§1517. Plastic Pipe; Inspection of Joints **[49 CFR 192.287]**

A. No person may carry out the inspection of joints in plastic pipes required by §1503.C and §1515.B unless that person has been qualified by appropriate training or experience in evaluating the acceptability of plastic pipe joints made under the applicable joining procedure. [49 CFR 192.287]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 30:1245 (June 2004).

Chapter 17. General Construction Requirements for Transmission Lines and Mains **[Subpart G]**

§1701. Scope [49 CFR 192.301]

A. This Chapter prescribes minimum requirements for constructing transmission lines and mains. [49 CFR 192.301]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 30:1245 (June 2004).

§1703. Compliance with Specifications or Standards **[49 CFR 192.303]**

A. Each transmission line or main must be constructed in accordance with comprehensive written specifications or standards that are consistent with this Subpart. [49 CFR 192.303]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 20:446 (April 1994), LR 30:1245 (June 2004).

§1705. Inspection: General [49 CFR 192.305]

A. Each transmission line or main must be inspected to ensure that it is constructed in accordance with this Subpart. [49 CFR 192.305]

B. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources of any new proposed pipeline construction or replacement for a total length of one mile or more on transmission lines or mains at least 48 hours prior to commencement of said construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 20:446 (April 1994), LR 21:821 (August 1995), LR 30:1245 (June 2004).

§1707. Inspection of Materials [49 CFR 192.307]

A. Each length of pipe and each other component must be visually inspected at the site of installation to ensure that it has not sustained any visually determinable damage that could impair its serviceability. [49 CFR 192.307]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 30:1245 (June 2004).

§1709. Repair of Steel Pipe [49 CFR 192.309]

A. Each imperfection or damage that impairs the serviceability of a length of steel pipe must be repaired or removed. If a repair is made by grinding, the remaining wall thickness must at least be equal to either: [49 CFR 192.309(a)]

1. the minimum thickness required by the tolerances in the specification to which the pipe was manufactured; or [49 CFR 192.309(a)(1)]

2. the nominal wall thickness required for the design pressure of the pipeline. [49 CFR 192.309(a)(2)]

B. Each of the following dents must be removed from steel pipe to be operated at a pressure that produces a hoop stress of 20 percent, or more, of SMYS unless the dent is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe: [49 CFR 192.309(b)]

1. a dent that contains a stress concentrator such as a scratch, gouge, groove, or arc burn; [49 CFR 192.309(b)(1)]

2. a dent that affects the longitudinal weld or a circumferential weld; [49 CFR 192.309(b)(2)]

3. in pipe to be operated at a pressure that produces a hoop stress of 40 percent or more of SMYS, a dent that has a depth of: [49 CFR 192.309(b)(3)]

a. more than 1/4 inch (6.4 millimeters) in pipe 12 3/4 inches (324 millimeters) or less in outer diameter; or [49 CFR 192.309(b)(3)(i)]

b. more than 2 percent of the nominal pipe diameter in pipe over 12 3/4 inches (324 millimeters) in outer diameter. [49 CFR 192.309(b)(3)(ii)]

C. For the purpose of this Section a "dent" is a depression that produces a gross disturbance in the curvature of the pipe wall without reducing the pipe-wall thickness. The depth of a dent is measured as the gap between the lowest point of the dent and a prolongation of the original contour of the pipe.

D. Each arc burn on steel pipe to be operated at a pressure that produces a hoop stress of 40 percent, or more, of SMYS must be repaired or removed. If a repair is made by grinding, the arc burn must be completely removed and the remaining wall thickness must be at least equal to either: [49 CFR 192.309(c)]

1. the minimum wall thickness required by the tolerances in the specification to which the pipe was manufactured; or [49 CFR 192.309(c)(1)]

2. the nominal wall thickness required for the design pressure of the pipeline. [49 CFR 192.309(c)(2)]

E. A gouge, groove, arc burn, or dent may not be repaired by insert patching or by pounding out. [49 CFR 192.309(d)]

F. Each gouge, groove, arc burn, or dent that is removed from a length of pipe must be removed by cutting out the damaged portion as a cylinder. [49 CFR 192.309(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 18:857 (August 1992), LR 27:1542 (September 2001), LR 30:1245 (June 2004).

§1711. Repair of Plastic Pipe [49 CFR 192.311]

A. Each imperfection or damage that would impair the serviceability of plastic pipe must be repaired or removed. [49 CFR 192.311]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 30:1246 (June 2004).

§1713. Bends and Elbows [49 CFR 192.313]

A. Each field bend in steel pipe, other than a wrinkle bend made in accordance with §1715, must comply with the following. [49 CFR 192.313(a)]

1. A bend must not impair the serviceability of the pipe. [49 CFR 192.313(a)(1)]

2. Each bend must have a smooth contour and be free from buckling, cracks, or any other mechanical damage. [49 CFR 192.313(a)(2)]

3. On pipe containing a longitudinal weld, the longitudinal weld must be as near as practicable to the neutral axis of the bend unless: [49 CFR 192.313(a)(3)]

a. the bend is made with an internal bending mandrel; or [49 CFR 192.313(a)(3)(i)]

b. the pipe is 12 inches (305 millimeters) or less in outside diameter or has a diameter to wall thickness ratio less than 70. [49 CFR 192.313(a)(3)(ii)]

B. Each circumferential weld of steel pipe which is located where the stress during bending causes a permanent deformation in the pipe must be nondestructively tested either before or after the bending process. [49 CFR 192.313(b)]

C. Wrought-steel welding elbows and transverse segments of these elbows may not be used for changes in direction on steel pipe that is 2 inches (51 millimeters) or more in diameter unless the arc length, as measured along the crotch, is at least 1 inch (25 millimeters). [49 CFR 192.313(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 27:1542 (September 2001), LR 30:1246 (June 2004).

§1715. Wrinkle Bends in Steel Pipe [49 CFR 192.315]

A. A wrinkle bend may not be made on steel pipe to be operated at a pressure that produces a hoop stress of 30 percent, or more, of SMYS. [49 CFR 192.315(a)]

B. Each wrinkle bend on steel pipe must comply with the following: [49 CFR 192.315(b)]

1. the bend must not have any sharp kinks; [49 CFR 192.315(b)(1)]

2. when measured along the crotch of the bend, the wrinkles must be a distance of at least one pipe diameter; [49 CFR 192.315(b)(2)]

3. on pipe 16 inches (406 millimeters) or larger in diameter, the bend may not have a deflection of more than 1 1/2° for each wrinkle; [49 CFR 192.315(b)(3)]

4. on pipe containing a longitudinal weld the longitudinal seam must be as near as practicable to the neutral axis of the bend. [49 CFR 192.315(b)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:525 (July 1984), LR 27:1542 (September 2001), LR 30:1246 (June 2004).

§1717. Protection from Hazards [49 CFR 192.317]

A. The operator must take all practicable steps to protect each transmission line or main from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, the operator must take all practicable steps to protect offshore pipelines from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations. [49 CFR 192.317(a)]

B. Each aboveground transmission line or main, not located offshore or in inland navigable water areas, must be protected from accidental damage by vehicular traffic or other similar causes, either by being placed at a safe distance from the traffic or by installing barricades. [49 CFR 192.317(b)]

C. Pipelines, including pipe risers, on each platform located offshore or in inland navigable waters must be protected from accidental damage by vessels. [49 CFR 192.317(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 30:1246 (June 2004).

§1719. Installation of Pipe in a Ditch [49 CFR 192.319]

A. When installed in a ditch, each transmission line that is to be operated at a pressure producing a hoop stress of 20 percent or more of SMYS must be installed so that the pipe fits the ditch so as to minimize stresses and protect the pipe coating from damage. [49 CFR 192.319(a)]

B. When a ditch for a transmission line or main is backfilled, it must be backfilled in a manner that: [49 CFR 192.319(b)]

1. provides firm support under the pipe; and [49 CFR 192.319(b)(1)]

2. prevents damage to the pipe and pipe coating from equipment or from the backfill material. [49 CFR 192.319(b)(2)]

C. All offshore pipe in water at least 12 feet (3.7 meters) deep but not more than 200 feet (61 meters) deep, as measured from the mean low tide, except pipe in the Gulf of Mexico and its inlets under 15 feet (4.6 meters) of water, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. Pipe in the Gulf of Mexico and its inlets under 15 feet (4.6 meters) of water must be installed so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation. [49 CFR 192.319(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:1542 (September 2001), LR 30:1246 (June 2004).

§1721. Installation of Plastic Pipe [49 CFR 192.321]

A. Plastic pipe must be installed below ground level unless otherwise permitted by Subsection G of this Section. [49 CFR 192.321(a)]

B. Plastic pipe that is installed in a vault or any other below grade enclosure must be completely encased in gas-tight metal pipe and fittings that are adequately protected from corrosion. [49 CFR 192.321(b)]

C. Plastic pipe must be installed so as to minimize shear or tensile stresses. [49 CFR 192.321(c)]

D. Thermoplastic pipe that is not encased must have a minimum wall thickness of 0.090 inches (2.29 millimeters), except that pipe with an outside diameter of 0.875 inches (22.3 millimeters) or less may have a minimum wall thickness of 0.062 inches (1.58 millimeters). [49 CFR 192.321(d)]

E. Plastic pipe that is not encased must have an electrically conducting wire or other means of locating the pipe while it is underground. Tracer wire may not be wrapped around the pipe and contact with the pipe must be minimized but is not prohibited. Tracer wire or other metallic elements installed for pipe locating purposes must be resistant to corrosion damage, either by use of coated copper wire or by other means. [49 CFR 192.321(e)]

F. Plastic pipe that is being encased must be inserted into the casing pipe in a manner that will protect the plastic. The leading end of the plastic must be closed before insertion. [49 CFR 192.321(f)]

G. Uncased plastic pipe may be temporarily installed above ground level under the following conditions. [49 CFR 192.321(g)]

1. The operator must be able to demonstrate that the cumulative aboveground exposure of the pipe does not exceed the manufacturer's recommended maximum period of exposure or two years, whichever is less. [49 CFR 192.321(g)(1)]

2. The pipe either is located where damage by external forces is unlikely or is otherwise protected against such damage. [49 CFR 192.321(g)(2)]

3. The pipe adequately resists exposure to ultraviolet light and high and low temperatures. [49 CFR 192.321(g)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 24:1310 (July 1998), LR 27:1542 (September 2001), LR 30:1247 (June 2004).

§1723. Casing [49 CFR 192.323]

A. Each casing used on a transmission line or main under a railroad or highway must comply with the following. [49 CFR 192.323]

1. The casing must be designed to withstand the superimposed loads. [49 CFR 192.323(a)]

2. If there is a possibility of water entering the casing, the ends must be sealed. [49 CFR 192.323(b)]

3. If the ends of an unvented casing are sealed and the sealing is strong enough to retain the maximum allowable

operating pressure of the pipe, the casing must be designed to hold this pressure at a stress level of not more than 72 percent of SMYS. [49 CFR 192.323(c)]

4. If vents are installed on a casing, the vents must be protected from the weather to prevent water from entering the casing. [49 CFR 192.323(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 30:1247 (June 2004).

§1725. Underground Clearance [49 CFR 192.325]

A. Each transmission line must be installed with at least 12 inches (305 millimeters) of clearance from any other underground structure not associated with the transmission line. If this clearance cannot be attained, the transmission line must be protected from damage that might result from the proximity of the other structure. [49 CFR 192.325(a)]

B. Each main must be installed with enough clearance from any other underground structure to allow proper maintenance and to protect against damage that might result from proximity to other structures. [49 CFR 192.325(b)]

C. In addition to meeting the requirements of Subsections A or B of this Section, each plastic transmission line or main must be installed with sufficient clearance, or must be insulated, from any source of heat so as to prevent the heat from impairing the serviceability of the pipe. [49 CFR 192.325(c)]

D. Each pipe-type or bottle type holder must be installed with a minimum clearance from any other holder as prescribed in §1135.B. [49 CFR 192.325(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 27:1542 (September 2001), LR 30:1247 (June 2004).

§1727. Cover [49 CFR 192.327]

A. Except as provided in Subsection C, E, F and G of this Section, each buried transmission line must be installed with a minimum cover as follows. [49 CFR 192.327(a)]

Location	Normal Soil	Consolidated Rock
	Inches (Millimeters)	Inches (Millimeters)
Class 1 Locations	30 (762)	18 (457)
Class 2, 3 and 4 Locations	36 (914)	24 (610)
Drainage Ditches of Public Roads and Railroad Crossings	36 (914)	24 (610)

B. Except as provided in Subsections C and D of this Section, each buried main must be installed with at least 24 inches (610 millimeters) of cover. [49 CFR 192.327(b)]

C. Where an underground structure prevents the installation of a transmission line or main with the minimum cover, the transmission line or main may be installed with less cover if it is provided with additional protection to withstand anticipated external loads. [49 CFR 192.327(c)]

D. A main may be installed with less than 24 inches (610 millimeters) of cover if the law of the state or municipality: [49 CFR 192.327(d)]

1. establishes a minimum cover of less than 24 inches (610 millimeters); [49 CFR 192.327(d)(1)]

2. requires that mains be installed in a common trench with other utility lines; and [49 CFR 192.327(d)(2)]

3. provides adequately for prevention of damage to the pipe by external forces. [49 CFR 192.327(d)(3)]

E. Except as provided in Subsection C of this Section, all pipe installed in a navigable river, stream, or harbor must be installed with a minimum cover of 48 inches (1219 millimeters) in soil or 24 inches (610 millimeters) in consolidated rock between the top of the pipe and the natural bottom. [49 CFR 192.327(e)]

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet (60 meters) deep, as measured from the mean low tide, must be installed as follows. [49 CFR 192.327(f)]

1. Except as provided in Subsection C of this Section, pipe under water less than 12 feet (3.66 meters) deep, must be installed with a minimum cover of 36 inches (914 millimeters) in soil or 18 inches (457 millimeters) in consolidated rock between the top of the pipe and the natural bottom. [49 CFR 192.324(f)(1)]

2. Pipe under water at least 12 feet (3.66 meters) deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. [49 CFR 192.327(f)(2)]

G. All pipelines installed under water in the Gulf of Mexico and its inlets, as defined in §503, must be installed in accordance with §2712.B.3. [49 CFR 192.327(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:1542 (September 2001), LR 30:1247 (June 2004).

Chapter 19. Customer Meters, Service Regulators, and Service Lines [Subpart H]

§1901. Scope [49 CFR 192.351]

A. This Chapter prescribes minimum requirements for installing customer meters, service regulators, service lines, service line valves, and service line connections to mains. [49 CFR 192.351]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:526 (July 1984), LR 30:1248 (June 2004).

§1903. Customer Meters and Regulators: Location [49 CFR 192.353]

A. Each meter and service regulator whether inside or outside of a building, must be installed in a readily accessible location and be protected from corrosion and other damage, including, if installed outside a building, vehicular damage that may be anticipated. However, the upstream regulator in a series may be buried. [49 CFR 192.353(a)]

B. Each service regulator installed within a building must be located as near as practical to the point of service line entrance. [49 CFR 192.353(b)]

C. Each meter installed within a building must be located in a ventilated place and not less than 3 feet (914 millimeters) from any source of ignition or any source of heat which might damage the meter. [49 CFR 192.353(c)]

D. Where feasible, the upstream regulator in a series must be located outside the building, unless it is located in a separate metering or regulating building. [49 CFR 192.353(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:526 (July 1984), LR 27:1543 (September 2001), LR 30:1248 (June 2004).

§1905. Customer Meters and Regulators: Protection from Damage [49 CFR 192.355]

A. Protection from Vacuum or Back Pressure. If the customer's equipment might create either a vacuum or a back pressure, a device must be installed to protect the system. [49 CFR 192.355(a)]

B. Service Regulator Vents and Relief Vents. Service regulator vents and relief vents must terminate outdoors, and the outdoor terminal must: [49 CFR 192.355(b)]

1. be rain and insect resistant; [49 CFR 192.355(b)(1)]

2. be located at a place where gas from the vent can escape freely into the atmosphere and away from any opening into the building; and [49 CFR 192.355(b)(2)]

3. be protected from damage caused by submergence in areas where flooding may occur. [49 CFR 192.355(b)(3)]

C. Pits and Vaults. Each pit or vault that houses a customer meter or regulator at a place where vehicular traffic is anticipated, must be able to support that traffic. [49 CFR 192.355(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:526 (July 1984), LR 30:1248 (June 2004).

§1907. Customer Meters and Regulators: Installation [49 CFR 192.357]

A. Each meter and each regulator must be installed so as to minimize anticipated stresses upon the connecting piping and the meter. [49 CFR 192.357(a)]

B. When close all-thread nipples are used, the wall thickness remaining after the threads are cut must meet the minimum wall thickness requirements of this Subpart. [49 CFR 192.357(b)]

C. Connections made of lead or other easily damaged material may not be used in the installation of meters or regulators. [49 CFR 192.357(c)]

D. Each regulator that might release gas in its operation must be vented to the outside atmosphere. [49 CFR 192.357(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:526 (July 1984), LR 30:1248 (June 2004).

§1909. Customer Meter Installations: Operating Pressure [49 CFR 192.359]

A. A meter may not be used at a pressure that is more than 67 percent of the manufacturer's shell test pressure. [49 CFR 192.359(a)]

B. Each newly installed meter manufactured after November 12, 1970, must have been tested to a minimum of 10 psi (69 kPa) gage. [49 CFR 192.359(b)]

C. A rebuilt or repaired tinned steel case meter may not be used at a pressure that is more than 50 percent of the

pressure used to test the meter after rebuilding or repairing. [49 CFR 192.359(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:526 (July 1984), LR 27:1543 (September 2001), LR 30:1248 (June 2004).

§1911. Service Lines: Installation [49 CFR 192.361]

A. Depth. Each buried service line must be installed with at least 12 inches (305 millimeters) of cover in private property and at least 18 inches (457 millimeters) of cover in streets and roads. However, where an underground structure prevents installation at those depths, the service line must be able to withstand any anticipated external load. [49 CFR 192.361(a)]

B. Support and Backfill. Each service line must be properly supported on undisturbed or well-compacted soil, and material used for backfill must be free of materials that could damage the pipe or its coating. [49 CFR 192.361(b)]

C. Grading for Drainage. Where condensate in the gas might cause interruption in the gas supply to the customer, the service line must be graded so as to drain into the main or into drips at the low points in the service line. [49 CFR 192.361(c)]

D. Protection against Piping Strain and External Loading. Each service line must be installed so as to minimize anticipated piping strain and external loading. [49 CFR 192.361(d)]

E. Installation of Service Lines into Buildings. Each underground service line installed below grade through the outer foundation wall of a building must: [49 CFR 192.361(e)]

1. in the case of a metal service line, be protected against corrosion; [49 CFR 192.361(e)(1)]

2. in the case of a plastic service line, be protected from shearing action and backfill settlement; and [49 CFR 192.361(e)(2)]

3. be sealed at the foundation wall to prevent leakage into the building. [49 CFR 192.361(e)(3)]

F. Installation of Service Lines under Buildings. Where an underground service line is installed under a building: [49 CFR 192.361(f)]

1. it must be encased in a gas-tight conduit; [49 CFR 192.361(f)(1)]

2. the conduit and the service line must, if the service line supplies the building it underlies, extend into a normally usable and accessible part of the building; and [49 CFR 192.361(f)(2)]

3. the space between the conduit and the service line must be sealed to prevent gas leakage into the building and, if the conduit is sealed at both ends, a vent line from the annular space must extend to a point where gas would not be a hazard, and extend above grade, terminating in a rain and insect resistant fitting. [49 CFR 192.361(f)(3)]

G. Locating Underground Service Lines. Each underground nonmetallic service line that is not encased must have a means of locating the pipe that complies with §1721.E. [49 CFR 192.361(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983),

amended LR 10:526 (July 1984), LR 27:1543 (September 2001), LR 30:1249 (June 2004).

§1913. Service Lines: Valve Requirements [49 CFR 192.363]

A. Each service line must have a service-line valve that meets the applicable requirements of Chapter 7 and Chapter 11 of this Subpart. A valve incorporated in a meter bar, that allows the meter to be bypassed, may not be used as a service-line valve. [49 CFR 192.363(a)]

B. A soft seat service line valve may not be used if its ability to control the flow of gas could be adversely affected by exposure to anticipated heat. [49 CFR 192.363(b)]

C. Each service-line valve on a high-pressure service line, installed above ground or in an area where the blowing of gas would be hazardous, must be designed and constructed to minimize the possibility of the removal of the core of the valve with other than specialized tools. [49 CFR 192.363(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:526 (July 1984), LR 30:1249 (June 2004).

§1915. Service Lines: Location of Valves [49 CFR 192.365]

A. Relation to Regulator or Meter. Each service-line valve must be installed upstream of the regulator or, if there is no regulator, upstream of the meter. [49 CFR 192.365(a)]

B. Outside Valves. Each service line must have a shut-off valve in a readily accessible location that, if feasible, is outside of the building. [49 CFR 192.365(b)]

C. Underground Valves. Each underground service-line valve must be located in a covered durable curb box or standpipe that allows ready operation of the valve and is supported independently of the service lines. [49 CFR 192.365(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:526 (July 1984), LR 30:1249 (June 2004).

§1917. Service Lines: General Requirements for Connections to Main Piping [49 CFR 192.367]

A. Location. Each service-line connection to a main must be located at the top of the main or, if that is not practical, at the side of the main, unless a suitable protective device is installed to minimize the possibility of dust and moisture being carried from the main into the service line. [49 CFR 192.367(a)]

B. Compression-Type Connection to Main. Each compression-type service line to main connection must: [49 CFR 192.367(b)]

1. be designed and installed to effectively sustain the longitudinal pullout or thrust forces caused by contraction or expansion of the piping, or by anticipated external or internal loading; and [49 CFR 192.367(b)(1)]

2. if gaskets are used in connecting the service line to the main connection fitting, have gaskets that are compatible with the kind of gas in the system. [49 CFR 192.367(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:526 (July 1984), LR 30:1249 (June 2004).

§1919. Service Lines: Connections to Cast Iron or Ductile Iron Mains [49 CFR 192.369]

A. Each service line connected to a cast iron or ductile iron main must be connected by a mechanical clamp, by drilling and tapping the main, or by another method meeting the requirements of §1503. [49 CFR 192.369(a)]

B. If a threaded tap is being inserted, the requirements of §1111.B and C must also be met. [49 CFR 192.369(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:527 (July 1984), LR 30:1250 (June 2004).

§1921. Service Lines: Steel [49 CFR 192.371]

A. Each steel service line to be operated at less than 100 psi (689 kPa) gage must be constructed of pipe designed for a minimum of 100 psi (689 kPa) gage. [49 CFR 192.371]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:527 (July 1984), LR 27:1543 (September 2001), LR 30:1250 (June 2004).

§1923. Service Lines: Cast Iron and Ductile Iron [49 CFR 192.373]

A. Cast or ductile iron pipe less than 6 inches (152 millimeters) in diameter may not be installed for service lines. [49 CFR 192.373(a)]

B. If cast iron pipe or ductile iron pipe is installed for use as a service line, the part of the service line which extends through the building wall must be of steel pipe. [49 CFR 192.373(b)]

C. A cast iron or ductile iron service line may not be installed in unstable soil or under a building. [49 CFR 192.373(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:527 (July 1984), LR 27:1543 (September 2001), LR 30:1250 (June 2004).

§1925. Service Lines: Plastic [49 CFR 192.375]

A. Each plastic service line outside a building must be installed below ground level, except that: [49 CFR 192.375(a)]

1. it may be installed in accordance with §1721.G; and [49 CFR 192.375(a)(1)]

2. it may terminate above ground level and outside the building, if: [49 CFR 192.375(a)(2)]

a. the above ground level part of the plastic service line is protected against deterioration and external damage; and [49 CFR 192.375(a)(2)(i)]

b. the plastic service line is not used to support external loads. [49 CFR 192.375(a)(2)(ii)]

B. Each plastic service line inside a building must be protected against external damage. [49 CFR 192.375(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:527 (July 1984), amended LR 24:1310 (July 1998), LR 30:1250 (June 2004).

§1927. Service Lines: Copper [49 CFR 192.377]

A. Each copper service line installed within a building must be protected against external damage. [49 CFR 192.377]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 30:1250 (June 2004).

§1929. New Service Lines Not in Use [49 CFR 192.379]

A. Each service line that is not placed in service upon completion of installation must comply with one of the following until the customer is supplied with gas: [49 CFR 192.379]

1. the valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator; [49 CFR 192.379(a)]

2. a mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly; [49 CFR 192.379(b)]

3. the customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed. [49 CFR 192.379(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 30:1250 (June 2004).

§1931. Service Lines: Excess Flow Valve Performance Standards [49 CFR 192.381]

A. Excess flow valves to be used on single residence service lines that operate continuously throughout the year at a pressure not less than 10 psi (69 kPa) gage must be manufactured and tested by the manufacturer according to an industry specification, or the manufacturer's written specification, to ensure that each valve will: [49 CFR 192.381(a)]

1. function properly up to the maximum operating pressure at which the valve is rated; [49 CFR 192.381(a)(1)]

2. function properly at all temperatures reasonably expected in the operating environment of the service line; [49 CFR 192.381(a)(2)]

3. at 10 psi (69 kPa) gage: [49 CFR 192.381(a)(3)]

a. close at, or not more than 50 percent above, the rated closure flow rate specified by the manufacturer; and [49 CFR 192.381(a)(3)(i)]

b. upon closure, reduce gas flow: [49 CFR 192.381(a)(3)(ii)]

i. for an excess flow valve designed to allow pressure to equalize across the valve, to no more than 5 percent of the manufacturer's specified closure flow rate, up to a maximum of 20 cubic feet per hour (0.57 cubic meters per hour); or [49 CFR 192.381(a)(3)(ii)(A)]

ii. for an excess flow valve designed to prevent equalization of pressure across the valve, to no more than 0.4 cubic feet per hour (0.01 cubic meters per hour); and [49 CFR 192.381(a)(3)(ii)(B)]

4. not close when the pressure is less than the manufacturer's minimum specified operating pressure and the flow rate is below the manufacturer's minimum specified closure flow rate. [49 CFR 192.381(a)(4)]

B. An excess flow valve must meet the applicable requirements of Chapters 7 and 11 of this Subpart. [49 CFR 192.381(b)]

C. An operator must mark or otherwise identify the presence of an excess flow valve on the service line. [49 CFR 192.381(c)]

D. An operator shall locate an excess flow valve as near as practical to the fitting connecting the service line to its source of gas supply. [49 CFR 192.381(d)]

E. An operator should not install an excess flow valve on a service line where the operator has prior experience with contaminants in the gas stream, where these contaminants could be expected to cause the excess flow valve to malfunction or where the excess flow valve would interfere with necessary operation and maintenance activities on the service, such as blowing liquids from the line. [49 CFR 192.381(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:1311 (July 1998), amended LR 27:1543 (September 2001), LR 30:1250 (June 2004).

§1933. Excess Flow Valve Customer Notification

[49 CFR 192.383]

A. Definitions. As used in this Section: [49 CFR 192.383(a)]

Costs Associated with Installation—The costs directly connected with installing an excess flow valve; for example, costs of parts, labor, inventory, and procurement. It does not include maintenance and replacement costs until such costs are incurred.

Replaced Service Line—A natural gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

Service Line Customer—The person who pays the gas bill, or where service has not yet been established, the person requesting the service.

B. Which Customers Must Receive Notification. Notification is required on each newly installed service line or replaced service line that operates continuously throughout the year at a pressure not less than 10 psig (68.9 kPa) and that serves a single residence. On these lines an operator of a natural gas distribution system must notify the service line customer once in writing. [49 CFR 192.383(b)]

C. What to Put in the Written Notice [49 CFR 192.383(c)]

1. An explanation for the customer that an excess flow valve meeting the performance standards prescribed under §1931 is available for the operator to install if the customer bears the costs associated with installation; [49 CFR 192.383(c)(1)]

2. an explanation for the customer of the potential safety benefits that may be derived from installing an excess flow valve. The explanation must include that an excess flow valve is designed to shut off the flow of natural gas automatically if the service line breaks; [49 CFR 192.383(c)(2)]

3. a description of installation, maintenance, and replacement costs. The notice must explain that if the customer requests the operator to install an EFV, the customer bears all costs associated with installation, and

what those costs are. The notice must alert the customer that the costs for maintaining and replacing an EFV may later be incurred, and what those costs will be, to the extent known. [49 CFR 192.383(c)(3)]

D. When Notification and Installation Must Be Made [49 CFR 192.383(d)]

1. After February 3, 1999 an operator must notify each service line customer set forth in Subsection B of this Section: [49 CFR 192.383(d)(1)]

a. on new service lines when the customer applies for service; [49 CFR 192.383(d)(1)(i)]

b. on replaced service lines when the operator determines the service line will be replaced. [49 CFR 192.383(d)(1)(ii)]

2. If a service line customer requests installation an operator must install the EFV at a mutually agreeable date. [49 CFR 192.383(d)(2)]

E. What Records Are Required [49 CFR 192.383(e)]

1. An operator must make the following records available for inspection by the administrator or a state agency participating under 49 U.S.C. 60105 or 60106: [49 CFR 192.383(e)(1)]

a. a copy of the notice currently in use; and [49 CFR 192.383(e)(1)(i)]

b. evidence that notice has been sent to the service line customers set forth in Subsection B of this Section, within the previous three years. [49 CFR 192.383(1)(ii)]

F. When Notification Is Not Required. The notification requirements do not apply if the operator can demonstrate: [49 CFR 192.383(f)]

1. that the operator will voluntarily install an excess flow valve or that the state or local jurisdiction requires installation; [49 CFR 192.383(f)(1)]

2. that excess flow valves meeting the performance standards in §1931 are not available to the operator; [49 CFR 192.383(f)(2)]

3. that the operator has prior experience with contaminants in the gas stream that could interfere with the operation of an excess flow valve, cause loss of service to a residence, or interfere with necessary operation or maintenance activities, such as blowing liquids from the line; [49 CFR 192.383(f)(3)]

4. that an emergency or short time notice replacement situation made it impractical for the operator to notify a service line customer before replacing a service line. Examples of these situations would be where an operator has to replace a service line quickly because of: [49 CFR 192.383(f)(4)]

a. third party excavation damage; [49 CFR 192.383(f)(4)(i)]

b. Grade 1 leaks as defined in the Appendix G-192-11 of the Gas Piping Technology Committee guide for gas transmission and distribution systems; [49 CFR 192.383(f)(4)(ii)]

c. a short notice service line relocation request. [49 CFR 192.383(f)(4)(iii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1544 (September 2001), amended LR 30:1251 (June 2004).

Chapter 21. Requirements for Corrosion Control [Subpart I]

§2101. Scope [49 CFR 192.451]

A. This Chapter prescribes minimum requirements for the protection of metallic pipelines from external, internal, and atmosphere corrosion. [49 CFR 192.451(a)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 30:1252 (June 2004).

§2103. Applicability to Converted Pipelines [49 CFR 192.452]

A. Notwithstanding the date the pipeline was installed or any earlier deadlines for compliance, each pipeline which qualifies for use under this Subpart in accordance with §514 must meet the requirements of this Chapter specifically applicable to pipelines installed before August 1, 1971, and all other applicable requirements within one year after the pipeline is readied for service. However, the requirements of this Chapter specifically applicable to pipelines installed after July 31, 1971, apply if the pipeline substantially meets those requirements before it is readied for service or it is a segment which is replaced, relocated, or substantially altered. [49 CFR 192.452]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 30:1252 (June 2004).

§2105. General [49 CFR 192.453]

A. The corrosion control procedures required by §2705.B.2, including those for the design, installation, operation, and maintenance of cathodic protection systems, must be carried out by, or under the direction of, a person qualified in pipeline corrosion control methods. [49 CFR 192.453]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 21:821 (August 1995), LR 30:1252 (June 2004).

§2107. External Corrosion Control: Buried or Submerged Pipelines Installed after July 31, 1971 [49 CFR 192.455]

A. Except as provided in Subsections B, C, and F of this Section, each buried or submerged pipeline installed after July 31, 1971, must be protected against external corrosion, including the following. [49 CFR 192.455(a)]

1. It must have an external protective coating meeting the requirements of §2113. [49 CFR 192.455(a)(1)]

2. It must have a cathodic protection system designed to protect the pipeline in its entirety in accordance with this Chapter, installed and placed in operation within one year after completion of construction. [49 CFR 192.455(a)(2)]

B. An operator need not comply with Subsection A of this Section, if the operator can demonstrate by tests, investigation, or experience in the area of application, including, as a minimum, soil resistivity measurements and tests for corrosion accelerating bacteria, that a corrosive environment does not exist. However, within six months after an installation made pursuant to the preceding sentence, the operator shall conduct tests, including pipe-to-soil

potential measurements with respect to either a continuous reference electrode or an electrode using close spacing, not to exceed 20 feet (6 meters), and soil resistivity measurements at potential profile peak locations, to adequately evaluate the potential profile along the entire pipeline. If the test made indicate that a corrosive condition exists, the pipeline must be cathodically protected in accordance with Paragraph A.2 of this Section. [49 CFR 192.455(b)]

C. An operator need not comply with Subsection A of this Section, if the operator can demonstrate by tests, investigation, or experience that: [49 CFR 192.455(c)]

1. for a copper pipeline, a corrosive environment does not exist; or [49 CFR 192.455(c)(1)]

2. for a temporary pipeline with an operating period of service not to exceed five years beyond installation, corrosion during the five-year period of service of the pipeline will not be detrimental to public safety. [49 CFR 192.455(c)(2)]

D. Notwithstanding the provisions of Subsection B or C of this Section, if a pipeline is externally coated, it must be cathodically protected in accordance with Paragraph A.2 of this Section. [49 CFR 192.455(d)]

E. Aluminum may not be installed in a buried or submerged pipeline if that aluminum is exposed to an environment with a natural pH in excess of eight, unless tests or experience indicate its suitability in the particular environment involved. [49 CFR 192.455(e)]

F. This Section does not apply to electrically isolated, metal alloy fittings in plastic pipelines, if: [49 CFR 192.455(f)]

1. for the size fitting to be used, an operator can show by test, investigation, or experience in the area of application that adequate corrosion control is provided by the alloy composition; and [49 CFR 192.455(f)(1)]

2. the fitting is designed to prevent leakage caused by localized corrosion pitting. [49 CFR 192.455(f)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 24:1311 (July 1998), LR 27:1544 (September 2001), LR 30:1252 (June 2004).

§2109. External Corrosion Control: Buried or Submerged Pipelines Installed before August 1, 1971 [49 CFR 192.457]

A. Except for buried piping at compressor, regulator, and measuring stations, each buried or submerged transmission line installed before August 1, 1971, that has an effective external coating must be cathodically protected along the entire area that is effectively coated, in accordance with this Chapter. For the purposes of this Chapter, a pipeline does not have an effective external coating if its cathodic protection current requirements are substantially the same as if it were bare. The operator shall make tests to determine the cathodic protection current requirements. [49 CFR 192.457(a)]

B. Except for cast iron or ductile iron, each of the following buried or submerged pipelines installed before August 1, 1971, must be cathodically protected in accordance with this Chapter in areas in which active corrosion is found: [49 CFR 192.457(b)]

1. bare or ineffectively coated transmission lines; [49 CFR 192.457(b)(1)]

2. bare or coated pipes at compressor, regulator, and measuring stations; [49 CFR 192.457(b)(2)]

3. bare or coated distribution lines. [49 CFR 192.457(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 30:1252 (June 2004).

§2111. External Corrosion Control: Examination of Buried Pipeline When Exposed
[49 CFR 192.459]

A. Whenever an operator has knowledge that any portion of a buried pipeline is exposed, the exposed portion must be examined for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion requiring remedial action under §§2135 through 2141 is found, the operator shall investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion. [49 CFR 192.459]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:528 (July 1984), LR 27:1544 (September 2001), LR 30:1253 (June 2004).

§2113. External Corrosion Control: Protective Coating
[49 CFR 192.461]

A. Each external protective coating, whether conductive or insulating, applied for the purpose of external corrosion control must: [49 CFR 192.461(a)]

1. be applied on a properly prepared surface; [49 CFR 192.461(a)(1)]

2. have sufficient adhesion to the metal surface to effectively resist underfilm migration of moisture; [49 CFR 192.461(a)(2)]

3. be sufficiently ductile to resist cracking; [49 CFR 192.461(a)(3)]

4. have sufficient strength to resist damage due to handling and soil stress; and [49 CFR 192.461(a)(4)]

5. have properties compatible with any supplemental cathodic protection. [49 CFR 192.461(a)(5)]

B. Each external protective coating which is an electrically insulating type must also have low moisture absorption and high electrical resistance. [49 CFR 192.461(b)]

C. Each external protective coating must be inspected just prior to lowering the pipe into the ditch and backfilling, and any damage detrimental to effective corrosion control must be repaired. [49 CFR 192.461(c)]

D. Each external protective coating must be protected from damage resulting from adverse ditch conditions or damage from supporting blocks. [49 CFR 192.461(d)]

E. If coated pipe is installed by boring, driving, or other similar method, precautions must be taken to minimize damage to the coating during installation. [49 CFR 192.461(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:528 (July 1984), LR 30:1253 (June 2004).

§2115. External Corrosion Control: Cathodic Protection
[49 CFR 192.463]

A. Each cathodic protection system required by this Chapter must provide a level of cathodic protection that complies with one or more of the applicable criteria contained in §5107, Appendix D of this Subpart. If none of these criteria is applicable, the cathodic protection system must provide a level of cathodic protection at least equal to that provided by compliance with one or more of these criteria. [49 CFR 192.463(a)]

B. If amphoteric metals are included in a buried or submerged pipeline containing a metal or different anodic potential: [49 CFR 192.463(b)]

1. the amphoteric metals must be electrically isolated from the remainder of the pipeline and cathodically protected; or [49 CFR 192.463(b)(1)]

2. the entire buried or submerged pipeline must be cathodically protected at a cathodic potential that meet the requirements of §5107, Appendix D of this Subpart for amphoteric metals. [49 CFR 192.463(b)(2)]

C. The amount of cathodic protection must be controlled so as not to damage the protective coating or the pipe. [49 CFR 192.463(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:528 (July 1984), LR 30:1253 (June 2004).

§2117. External Corrosion Control: Monitoring
[49 CFR 192.465]

A. Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §2115. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period. [49 CFR 192.465(a)]

B. Each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding two and one-half months, to insure that it is operating. [49 CFR 192.465(b)]

C. Each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding two and one-half months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months. [49 CFR 192.465(c)]

D. Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring. Remedial action must be completed within a time period determined by the operator based on an evaluation of the degree of hazard created by the nature of the deficiency but in no case longer than 90 days from the date the deficiency

was discovered, or within a time period as may be approved by the commissioner. [49 CFR 192.465(d)]

E. After the initial evaluation required by of §2107.B and C and §2109.B, each operator must, not less than every three years at intervals not exceeding 39 months, reevaluate its unprotected pipelines and cathodically protect them in accordance with this Chapter in areas in which active corrosion is found. The operator must determine the areas of active corrosion by electrical survey. However, on distribution lines and where an electrical survey is impractical on transmission lines, areas of active corrosion may be determined by other means that include review and analysis of leak repair and inspection records, exposed pipe inspection records, and the pipeline environment. In this Section: [49 CFR 192.465(e)]

1. active corrosion means continuing corrosion which, unless controlled, could result in a condition that is detrimental to public safety; [49 CFR 192.465(e)(1)]

2. electrical survey means a series of closely spaced pipe -to-soil readings over a pipeline that are subsequently analyzed to identify locations where a corrosive current is leaving the pipeline; [49 CFR 192.465(e)(2)]

3. pipeline environment includes soil resistivity (high or low), soil moisture (wet or dry), soil contaminants that may promote corrosive activity, and other known conditions that could affect the probability of active corrosion. [49 CFR 192.465(e)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:528 (July 1984), LR 27:1545 (September 2001), LR 30:1253 (June 2004).

§2119. External Corrosion Control: Electrical Isolation [49 CFR 192.467]

A. Each buried or submerged pipeline must be electrically isolated from other underground metallic structures, unless the pipeline and the other structures are electrically interconnected and cathodically protected as a single unit. [49 CFR 192.467(a)]

B. One or more insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control. [49 CFR 192.467(b)]

C. Except for unprotected copper inserted in a ferrous pipe, each pipeline must be electrically isolated from metallic casings that are a part of the underground system. However, if isolation is not achieved because it is impractical, other measures must be taken to minimize corrosion of the pipeline inside the casing. [49 CFR 192.467(c)]

D. Inspection and electrical tests must be made to assure that electrical isolation is adequate. [49 CFR 192.467(d)]

E. An insulating device may not be installed in an area where a combustible atmosphere is anticipated unless precautions are taken to prevent arcing. [49 CFR 192.467(e)]

F. Where a pipeline is located in close proximity to electrical transmission tower footings, ground cables or counterpoise, or in other areas where fault currents or unusual risk of lightning may be anticipated, it must be provided with protection against damage due to fault currents or lightning, and protective measures must also be taken at insulating devices. [49 CFR 192.467(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:528 (July 1984), LR 30:1254 (June 2004).

§2121. External Corrosion Control: Test Stations [49 CFR 192.469]

A. Each pipeline under cathodic protection required by this Chapter must have sufficient test stations or other contact points for electrical measurement to determine the adequacy of cathodic protection. [49 CFR 192.469]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:529 (July 1984), LR 30:1254 (June 2004).

§2123. External Corrosion Control: Test Leads [49 CFR 192.471]

A. Each test lead wire must be connected to the pipeline so as to remain mechanically secure and electrically conductive. [49 CFR 192.471(a)]

B. Each test lead wire must be attached to the pipeline so as to minimize stress concentration on the pipe. [49 CFR 192.471(b)]

C. Each bared test lead wire and bared metallic area at point of connection to the pipeline must be coated with an electrical insulating material compatible with the pipe coating and the insulation on the wire. [49 CFR 192.471(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:529 (July 1984), LR 30:1254 (June 2004).

§2125. External Corrosion Control: Interference Currents [49 CFR 192.473]

A. Each operator whose pipeline system is subjected to stray currents shall have in effect a continuing program to minimize the detrimental effects of such currents. [49 CFR 192.473(a)]

B. Each impressed current type cathodic protection system or galvanic anode system must be designed and installed so as to minimize any adverse effects on existing adjacent underground metallic structures. [49 CFR 192.473(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:529 (July 1984), LR 30:1254 (June 2004).

§2127. Internal Corrosion Control: General [49 CFR 192.475]

A. Corrosive gas may not be transported by pipeline, unless the corrosive effect of the gas on the pipeline has been investigated and steps have been taken to minimize internal corrosion. [49 CFR 192.475(a)]

B. Whenever any pipe is removed from a pipeline for any reason, the internal surface must be inspected for residence of corrosion. If internal corrosion is found: [49 CFR 192.475(b)]

1. the adjacent pipe must be investigated to determine the extent of internal corrosion; [49 CFR 192.475(b)(1)]

2. replacement must be made to the extent required by the applicable Subsections of §§2137, 2139, or 2141; and [49 CFR 192.475(b)(2)]

3. steps must be taken to minimize the internal corrosion. [49 CFR 192.475(b)(3)]

C. Gas containing more than 0.25 grain of hydrogen sulfide per 100 cubic feet (5.8 milligrams/m³) at standard conditions (4 parts per million) may not be stored in pipe-type or bottle-type holders. [49 CFR 192.475(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 20:446 (April 1994), LR 24:1311 (July 1998), LR 27:1545 (September 2001), LR 30:1254 (June 2004).

§2129. Internal Corrosion Control: Monitoring
[49 CFR 192.477]

A. If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, but with intervals not exceeding seven and one-half months. [49 CFR 192.477]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 30:1255 (June 2004).

§2131. Atmospheric Corrosion Control: General
[49 CFR 192.479]

A. Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under Subsection C of this Section. [49 CFR 192.479(a)]

B. Coating material must be suitable for the prevention of atmospheric corrosion. [49 CFR 192.479(b)]

C. Except portions of pipelines in offshore splash zones or soil-to-air interfaces, the operator need not protect from atmospheric corrosion any pipeline for which the operator demonstrates by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will: [49 CFR 192.479(c)]

1. only be a light surface oxide; or [49 CFR 192.479(c)(1)]

2. not affect the safe operation of the pipeline before the next scheduled inspection. [49 CFR 192.479(c)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 30:1255 (June 2004).

§2133. Atmospheric Corrosion Control: Monitoring
[49 CFR 192.481]

A. Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows. [49 CFR 192.481(a)]

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

B. During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal

insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water. [49 CFR 192.481(b)]

C. If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by §2131. [49 CFR 192.481(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 30:1255 (June 2004).

§2135. Remedial Measures: General [49 CFR 192.483]

A. Each segment of metallic pipe that replaces pipe removed from a buried or submerged pipeline because of external corrosion must have a properly prepared surface and must be provided with an external protective coating that meets the requirements of §2113. [49 CFR 192.483(a)]

B. Each segment of metallic pipe that replaces pipe removed from a buried or submerged pipeline because of external corrosion must be cathodically protected in accordance with this Chapter. [49 CFR 192.483(b)]

C. Except for cast iron or ductile iron pipe, each segment of buried or submerged pipe that is required to be repaired because of external corrosion must be cathodically protected in accordance with this Chapter. [49 CFR 192.483(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 30:1255 (June 2004).

§2137. Remedial Measures: Transmission Lines
[49 CFR 192.485]

A. General Corrosion. Each segment of transmission line with general corrosion and with a remaining wall thickness less than that required for the MAOP of the pipeline must be replaced or the operating pressure reduced commensurate with the strength of the pipe based on actual remaining wall thickness. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this Subsection. [49 CFR 192.485(a)]

B. Localized Corrosion Pitting. Each segment of transmission line pipe with localized corrosion pitting to a degree where leakage might result must be replaced or repaired, or the operating pressure must be reduced commensurate with the strength of the pipe, based on the actual remaining wall thickness in the pits. [49 CFR 192.485(b)]

C. Under Subsections A and B of this Section, the strength of pipe based on actual remaining wall thickness may be determined by the procedure in ASME/ANSI B31G or the procedure in AGA Pipeline Research Committee Project PR 3-805 (with RSTRENG disk). Both procedures apply to corroded regions that do not penetrate the pipe wall, subject to the limitations prescribed in the procedures. [49 CFR 192.485(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 24:1311 (July 1998), LR 27:1545 (September 2001), LR 30:1255 (June 2004).

§2139. Remedial Measures: Distribution Lines Other Than Cast Iron or Ductile Iron Lines [49 CFR 192.487]

A. General Corrosion. Except for cast iron or ductile iron pipe, each segment of generally corroded distribution line pipe with a remaining wall thickness less than that required for the MAOP of the pipeline, or a remaining wall thickness less than 30 percent of the nominal wall thickness, must be replaced. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this Subsection. [49 CFR 192.487(a)]

B. Localized Corrosion Pitting. Except for cast iron or ductile iron pipe, each segment of distribution line pipe with localized corrosion pitting to a degree where leakage might result must be replaced or repaired. [49 CFR 192.487(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 27:1545 (September 2001), LR 30:1256 (June 2004).

§2141. Remedial Measures: Cast Iron and Ductile Iron Pipelines [49 CFR 192.489]

A. General Graphitization. Each segment of cast iron or ductile iron pipe on which general graphitization is found to a degree where a fracture or any leakage might result, must be replaced. [49 CFR 192.489(a)]

B. Localized Graphitization. Each segment of cast iron or ductile iron pipe on which localized graphitization is found to a degree where any leakage might result, must be replaced or repaired, or sealed by internal sealing methods adequate to prevent or arrest any leakage. [49 CFR 192.489(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 30:1256 (June 2004).

§2143. Corrosion Control Records [49 CFR 192.491]

A. Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system. Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode. [49 CFR 192.491(a)]

B. Each record or map required by Subsection A of this Section must be retained for as long as the pipeline remains in service. [49 CFR 192.491(b)]

C. Each operator shall maintain a record of each test, survey, or inspection required by this Chapter in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least five years, except that records related to §2117.A and E and §2127.B must be retained for as long as the pipeline remains in service. [49 CFR 192.491(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983),

amended LR 10:530 (July 1984), LR 24:1311 (July 1998), LR 30:1256 (June 2004).

Chapter 23. Test Requirements [Subpart J]

§2301. Scope [49 CFR 192.501]

A. This Chapter prescribes minimum leak-test and strength-test requirements for pipelines. [49 CFR 192.501]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:530 (July 1984), LR 30:1256 (June 2004).

§2303. General Requirements [49 CFR 192.503]

A. No person may operate a new segment of pipeline, or return to service a segment of pipeline that has been relocated or replaced, until: [49 CFR 192.503(a)]

1. it has been tested in accordance with this Chapter and §2719 to substantiate the maximum allowable operating pressure; and [49 CFR 192.503(a)(1)]

2. each potentially hazardous leak has been located and eliminated. [49 CFR 192.503(a)(2)]

B. The test medium must be liquid, air, natural gas, or inert gas that is: [49 CFR 192.503(b)]

1. compatible with the material of which the pipeline is constructed; [49 CFR 192.503(b)(1)]

2. relatively free of sedimentary materials; and [49 CFR 192.503(b)(2)]

3. except for natural gas, nonflammable. [49 CFR 192.503(b)(3)]

C. Except as provided in §2305.A, if air, natural gas, or inert gas is used as the test medium, the following maximum hoop stress limitations apply. [49 CFR 192.503(c)]

Class Location	Maximum Hoop Stress Allowed as Percentage of SMYS	
	Natural Gas	Air or Inert Gas
1	80	80
2	30	75
3	30	50
4	30	40

D. Each joint used to tie in a test segment of pipeline is excepted from the specific test requirements of this Chapter, but each non-welded joint must be leak tested at not less than its operating pressure. [49 CFR 192.503(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:530 (July 1984), LR 30:1256 (June 2004).

§2305. Strength Test Requirements for Steel Pipeline to Operate at a Hoop Stress of 30 Percent or More of SMYS [49 CFR 192.505]

A. Except for service lines, each segment of a steel pipeline that is to operate at a hoop stress of 30 percent or more of SMYS must be strength tested in accordance with this Section to substantiate the proposed maximum allowable operating pressure. In addition, in a Class 1 or Class 2 location, if there is a building intended for human occupancy within 300 feet (91 meters) of a pipeline, a hydrostatic test must be conducted to a test pressure of at least 125 percent of maximum operating pressure on that segment of the pipeline within 300 feet (91 meters) of such a building, but in no event may the test section be less than 600 feet (183 meters) unless the length of the newly installed or relocated pipe is less than 600 feet (183 meters).

However, if the buildings are evacuated while the hoop stress exceeds 50 percent of SMYS, air or inert gas may be used as the test medium. [49 CFR 192.505(a)]

B. In a Class 1 or Class 2 location, each compressor station, regulator station, and measuring station, must be tested to at least Class 3 location test requirements. [49 CFR 192.505(b)]

C. Except as provided in Subsection E of this Section, the strength test must be conducted by maintaining the pressure at or above the test pressure for at least eight hours. [49 CFR 192.505(c)]

D. If a component other than pipe is the only item being replaced or added to a pipeline, a strength test after installation is not required, if the manufacturer of the component certifies that: [49 CFR 192.505(d)]

1. the component was tested to at least the pressure required for the pipeline to which it is being added; or [49 CFR 192.505(d)(1)]

2. the component was manufactured under a quality control system that ensures that each item manufactured is at least equal in strength to a prototype and that the prototype was tested to at least the pressure required for the pipeline to which it is being added. [49 CFR 192.505(d)(2)]

E. For fabricated units and short sections of pipe, for which a post installation test is impractical, a preinstallation strength test must be conducted by maintaining the pressure at or above the test pressure for at least four hours. [49 CFR 192.505(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:530 (July 1984), LR 27:1545 (September 2001), LR 30:1256 (June 2004).

§2307. Test Requirements for Pipelines to Operate at a Hoop Stress Less Than 30 Percent of SMYS and at or Above 100 psi (689 kPa) Gauge [49 CFR 192.507]

A. Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated at a hoop stress less than 30 percent of SMYS and at or above 100 psi (689 kPa) gage must be tested in accordance with the following. [49 CFR 192.507]

1. The pipeline operator must use a test procedure that will ensure discovery of all potentially hazardous leaks in the segment being tested. [49 CFR 192.507(a)]

2. If, during the test, the segment is to be stressed to 20 percent or more of SMYS and natural gas, inert gas, or air is the test medium: [49 CFR 192.507(b)]

a. a leak test must be made at a pressure between 100 psi (689 kPa) gage and the pressure required to produce a hoop stress of 20 percent of SMYS; or [49 CFR 192.507(b)(1)]

b. the line must be walked to check for leaks while the hoop stress is held at approximately 20 percent of SMYS. [49 CFR 192.507(b)(2)]

3. The pressure must be maintained at or above the test pressure for at least one hour. [49 CFR 192.507(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983),

amended LR 10:530 (July 1984), LR 27:1545 (September 2001), LR 30:1257 (June 2004).

§2309. Test Requirements for Pipelines to Operate below 100 psi (689 kPa) Gauge [49 CFR 192.509]

A. Except for service lines and plastic pipelines, each segment of a pipeline that is to be operated below 100 psi (689 kPa) gage must be leak tested in accordance with the following. [49 CFR 192.509]

1. The test procedure used must ensure discovery of all potentially hazardous leaks in the segment being tested. [49 CFR 192.509(a)]

2. Each main that is to be operated at less than 1 psi (6.9 kPa) gage must be tested to at least 10 psi (69 kPa) gage and each main to be operated at or above 1 psi (6.9 kPa) gage must be tested to at least 90 psi (621 kPa) gage. [49 CFR 192.509(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:530 (July 1984), LR 27:1546 (September 2001), LR 30:1257 (June 2004).

§2311. Test Requirements for Service Lines [49 CFR 192.511]

A. Each segment of a service line (other than plastic) must be leak tested in accordance with this Section before being placed in service. If feasible, the service-line connection to the main must be included in the test; if not feasible, it must be given a leakage test at the operating pressure when placed in service. [49 CFR 192.511(a)]

B. Each segment of a service line (other than plastic) intended to be operated at a pressure of at least 1 psi (6.9 kPa) gage but not more than 40 psi (276 kPa) gage must be given a leak test at a pressure of not less than 50 psi (345 kPa) gage. [49 CFR 192.511(b)]

C. Each segment of a service line (other than plastic) intended to be operated at pressures of more than 40 psi (276 kPa) gage must be tested to at least 90 psi (621 kPa) gage, except that each segment of the steel service line stressed to 20 percent or more of SMYS must be tested in accordance with §2307 of this Chapter. [49 CFR 192.511(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:530 (July 1984), LR 27:1546 (September 2001), LR 30:1257 (June 2004).

§2313. Test Requirements for Plastic Pipelines [49 CFR 192.513]

A. Each segment of a plastic pipeline must be tested in accordance with this Section. [49 CFR 192.513(a)]

B. The test procedure must insure discovery of all potentially hazardous leaks in the segment being tested. [49 CFR 192.513(b)]

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 psi (345 kPa) gage, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under §921, at a temperature not less than the pipe temperature during the test. [49 CFR 192.513(c)]

D. During the test, the temperature of thermoplastic material may not be more than 100°F (38°C), or the temperature at which the material's long-term hydrostatic

strength has been determined under the listed specification, whichever is greater. [49 CFR 192.513(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:530 (July 1984), LR 24:1312 (July 1998), LR 27:1546 (September 2001), LR 30:1257 (June 2004).

§2315. Environmental Protection and Safety Requirements [49 CFR 192.515]

A. In conducting tests under this Chapter, each operator shall insure that every reasonable precaution is taken to protect its employees and the general public during the testing. Whenever the hoop stress of the segment of the pipeline being tested will exceed 50 percent of SMYS, the operator shall take all practicable steps to keep persons not working on the testing operation outside of the testing area until the pressure is reduced to or below the proposed maximum allowable operating pressure. [49 CFR 192.515(a)]

B. The operator shall insure that the test medium is disposed of in a manner that will minimize damage to the environment. [49 CFR 192.515(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:531 (July 1984), LR 30:1258 (June 2004).

§2317. Records [49 CFR 192.517]

A. Each operator shall make, and retain for the useful life of the pipeline, a record of each test performed under §§2305 and 2307. The record must contain at least the following information: [49 CFR 192.517(a)]

1. the operator's name, the name of the operator's employee responsible for making the test, and the name of any test company used; [49 CFR 192.517(a)(1)]
2. test medium used; [49 CFR 192.517(a)(2)]
3. test pressure; [49 CFR 192.517(a)(3)]
4. test duration; [49 CFR 192.517(a)(4)]
5. pressure recording charts, or other record of pressure readings; [49 CFR 192.517(a)(5)]
6. elevation variations, whenever significant for the particular test; [49 CFR 192.517(a)(6)]
7. leaks and failures noted and their disposition. [49 CFR 192.517(a)(7)]

B. Each operator must maintain a record of each test required by §§2309, 2311, and 2313 for at least five years. [49 CFR 192.517(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:531 (July 1984), LR 30:1258 (June 2004).

Chapter 25. Upgrading [Subpart K]

§2501. Scope [49 CFR 192.551]

A. This Chapter prescribes minimum requirements for increasing maximum allowable operating pressures (uprating) for pipelines. [49 CFR 192.551]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:239 (April 1983), amended LR 10:531 (July 1984), LR 30:1258 (June 2004).

§2503. General Requirements [49 CFR 192.553]

A. Pressure Increases. Whenever the requirements of this Chapter require that an increase in operating pressure be made in increments, the pressure must be increased gradually, at a rate that can be controlled, and in accordance with the following. [49 CFR 192.553(a)]

1. At the end of each incremental increase, the pressure must be held constant while the entire segment of the pipeline that is affected is checked for leaks. [49 CFR 192.553(a)(1)]

2. Each leak detected must be repaired before a further pressure increase is made, except that a leak determined not to be potentially hazardous need not be repaired, if it is monitored during the pressure increase and it does not become potentially hazardous. [49 CFR 192.553(a)(2)]

B. Records. Each operator who uprates a segment of pipeline shall retain for the life of the segment a record of each investigation required by this Chapter, of all work performed, and of each pressure test conducted, in connection with the uprating. [49 CFR 192.553(b)]

C. Written Plan. Each operator who uprates a segment of pipeline shall establish a written procedure that will ensure that each applicable requirement of this Chapter is complied with. [49 CFR 192.553(c)]

D. Limitation on Increase in Maximum Allowable Operating Pressure. Except as provided in §2505.C, a new maximum allowable operating pressure established under this Chapter may not exceed the maximum that would be allowed under §§2719 and 2721 for a new segment of pipeline constructed of the same materials in the same location. However, when uprating a steel pipeline, if any variable necessary to determine the design pressure under the design formula (§905) is unknown, the MAOP may be increased as provided in §2719.A.1. [49 CFR 192.553(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:239 (April 1983), amended LR 10:531 (July 1984), LR 24:1312 (July 1998), LR 30:1258 (June 2004).

§2505. Upgrading to a Pressure That Will Produce a Hoop Stress of 30 Percent or More of SMYS in Steel Pipelines [49 CFR 192.555]

A. Unless the requirements of this Section have been met, no person may subject any segment of a steel pipeline to an operating pressure that will produce a hoop stress of 30 percent or more of SMYS and that is above the established maximum allowable operating pressure. [49 CFR 192.555(a)]

B. Before increasing operating pressure above the previously established maximum allowable operating pressure the operator shall: [49 CFR 192.555(b)]

1. review the design, operating, and maintenance history and previous testing of the segment of pipeline and determine whether the proposed increase is safe and consistent with the requirements of this Subpart; and [49 CFR 192.555(b)(1)]

2. make any repairs, replacements, or alterations in the segment of pipeline that are necessary for safe operation at the increased pressure. [49 CFR 192.555(b)(2)]

C. After complying with Subsection B of this Section, an operator may increase the maximum allowable operating pressure of a segment of pipeline constructed before

September 12, 1970, to the highest pressure that is permitted under §2719, using as test pressure the highest pressure to which the segment of pipeline was previously subjected (either in a strength test or in actual operation). [49 CFR 192.555(c)]

D. After complying with Subsection B of this Section, an operator that does not qualify under Subsection C of this Section may increase the previously established maximum allowable operating pressure if at least one of the following requirements is met. [49 CFR 192.555(d)]

1. The segment of pipeline is successfully tested in accordance with the requirements of this Subpart for a new line of the same material in the same location. [49 CFR 192.555(d)(1)]

2. An increased maximum allowable operating pressure may be established for a segment of pipeline in a Class 1 location if the line has not previously been tested, and if: [49 CFR 192.555(d)(2)]

a. it is impractical to test it in accordance with the requirements of this Subpart; [49 CFR 192.555(d)(2)(i)]

b. the new maximum operating pressure does not exceed 80 percent of that allowed for a new line of the same design in the same location; and [49 CFR 192.555(d)(2)(ii)]

c. the operator determines that the new maximum allowable operating pressure is consistent with the condition of the segment of pipeline and the design requirements of this Subpart. [49 CFR 192.555(d)(2)(iii)]

E. Where a segment of pipeline is uprated in accordance with Subsection C or Paragraph D.2 of this Section, the increase in pressure must be made in increments that are equal to: [49 CFR 192.555(e)]

1. 10 percent of the pressure before the uprating; or [49 CFR 192.555(e)(1)]

2. 25 percent of the total pressure increase, whichever produces the fewer number of increments. [49 CFR 192.555(e)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:239 (April 1983), amended LR 10:531 (July 1984), LR 20:446 (April 1994), LR 30:1258 (June 2004).

§2507. Uprating: Steel Pipelines to a Pressure That Will Produce a Hoop Stress Less Than 30 Percent of SMYS: Plastic, Cast Iron, and Ductile Iron Pipelines [49 CFR 192.557]

A. Unless the requirements of this Section have been met, no person may subject: [49 CFR 192.557(a)]

1. a segment of steel pipeline to an operating pressure that will produce a hoop stress less than 30 percent of SMYS and that is above the previously established maximum allowable operating pressure; or [49 CFR 192.557(a)(1)]

2. a plastic, cast iron, or ductile iron pipeline segment to an operating pressure that is above the previously established maximum allowable operating pressure. [49 CFR 192.557(a)(2)]

B. Before increasing operating pressure above the previously established maximum allowable operating pressure, the operator shall: [49 CFR 192.557(b)]

1. review the design, operating, and maintenance history of the segment of pipeline; [49 CFR 192.557(b)(1)]

2. make a leakage survey (if it has been more than one year since the last survey) and repair any leaks that are found, except that a leak determined not to be potentially hazardous need not be repaired, if it is monitored during the pressure increase and it does not become potentially hazardous; [49 CFR 192.557(b)(2)]

3. make any repairs, replacements, or alterations in the segment of pipeline that are necessary for safe operation at the increased pressure; [49 CFR 192.557(b)(3)]

4. reinforce or anchor offsets, bends and dead ends in pipe joined by compression couplings or bell and spigot joints to prevent failure of the pipe joint, if the offset, bend, or dead end is exposed in an excavation; [49 CFR 192.557(b)(4)]

5. isolate the segment of pipeline in which the pressure is to be increased from any adjacent segment that will continue to be operated at a lower pressure; and [49 CFR 192.557(b)(5)]

6. if the pressure in mains or service lines, or both, is to be higher than the pressure delivered to the customer, install a service regulator on each service line and test each regulator to determine that it is functioning. Pressure may be increased as necessary to test each regulator, after a regulator has been installed on each pipeline subject to the increased pressure. [49 CFR 192.557(b)(6)]

C. After complying with Subsection B of this Section, the increase in maximum allowable operating pressure must be made in increments that are equal to 10 psi (69 kPa) gage or 25 percent of the total pressure increase, whichever produces the fewer number of increments. Whenever the requirements of Paragraph B.6 of this Section apply, there must be at least two approximately equal incremental increases. [49 CFR 192.557(c)]

D. If records for cast iron or ductile iron pipeline facilities are not complete enough to determine stresses produced by internal pressure, trench loading, rolling loads, beam stresses, and other bending loads, in evaluating the level of safety of the pipeline when operating at the proposed increased pressure, the following procedures must be followed. [49 CFR 192.557(d)]

1. In estimating the stresses, if the original laying conditions cannot be ascertained, the operator shall assume that cast iron pipe was supported on blocks with tamped backfill and that ductile iron pipe was laid without blocks with tamped backfill. [49 CFR 192.557(d)(1)]

2. Unless the actual maximum cover depth is known, the operator shall measure the actual cover in at least three places where the cover is most likely to be greatest and shall use the greatest cover measured. [49 CFR 192.557(d)(2)]

3. Unless the actual nominal wall thickness is known, the operator shall determine the wall thickness by cutting and measuring coupons from at least three separate pipe lengths. The coupons must be cut from pipe lengths in areas where the cover depth is most likely to be the greatest. The average of all measurements taken must be increased by the allowance indicated in the following table. [49 CFR 192.557(d)(3)]

Pipe Size (inches) (millimeters)	Allowance (inches)(millimeters)		
	Cast Iron Pipe		
	Pit Cast Pipe	Centrifugally Cast Pipe	Ductile Iron Pipe
3 to 8 (76 to 203)	0.075 (1.91)	0.065 (1.65)	0.065 (1.65)
10 to 12 (254 to 305)	0.08 (2.03)	0.07 (1.78)	0.07 (1.78)
14 to 24 (356 to 610)	0.08 (2.03)	0.08 (2.03)	0.075 (1.91)
30 to 42 (762 to 1067)	0.09 (2.29)	0.09 (2.29)	0.075 (1.91)
48 (1219)	0.09 (2.29)	0.09 (2.29)	0.08 (2.03)
54 to 60 (1372 to 1524)	0.09 (2.29)		

4. For cast iron pipe, unless the pipe manufacturing process is known, the operator shall assume that the pipe is pit cast pipe with a bursting tensile strength of 11,000 psi (76 Mpa) gage and a modulus of rupture of 31,000 psi (214 Mpa) gage. [49 CFR 192.557(d)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:239 (April 1983), amended LR 10:531 (July 1984), LR 18:857 (August 1992), LR 27:1546 (September 2001), LR 30:1259 (June 2004).

Chapter 27. Operations [Subpart L]

§2701. Scope [49 CFR 192.601]

A. This Chapter prescribes minimum requirements for the operation of pipeline facilities. [49 CFR 192.601]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:240 (April 1983), amended LR 10:532 (July 1984), LR 30:1260 (June 2004).

§2703. General Provisions [49 CFR 192.603]

A. No person may operate a segment of pipeline unless it is operated in accordance with this Subpart. [49 CFR 192.603(a)]

B. Each operator shall keep records necessary to administer the procedures established under §2705. [49 CFR 192.603(b)]

C. The administrator or the state agency that has submitted a current certification under the pipeline safety laws, (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety. [49 CFR 192.603(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:240 (April 1983), amended LR 10:532 (July 1984), LR 18:857 (August 1992), LR 21:821 (August 1995), LR 24:1312 (July 1998), LR 30:1260 (June 2004).

§2705. Procedural Manual for Operations, Maintenance, and Emergencies [49 CFR 192.605]

A. General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also

include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted. [49 CFR 192.605(a)]

B. Maintenance and Normal Operations. The manual required by Subsection A of this Section must include procedures for the following, if applicable, to provide safety during maintenance and operations: [49 CFR 192.605(b)]

1. operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this Chapter and Chapter 29 of this Subpart; [49 CFR 192.605(b)(1)]

2. controlling corrosion in accordance with the operations and maintenance requirements of Chapter 21 of this Subpart; [49 CFR 192.605(b)(2)]

3. making construction records, maps, and operating history available to appropriate operating personnel; [49 CFR 192.605(b)(3)]

4. gathering of data needed for reporting incidents under Chapter 3 of Subpart 2 of this Part in a timely and effective manner; [49 CFR 192.605(b)(4)]

5. starting up and shutting down any part of the pipeline in a manner designed to assure operation within the MAOP limits prescribed by this Subpart, plus the build-up allowed for operation of pressure-limiting and control devices; [49 CFR 192.605(b)(5)]

6. maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service; [49 CFR 192.605(b)(6)]

7. starting, operating and shutting down gas compressor units; [49 CFR 192.605(b)(7)]

8. periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found; [49 CFR 192.605(b)(8)]

9. taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line; [49 CFR 192.605(b)(9)]

10. systematic and routine testing and inspection of pipe-type or bottle-type holders including: [49 CFR 192.605(b)(10)]

a. provision for detecting external corrosion before the strength of the container has been impaired; [49 CFR 192.605(b)(10)(i)]

b. periodic sampling and testing of gas in storage to determine the dew point of vapors contained in the stored gas which, if condensed, might cause internal corrosion or interfere with the safe operation of the storage plant; and [49 CFR 192.605(b)(10)(ii)]

c. periodic inspection and testing of pressure limiting equipment to determine that it is in safe operating condition and has adequate capacity; [49 CFR 192.605(b)(10)(iii)]

11. responding promptly to a report of a gas odor inside or near a building, unless the operator's emergency

procedures under §2715.A.3 specifically apply to these reports. [49 CFR 192.605(b)(11)]

C. Abnormal Operation. For transmission lines, the manual required by Subsection A of this Section must include procedures for the following to provide safety when operating design limits have been exceeded: [49 CFR 192.605(c)]

1. responding to, investigating, and correcting the cause of: [49 CFR 192.605(c)(1)]

a. unintended closure of valves or shutdowns; [49 CFR 192.605(c)(1)(i)]

b. increase or decrease in pressure or flow rate outside normal operating limits; [49 CFR 192.605(c)(1)(ii)]

c. loss of communications; [49 CFR 192.605(c)(1)(iii)]

d. operation of any safety device; and [49 CFR 192.605(c)(1)(iv)]

e. any other foreseeable malfunction of a component, deviation from normal operation, or personnel error which may result in a hazard to persons or property; [49 CFR 192.605(c)(1)(v)]

2. checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation; [49 CFR 192.605(c)(2)]

3. notifying responsible operator personnel when notice of an abnormal operation is received; [49 CFR 192.605(c)(3)]

4. periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found; [49 CFR 192.605(c)(4)]

5. the requirements of Subsection C do not apply to natural gas distribution operators that are operating transmission lines in connection with their distribution system. [49 CFR 192.605(c)(5)]

D. Safety-Related Condition Reports. The manual required by Subsection A of this Section must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of §323 of this Part. [49 CFR 192.605(d)]

E. Surveillance, Emergency Response, and Accident Investigation. The procedures required by §§2713.A, 2715, and 2717 must be included in the manual required by Subsection A of this Section. [49 CFR 192.605(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:240 (April 1983), amended LR 10:532 (July 1984), LR 21:822 (August 1995), LR 30:1260 (June 2004).

§2709. Change in Class Location: Required Study [49 CFR 192.609]

A. Whenever an increase in population density indicates a change in class location for a segment of an existing steel pipeline operating at a hoop stress that is more than 40 percent of SMYS, or indicates that the hoop stress corresponding to the established maximum allowable operating pressure for a segment of existing pipeline is not commensurate with the present class location, the operator

shall immediately make a study to determine: [49 CFR 192.609]

1. the present class location for the segment involved; [49 CFR 192.609(a)]

2. the design, construction, and testing procedures followed in the original construction, and a comparison of these procedures with those required for the present class location by the applicable provisions of this Subpart; [49 CFR 192.609(b)]

3. the physical condition of the segment to the extent it can be ascertained from available records; [49 CFR 192.609(c)]

4. the operating and maintenance history of the segment; [49 CFR 192.609(d)]

5. the maximum actual operating pressure and the corresponding operating hoop stress, taking pressure gradient into account, for the segment of pipeline involved; and [49 CFR 192.609(e)]

6. the actual area affected by the population density increase, and physical barriers or other factors which may limit further expansion of the more densely populated area. [49 CFR 192.609(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:240 (April 1983), amended LR 10:532 (July 1984), LR 30:1261 (June 2004).

§2711. Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure [49 CFR 192.611]

A. If the hoop stress corresponding to the established maximum allowable operating pressure of a segment of pipeline is not commensurate with the present class location, and the segment is in satisfactory physical condition, the maximum allowable operating pressure of that segment of pipeline must be confirmed or revised according to one of the following requirements. [49 CFR 192.611(a)]

1. If the segment involved has been previously tested in place for a period of not less than eight hours, the maximum allowable operating pressure is 0.8 times the test pressure in Class 2 locations, 0.667 times the test pressure in Class 3 locations, or 0.555 times the test pressure in Class 4 locations. The corresponding hoop stress may not exceed 72 percent of the SMYS of the pipe in Class 2 locations, 60 percent of SMYS in Class 3 locations, or 50 percent of SMYS in Class 4 locations. [49 CFR 192.611(a)(1)]

2. The maximum allowable operating pressure of the segment involved must be reduced so that the corresponding hoop stress is not more than that allowed by this Subpart for new segments of pipelines in the existing class location. [49 CFR 192.611(a)(2)]

3. The segment involved must be tested in accordance with the applicable requirements of Chapter 23 of this Subpart, and its maximum allowable operating pressure must then be established according to the following criteria. [49 CFR 192.611(a)(3)]

a. The maximum allowable operating pressure after the requalification test is 0.8 times the test pressure for Class 2 locations, 0.667 times the test pressure for Class 3 locations, and 0.555 times the test pressure for Class 4 locations. [49 CFR 192.611(a)(3)(i)]

b. The corresponding hoop stress may not exceed 72 percent of the SMYS of the pipe in Class 2 locations, 60

percent of SMYS in Class 3 locations, or 50 percent of SMYS in Class 4 locations. [49 CFR 192.611(a)(3)(ii)]

B. The maximum allowable operating pressure confirmed or revised in accordance with this Section, may not exceed the maximum allowable operating pressure established before the confirmation or revision. [49 CFR 192.611(b)]

C. Confirmation or revision of the maximum allowable operating pressure of a segment of pipeline in accordance with this Section does not preclude the application of §§2503 and 2505. [49 CFR 192.611(c)]

D. Confirmation or revision of the maximum allowable operating pressure that is required as a result of a study under §2709 must be completed within 18 months of the change in class location. Pressure reduction under Paragraph A.1 or A.2 of this Section within the 18-month period does not preclude establishing a maximum allowable operating pressure under Paragraph A.3 of this Section at a later date. [49 CFR 192.611(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:241 (April 1983), amended LR 10:533 (July 1984), LR 18:858 (August 1992), LR 30:1261 (June 2004).

§2712. Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and Its Inlets [49 CFR 192.612]

A. Each operator shall, in accordance with this Section, conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets. The inspection must be conducted after October 3, 1989 and before November 16, 1992. [49 CFR 192.612(a)]

B. If, as a result of an inspection under Subsection A of this Section, or upon notification by any person, an operator discovers that a pipeline it operates is exposed on the seabed or constitutes a hazard to navigation, the operator shall: [49 CFR 192.612(b)]

1. promptly, but not later than 24 hours after discovery, notify the National Response Center, telephone: 1-800-424-8802, as well as Louisiana Pipeline Safety (225) 342-5505 (day or night), of the location, and, if available, the geographic coordinates of that pipeline; [49 CFR 192.612(b)(1)]

2. promptly, but not later than seven days after discovery, mark the location of the pipeline in accordance with 33 CFR Part 64 at the ends of the pipeline segment and at intervals of not over 500 yards (457 meters) long, except that a pipeline segment less than 200 yards (183 meters) long need only be marked at the center; and [49 CFR 192.612(b)(2)]

3. within six months after discovery, or not later than November 1 of the following year if the six month period is later than November 1 of the year the discovery is made, place the pipeline so that the top of the pipe is 36 inches (914 millimeters) below the seabed for normal excavation or 18 inches (457 millimeters) for rock excavation. [49 CFR 192.612(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:858 (August 1992), LR 27:1546 (September 2001), LR 30:1262 (June 2004).

§2713. Continuing Surveillance [49 CFR 192.613]

A. Each operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions. [49 CFR 192.613(a)]

B. If a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with §2719.A and B. [49 CFR 192.613(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:241 (April 1983), amended LR 10:533 (July 1984), LR 30:1262 (June 2004).

§2714. Damage Prevention Program [49 CFR 192.614]

A. Except as provided in Subsection D and E of this Section, each operator of a buried pipeline shall carry out, in accordance with this Section a written program to prevent damage to that pipeline by excavation activities. For the purpose of this Section, the term *excavation activities* include excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means, and other earth moving operations. [49 CFR 192.614(a)]

B. An operator may comply with any of the requirements of Subsection C of this Section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this Section. However, an operator must perform the duties of Paragraph C.3 of this Section through participation in a one-call system, if that one-call system is a qualified one-call system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of this Section, a one-call system is considered a *qualified one-call system* if it meets the requirements of Paragraph B.1 or B.2 of this Section: [49 CFR 192.614(b)]

1. the state has adopted a one-call damage prevention program under §198.37 of CFR 49; or [49 CFR 192.614(b)(1)]

2. the one-call system: [49 CFR 192.614(b)(2)]

a. is operated in accordance with §198.39 of CFR 49; [49 CFR 192.614(b)(2)(i)]

b. provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and [49 CFR 192.614(b)(2)(ii)]

c. assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline. [49 CFR 192.614(b)(2)(iii)]

C. The damage prevention program required by Subsection A of this Section must, at a minimum: [49 CFR 192.614(c)]

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located; [49 CFR 192.614(c)(1)]

2. provides for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in Paragraph C.1 of this Section of the following as often as needed to make them aware of the damage prevention program: [49 CFR 192.614(c)(2)]

a. the program's existence and purpose; and [49 CFR 192.614(c)(2)(i)]

b. how to learn the location of underground pipelines before excavation activities are begun; [49 CFR 192.614(c)(2)(ii)]

3. provide a means of receiving and recording notification of planned excavation activities; [49 CFR 192.614(c)(3)]

4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings; [49 CFR 192.614(c)(4)]

5. provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins; [49 CFR 192.614(c)(5)]

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities: [49 CFR 192.614(c)(6)]

a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and [49 CFR 192.614(c)(6)(i)]

b. in the case of blasting, any inspection must include leakage surveys. [49 CFR 192.614(c)(6)(ii)]

D. A damage prevention program under this Section is not required for the following pipelines: [49 CFR 192.614(d)]

1. pipelines located offshore; [49 CFR 192.614(d)(1)]

2. pipelines, other than those located offshore, in Class 1 or 2 locations until September 20, 1995; [49 CFR 192.614(d)(2)]

3. pipelines to which access is physically controlled by the operator. [49 CFR 192.614(d)(3)]

E. Pipelines operated by persons other than municipalities (including operators of master meters) whose primary activity does not include the transportation of gas need not comply with the following: [49 CFR 192.614(e)]

1. the requirements of Subsection A of this Section that the damage prevention program be written; and [49 CFR 192.614(e)(1)]

2. the requirements of Paragraph C.1 and C.2 of this Section. [49 CFR 192.614(e)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:241 (April 1983), amended LR 10:533 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1262 (June 2004).

§2715. Emergency Plans [49 CFR 192.615]

A. Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline

emergency. At a minimum, the procedures must provide for the following: [49 CFR 192.615(a)]

1. receiving, identifying, and classifying notices of events which require immediate response by the operator; [49 CFR 192.615(a)(1)]

2. establishing and maintaining adequate means of communication with appropriate fire, police, and other public officials; [49 CFR 192.615(a)(2)]

3. prompt and effective response to a notice of each type of emergency, including the following: [49 CFR 192.615(a)(3)]

a. gas detected inside or near a building; [49 CFR 192.615(a)(3)(i)]

b. fire located near or directly involving a pipeline facility; [49 CFR 192.615(a)(3)(ii)]

c. explosion occurring near or directly involving a pipeline facility; [49 CFR 192.615(a)(3)(iii)]

d. natural disaster; [49 CFR 192.615(a)(3)(iv)]

4. the availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency; [49 CFR 192.615(a)(4)]

5. actions directed toward protecting people first and then property; [49 CFR 192.615(a)(5)]

6. emergency shutdown and pressure reduction in any section of the operator's pipeline system necessary to minimize hazards to life or property; [49 CFR 192.615(a)(6)]

7. making safe any actual or potential hazard to life or property; [49 CFR 192.615(a)(7)]

8. notifying appropriate fire, police, and other public officials of gas pipeline emergencies and coordinating with them both planned responses and actual responses during an emergency; [49 CFR 192.615(a)(8)]

9. safely restoring any service outage; [49 CFR 192.615(a)(9)]

10. beginning action under §2717, if applicable, as soon after the end of the emergency as possible. [49 CFR 192.615(a)(10)]

B. Each operator shall: [49 CFR 192.615(b)]

1. furnish its supervisors who are responsible for emergency action a copy of that portion of the latest edition of the emergency procedures established under Subsection A of this Section as necessary for compliance with those procedures; [49 CFR 192.615(b)(1)]

2. train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective; [49 CFR 192.615(b)(2)]

3. review employee activities to determine whether the procedures were effectively followed in each emergency. [49 CFR 192.615(b)(3)]

C. Each operator shall establish and maintain liaison with appropriate fire, police, and other public officials to: [49 CFR 192.615(c)]

1. learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency; [49 CFR 192.615(c)(1)]

2. acquaint the officials with the operator's ability in responding to a gas pipeline emergency; [49 CFR 192.615(c)(2)]

3. identify the types of gas pipeline emergencies of which the operator notifies the officials; and [49 CFR 192.615(c)(3)]

4. plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property. [49 CFR 192.615(c)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:241 (April 1983), amended LR 10:534 (July 1984), LR 21:822 (August 1995), LR 30:1263 (June 2004).

§2716. Public Education [49 CFR 192.616]

A. Each operator shall establish a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials. The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area. [49 CFR 192.616]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:823 (August 1995), LR 30:1264 (June 2004).

§2717. Investigation of Failures [49 CFR 192.617]

A. Each operator shall establish procedures for analyzing accidents and failures, including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence. [49 CFR 192.617]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984) LR 30:1264 (June 2004).

§2719. Maximum Allowable Operating Pressure: Steel or Plastic Pipelines [49 CFR 192.619]

A. Except as provided in Subsection C of this Section, no person may operate a segment of steel or plastic pipeline at a pressure that exceeds the lowest of the following: [49 CFR 192.619(a)]

1. the design pressure of the weakest element in the segment, determined in accordance with Chapter 9 and 11 of this Subpart. However, for steel pipe in pipelines being converted under §514 or uprated under Chapter 25 of this Subpart, if any variable necessary to determine the design pressure under the design formula (§905) is unknown, one of the following pressures is to be used as design pressure: [49 CFR 192.619(a)(1)]

a. 80 percent of the first test pressure that produces yield under Section N5.0 of Appendix N of ASME B31.8, reduced by the appropriate factor in Subparagraph A.2.b of this Section; or [49 CFR 192.619(a)(1)(i)]

b. if the pipe is 12 3/4 in. (324 mm) or less in outside diameter and is not tested to yield under this Subsection, 200 psi (1379 kPa) gage; [49 CFR 192.619(a)(1)(ii)]

2. the pressure obtained by dividing the pressure to which the segment was tested after construction as follows: [49 CFR 192.619(a)(2)]

a. for plastic pipe in all locations, the test pressure is divided by a factor of 1.5; [49 CFR 192.619(a)(2)(i)]

b. for steel pipe operated at 100 psi (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table: [49 CFR 192.619(a)(2)(ii)]

Factors ¹ , Segment			
Class Location	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970)	Converted under CFR §192.14
1	1.1	1.1	1.25
2	1.25	1.25	1.25
3	1.4	1.5	1.5
4	1.4	1.5	1.5

¹For offshore segments installed, uprated or converted after July 31, 1977, that are not located on an offshore platform, the factor is 1.25. For segments installed, uprated or converted after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

3. the highest actual operating pressure to which the segment was subjected during the five years preceding July 1, 1970 (or in the case of offshore gathering lines, July 1, 1976), unless the segment was tested in accordance with Paragraph A.2 of this Section after July 1, 1965 (or in the case of offshore gathering lines, July 1, 1971), or the segment was uprated in accordance with Chapter 25 of this Subpart; [49 CFR 192.619(a)(3)]

4. the pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressure. [49 CFR 192.619(a)(4)]

B. No person may operate a segment to which Paragraph A.4 of this Section is applicable, unless over-pressure protective devices are installed on the segment in a manner that will prevent the maximum allowable operating pressure from being exceeded, in accordance with §1155. [49 CFR 192.619(b)]

C. Notwithstanding the other requirements of this Section, an operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the five years preceding July 1, 1970, or in the case of offshore gathering lines, July 1, 1976, subject to the requirements of §2711. [49 CFR 192.619(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004).

§2721. Maximum Allowable Operating Pressure: High-Pressure Distribution Systems [49 CFR 192.621]

A. No person may operate a segment of a high pressure distribution system at a pressure that exceeds the lowest of the following pressures, as applicable: [49 CFR 192.621(a)]

1. the design pressure of the weakest element in the segment, determined in accordance with Chapter 9 and 11 of this Subpart; [49 CFR 192.621(a)(1)]

2. 60 psi (414 kPa) gage, for a segment of a distribution system otherwise designated to operate at over 60 psi (414 kPa) gage, unless the service lines in the segment are equipped with service regulators or other pressure limiting devices in series that meet the requirements of §1157.C; [49 CFR 192.621(a)(2)]

3. 25 psi (172 kPa) gage in segments of cast iron pipe in which there are unreinforced bell and spigot joints; [49 CFR 192.621(a)(3)]

4. the pressure limits to which a joint could be subjected without the possibility of its parting; [49 CFR 192.621(a)(4)]

5. the pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressures. [49 CFR 192.621(a)(5)]

B. No person may operate a segment of pipeline to which Paragraph A.5 of this Section applies, unless overpressure protective devices are installed on the segment in a manner that will prevent the maximum allowable operating pressure from being exceeded, in accordance with §1155. [49 CFR 192.621(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:535 (July 1984), LR 30:1264 (June 2004).

§2723. Maximum and Minimum Allowable Operating Pressure: Low-Pressure Distribution Systems [49 CFR 192.623]

A. No person may operate a low-pressure distribution system at a pressure high enough to make unsafe the operation of any connected and properly adjusted low-pressure gas burning equipment. [49 CFR 192.623(a)]

B. No person may operate a low-pressure distribution system at a pressure lower than the minimum pressure at which the safe and continuing operation of any connected and properly adjusted low-pressure gas burning equipment can be assured. [49 CFR 192.623(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:243 (April 1983), amended LR 10:535 (July 1984), LR 30:1265 (June 2004).

§2725. Odorization of Gas [49 CFR 192.625]

A. No person engaged in the business of handling, storing, selling, or distributing natural and other toxic or combustible odorless gases, except liquefied petroleum gases, shall operate a gathering, distribution or transmission pipeline, unless the gas is malodorized in accordance with this regulation.

B. Natural gas or any toxic or combustible odorless gas, in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell at any point in the line where odorization is required. [49 CFR 192.625(a)]

C. Natural gas, or any toxic or combustible odorless gas, in a gathering or transmission line in a Class 3 or Class 4 location must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with

a normal sense of smell at any point in the line where odorization is required, unless: [49 CFR 192.625(b)]

1. at least 50 percent of the length of the line downstream from that location is in a Class 1 or Class 2 location; [49 CFR 192.625(b)(1)]

2. the line transports gas to any of the following facilities: [49 CFR 192.625(b)(2)]

a. an underground storage field; [49 CFR 192.625(b)(2)(i)]

b. a gas processing plant; [49 CFR 192.625(b)(2)(ii)]

c. a gas dehydration plant; or [49 CFR 192.625(b)(2)(iii)]

d. an industrial plant using gas in a process where the presence of an odorant: [49 CFR 192.625(b)(2)(iv)]

i. makes the end product unfit for the purpose for which it is intended; [49 CFR 192.625(b)(2)(iv)(A)]

ii. reduces the activity of a catalyst; or [49 CFR 192.625(b)(2)(iv)(B)]

iii. reduces the percentage completion of a chemical reaction; [49 CFR 192.625(b)(2)(iv)(C)]

3. in the case of a lateral line which transports gas to a distribution center or industrial complex, at least 50 percent of the length of that line is in a Class 1 or Class 2 location; or [49 CFR 192.625(b)(3)]

4. the combustible gas is hydrogen intended for use as a feedstock in a manufacturing process. [49 CFR 192.625(b)(4)]

D. In the case of a farm tap location on a gathering, transmission or distribution system, it shall be the responsibility of the person(s) selling natural gas to the end user through such farm tap to odorize the natural gas in accordance with this regulation.

E. If gas is delivered into facilities which would be exempt by Subsection C, and this exempt gas is also being used in one of the facilities for space heating, refrigeration, water heating, cooking and other domestic uses, or if such gas is used for furnishing heat, or air conditioning for office or living quarters, the end user of such gas shall malodorize it in accordance with these regulations.

F. In the concentrations in which it is used, the malodorant in combustible gases must comply with the following. [49 CFR 192.625(c)]

1. The malodorant may not be deleterious to persons, materials, or pipe. [49 CFR 192.625(c)(1)]

2. The products of combustion from the malodorant may not be toxic when breathed nor may they be corrosive or harmful to those materials to which the products of combustion will be exposed. [49 CFR 192.625(c)(2)]

G. The malodorant may not be soluble in water to an extent greater than 2.5 parts to 100 parts by weight. [49 CFR 192.625(d)]

H. Equipment for malodorization must introduce the malodorant without wide variations in the level of malodorant. The method of using malodorant and the containers and equipment used are subject to the approval of the commissioner of conservation and must meet the following requirements. [49 CFR 192.625(e)]

1. Malodorant must be detectable as specified in Subsection B at the most remote locations in the system.

2. Odorizing equipment may be of the wick type for systems handling 10,000 MCF/year or less. For systems

handling over 10,000 MCF/year, absorption by-pass or liquid injection type must be used.

3. By-pass type odorizers must be equipped with a differential valve or orifice to create a differential sufficient to cause a flow of gas across the odorizer at minimum flow.

4. The flow through the odorizer is to be controlled by means of a flow control or metering valve located on the inlet side of the odorizer. The size of the valve shall be large enough to deliver sufficient by-passed gas across the odorizer during maximum flow periods to assure adequate odorization.

5. At the request of any gas company or affected person or upon the request of the commissioner of conservation, the Office of Conservation shall determine, after examination of any gas having a natural malodorant, the necessary rate of injection of additional malodorant, if any, which shall be necessary to meet the requirements of Subsection B.

6. The person subject to these rules must provide sufficient test points within each distribution system for use by the commissioner's staff to check the adequacy of odorization within the system. The test points must be of 1/4 inch threaded tap with pressure not to exceed 5 psi and located at remote locations approved by the commissioner.

I. Quarterly Reports

1. To assure the proper concentration of odorant in accordance with this Section, each operator must conduct quarterly sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. Operators of master meter systems may comply with this requirement by: [49 CFR 192.625(f)]

a. receiving written verification from their gas source that the gas has the proper concentration of odorant; and [49 CFR 192.625(f)(1)]

b. conducting periodic "sniff" tests at the extremities of the system to confirm that the gas contains odorant. [49 CFR 192.625(f)(2)]

2. Each person subject to these rules (excluding "master meter systems") shall record and retain on file for review by the Office of Conservation the following information:

a. the kind or kinds of malodorant agents introduced into such gas during the calendar quarter;

b. the quantity of each kind of malodorant agent used during each quarter. Reports on usage of odorant shall be made annually for farm taps; and

c. the quantity of gas odorized by each malodorant agent used during each quarter. Farm taps are exempt from this requirement.

3. In the event a person subject to these regulations shall fail to record and retain on file an odorization report or an odorization report which on its face shows non-compliance, the person may be put on remedial status after written notice of such status and be required to report odorization monthly within 30 days after the close of each month or for such other interval and for such period of time as shall be necessary to remedy the deficiencies in his odorization report or reports.

J. Persons who fail to comply with the provisions of this Part after January 1, 1983, shall be subject to the penalty provision contained in Act 754 in Louisiana Revised

Statutes, Title 33:4525 or Louisiana Revised Statutes, Title 40:1896. The penalty specified in the cited provisions is \$1,000 for each day of non-compliance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:243 (April 1983), amended LR 10:535 (July 1984), LR 20:447 (April 1994), LR 21:823 (August 1995), LR 24:1312 (July 1998), LR 27:1548 (September 2001), LR 30:1265 (June 2004).

§2727. Tapping Pipelines under Pressure [49 CFR 192.627]

A. Each tap made on a pipeline under pressure must be performed by a crew qualified to make hot taps. [49 CFR 192.627]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:244 (April 1983), amended LR 10:536 (July 1984), LR 30:1266 (June 2004).

§2729. Purging of Pipelines [49 CFR 192.629]

A. When a pipeline is being purged of air by use of gas, the gas must be released into one end of the line in a moderately rapid and continuous flow. If gas cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas must be released into the line before the gas. [49 CFR 192.629(a)]

B. When a pipeline is being purged of gas by use of air, the air must be released into one end of the line in a moderately rapid and continuous flow. If air cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas must be released into the line before the air. [49 CFR 192.629(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 9:244 (April 1983), amended LR 10:536 (July 1984), LR 30:1266 (June 2004).

Chapter 29. Maintenance [Subpart M]

§2901. Scope [49 CFR 192.701]

A. This Chapter prescribes minimum requirements for maintenance of pipeline facilities. [49 CFR 192.701]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:244 (April 1983), amended LR 10:536 (July 1984), LR 30:1266 (June 2004).

§2903. General [49 CFR 192.703]

A. No person may operate a segment of pipeline, unless it is maintained in accordance with this Chapter. [49 CFR 192.703(a)]

B. Each segment of pipeline that becomes unsafe must be replaced, repaired, or removed from service. [49 CFR 192.703(b)]

C. Hazardous leaks must be repaired promptly. [49 CFR 192.703(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:244 (April 1983), amended LR 10:536 (July 1984), LR 30:1266 (June 2004).

§2905. Transmission Lines: Patrolling [49 CFR 192.705]

A. Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity,

and other factors affecting safety and operation. [49 CFR 192.705(a)]

B. The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following table. [49 CFR 192.705(b)]

Maximum Interval between Patrols		
Class Location of Line	At Highway and Railroad Crossings	At All Other Locations
1, 2	7-1/2 months; but at least twice each calendar year.	15 months; but at least once each calendar year.
3	4-1/2 months; but at least four times each calendar year.	7-1/2 months; but at least twice each calendar year.
4	4-1/2 months; but at least four times each calendar year.	4-1/2 months; but at least four times each calendar year.

C. Methods of patrolling include walking, driving, flying or other appropriate means of traversing the right-of-way. [49 CFR 192.705(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:244 (April 1983), amended LR 10:536 (July 1984), LR 20:447 (April 1994), LR 24:1313 (July 1998), LR 27:1548 (September 2001), LR 30:1266 (June 2004).

§2906. Transmission Lines: Leakage Surveys
[49 CFR 192.706]

A. Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. However, in the case of a transmission line which transports gas in conformity with §2725 without an odor or odorant, leakage surveys using leak detector equipment must be conducted: [49 CFR 192.706]

1. in Class 3 locations, at intervals not exceeding seven and one-half months, but at least twice each calendar year; and [49 CFR 192.706(a)]

2. in Class 4 locations, at intervals not exceeding four and one-half months, but at least four times each calendar year. [49 CFR 192.706(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:244 (April 1983), amended LR 10:536 (July 1984), LR:21:823 (August 1995), LR 30:1267 (June 2004).

§2907. Line Markers for Mains and Transmission Lines
[49 CFR 192.707]

A. Buried Pipelines. Except as provided in Subsection B of this Section, a line marker must be placed and maintained as close as practical over each buried main and transmission line: [49 CFR 192.707(a)]

1. at each crossing of a public road and railroad; and [49 CFR 192.707(a)(1)]

2. wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference. [49 CFR 192.707(a)(2)]

B. Exceptions for Buried Pipelines. Line markers are not required for the following pipelines: [49 CFR 192.707(b)]

1. mains and transmission lines located offshore, or at crossings of or under waterways and other bodies of water; [49 CFR 192.707(b)(1)]

2. mains in Class 3 or Class 4 locations where a damage prevention program is in effect under §2714; [49 CFR 192.707(b)(2)]

3. transmission lines in Class 3 or 4 locations until March 20, 1996; or [49 CFR 192.707(b)(3)]

4. transmission lines in Class 3 or 4 locations where placement of a line marker is impractical. [49 CFR 192.707(b)(4)]

C. Pipelines Aboveground. Line markers must be placed and maintained along each section of a main and transmission line that is located above-ground in an area accessible to the public. [49 CFR 192.707(c)]

D. Marker Warning. The following must be written legibly on a background of sharply contrasting color on each line marker: [49 CFR 192.707(d)]

1. the word "Warning," "Caution," or "Danger" followed by the words "Gas (or name of gas transported) Pipeline" all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch (25 millimeters) high with 1/4 inch (6.4 millimeters) stroke; [49 CFR 192.707(d)(1)]

2. the name of the operator and telephone number (including area code) where the operator can be reached at all times. [49 CFR 192.707(d)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:244 (April 1983), amended LR 10:536 (July 1984), LR 24:1313 (July 1998), LR 27:1548 (September 2001), LR 30:1267 (June 2004).

§2909. Transmission Lines: Record Keeping
[49 CFR 192.709]

A. Each operator shall maintain the following records for transmission lines for the periods specified. [49 CFR 192.709]

1. The date, location, and description of each repair made to pipe (including pipe-to-pipe connections) must be retained for as long as the pipe remains in service. [49 CFR 192.709(a)]

2. The date, location, and description of each repair made to parts of the pipeline system other than pipe must be retained for at least five years. However, repairs generated by patrols, surveys, inspections, or tests required by Chapters 27 and 29 of this Subpart must be retained in accordance with Paragraph A.3 of this Section. [49 CFR 192.709(b)]

3. A record of each patrol, survey, inspection, and test required by Chapters 27 and 29 of this Subpart must be retained for at least five years or until the next patrol, survey, inspection, or test is completed, whichever is longer. [49 CFR 192.709(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 24:1313 (July 1998), LR 30:1267 (June 2004).

§2911. Transmission Lines: General Requirements for Repair Procedures [49 CFR 192.711]

A. Each operator shall take immediate temporary measures to protect the public whenever: [49 CFR 192.711(a)]

1. a leak, imperfection, or damage that impairs its serviceability is found in a segment of steel transmission line operating at or above 40 percent of the SMYS; and [49 CFR 192.711(a)(1)]

2. it is not feasible to make a permanent repair at the time of discovery. As soon as feasible the operator shall make permanent repairs. [49 CFR 192.711(a)(2)]

B. Except as provided in §2917.A.2.c, no operator may use a welded patch as a means of repair. [49 CFR 192.711(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 27:1548 (September 2001), LR 30:1268 (June 2004).

§2913. Transmission Lines: Permanent Field Repair of Imperfections and Damages [49 CFR 192.713]

A. Each imperfection or damage that impairs the serviceability of pipe in a steel transmission line operating at or above 40 percent of SMYS must be: [49 CFR 192.713(a)]

1. removed by cutting out and replacing a cylindrical piece of pipe; or [49 CFR 192.713(a)(1)]

2. repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. [49 CFR 192.713(a)(2)]

B. Operating pressure must be at a safe level during repair operations. [49 CFR 192.713(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 27:1548 (September 2001), LR 30:1268 (June 2004).

§2915. Transmission Lines: Permanent Field Repair of Welds [49 CFR 192.715]

A. Each weld that is unacceptable under §1321(c) must be repaired as follows. [49 CFR 192.715]

1. If it is feasible to take the segment of transmission line out of service, the weld must be repaired in accordance with the applicable requirements of §1325. [49 CFR 192.715(a)]

2. A weld may be repaired in accordance with §1325 while the segment of transmission line is in service if: [49 CFR 192.715(b)]

a. the weld is not leaking; [49 CFR 192.715(b)(1)]

b. the pressure in the segment is reduced so that it does not produce a stress that is more than 20 percent of the SMYS of the pipe; and [49 CFR 192.715(b)(2)]

c. grinding of the defective area can be limited so that at least 1/8 inch (3.2 millimeters) thickness in the pipe weld remains. [49 CFR 192.715(b)(3)]

3. A defective weld which cannot be repaired in accordance with Paragraph 1 or 2 of this Section must be repaired by installing a full encirclement welded split sleeve of appropriate design. [49 CFR 192.715(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 27:1548 (September 2001), LR 30:1268 (June 2004).

§2917. Transmission Lines: Permanent Field Repair of Leaks [49 CFR 192.717]

A. Each permanent field repair of a leak on a transmission line must be made by: [49 CFR 192.717]

1. removing the leak by cutting out and replacing a cylindrical piece of pipe; or [49 CFR 192.717(a)]

2. repairing the leak by one of the following methods: [49 CFR 192.717(b)]

a. install a full encirclement welded split sleeve of appropriate design, unless the transmission line is joined by mechanical couplings and operates at less than 40 percent of SMYS; [49 CFR 192.717(b)(1)]

b. if the leak is due to a corrosion pit, install a properly designed bolt-on-leak clamp; [49 CFR 192.717(b)(2)]

c. if the leak is due to a corrosion pit and on pipe of not more than 40,000 psi (276 Mpa) SMYS, fillet weld over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size; [49 CFR 192.717(b)(3)]

d. if the leak is on a submerged offshore pipeline or submerged pipeline in inland navigable waters, mechanically apply a full encirclement split sleeve of appropriate design; [49 CFR 192.717(b)(4)]

e. apply a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. [49 CFR 192.717(b)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 27:1549 (September 2001), LR 30:1268 (June 2004).

§2919. Transmission Lines: Testing of Repairs [49 CFR 192.719]

A. Testing of Replacement Pipe. If a segment of transmission line is repaired by cutting out the damaged portion of the pipe as a cylinder, the replacement pipe must be tested to the pressure required for a new line installed in the same location. This test may be made on the pipe before it is installed. [49 CFR 192.719(a)]

B. Testing of Repairs Made by Welding. Each repair made by welding in accordance with §§2913, 2915, and 2917 must be examined in accordance with §1321. [49 CFR 192.719(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 30:1268 (June 2004).

§2921. Distribution Systems: Patrolling [49 CFR 192.721]

A. The frequency of patrolling mains must be determined by the severity of the conditions which could cause failure or leakage, and the consequent hazards to public safety. [49 CFR 192.721(a)]

B. Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled: [49 CFR 192.721(b)]

1. in business districts, at intervals not exceeding 4 1/2 months, but at least four times each calendar year; and [49 CFR 192.721(b)(1)]

2. outside business districts, at intervals not exceeding 7 1/2 months, but at least twice each calendar year. [49 CFR 192.721(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 24:1313 (July 1998), LR 30:1268 (June 2004).

§2923. Distribution Systems: Leakage Surveys

[49 CFR 192.723]

A. Each operator of a distribution system shall conduct periodic leakage surveys in accordance with this Section. [49 CFR 192.723(a)]

B. The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements. [49 CFR 192.723(b)]

1. A leakage survey with leak detector equipment must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 15 months, but at least once each calendar year. [49 CFR 192.723(b)(1)]

2. A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at intervals not exceeding five years. However, for cathodically unprotected distribution lines subject to §2117.E on which electrical surveys for corrosion are impractical, survey intervals may not exceed three years. [49 CFR 192.723(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 21:823 (August 1995), LR 24:1313 (July 1998), LR 30:1269 (June 2004).

§2925. Test Requirements for Reinstating Service Lines

[49 CFR 192.725]

A. Except as provided in Subsection B of this Section, each disconnected service line must be tested in the same manner as a new service line, before being reinstated. [49 CFR 192.725(a)]

B. Each service line temporarily disconnected from the main must be tested from the point of disconnection to the service line valve in the same manner as a new service line, before reconnecting. However, if provisions are made to maintain continuous service, such as by installation of a bypass, any part of the original service line used to maintain continuous service need not be tested. [49 CFR 192.725(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:538 (July 1984), LR 30:1269 (June 2004).

§2927. Abandonment or Deactivation of Facilities

[49 CFR 192.727]

A. Each operator shall conduct abandonment or deactivation of pipelines in accordance with the requirements of this Section. [49 CFR 192.727(a)]

B. Each pipeline abandoned in place must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard. [49 CFR 192.727(b)]

C. Except for service lines, each inactive pipeline that is not being maintained under this Subpart must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard. [49 CFR 192.727(c)]

D. Whenever service to a customer is discontinued, one of the following must be complied with. [49 CFR 192.727(d)]

1. The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator. [49 CFR 192.727(d)(1)]

2. A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly. [49 CFR 192.727(d)(2)]

3. The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed. [49 CFR 192.727(d)(3)]

E. If air is used for purging, the operator shall insure that a combustible mixture is not present after purging. [49 CFR 192.727(e)]

F. Each abandoned vault must be filled with a suitable compacted material. [49 CFR 192.727(f)]

G. For each abandoned offshore pipeline facility or each abandoned onshore pipeline facility that crosses over, under or through a commercially navigable waterway, the last operator of that facility must file a report upon abandonment of that facility. [49 CFR 192.727(g)]

1. The preferred method to submit data on pipeline facilities abandoned after October 10, 2000 is to the National Pipeline Mapping System (NPMS) in accordance with the NPMS "Standards for Pipeline and Liquefied Natural Gas Operator Submissions." To obtain a copy of the NPMS Standards, please refer to the NPMS homepage at www.npms.rspa.dot.gov or contact the NPMS National Repository at 703-317-3073. A digital data format is preferred, but hard copy submissions are acceptable if they comply with the NPMS standards. In addition to the NPMS-required attributes, operators must submit the date of abandonment, diameter, method of abandonment, and certification that, to the best of the operator's knowledge, all of the reasonably available information requested was provided and, to the best of the operator's knowledge, the abandonment was completed in accordance with applicable laws. Refer to the NPMS Standards for details in preparing your data for submission. The NPMS Standards also include details of how to submit data. Alternatively, operators may submit reports by mail, fax or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, roger.little@rspa.dot.gov. The information in the report must contain all reasonably available information related to

the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws. [49 CFR 192.727(g)(1)]

2. Data on pipeline facilities abandoned before October 10, 2000 must be filed by before April 10, 2001. Operators may submit reports by mail, fax or e-mail to the Information Officer, Research and Special Programs Administration, Department of Transportation, Room 7128, 400 Seventh Street, SW, Washington DC 20590; fax (202) 366-4566; e-mail, roger.little@rspa.dot.gov. The information in the report must contain all reasonably available information related to the facility, including information in the possession of a third party. The report must contain the location, size, date, method of abandonment, and a certification that the facility has been abandoned in accordance with all applicable laws. [49 CFR 192.727(g)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:538 (July 1984), LR 21:824 (August 1995), LR 27:1549 (September 2001), LR 30:1269 (June 2004).

§2931. Compressor Stations: Inspection and Testing of Relief Devices [49 CFR 192.731]

A. Except for rupture discs, each pressure relieving device in a compressor station must be inspected and tested in accordance with §§2939 and 2943, and must be operated periodically to determine that it opens at the correct set pressure. [49 CFR 192.731(a)]

B. Any defective or inadequate equipment found must be promptly repaired or replaced. [49 CFR 192.731(b)]

C. Each remote control shutdown device must be inspected and tested at intervals not exceeding 15 months, but at least once each calendar year, to determine that it functions properly. [49 CFR 192.731(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1270 (June 2004).

§2935. Compressor Stations: Storage of Combustible Materials [49 CFR 192.735]

A. Flammable or combustible materials in quantities beyond those required for everyday use, or other than those normally used in compressor buildings, must be stored a safe distance from the compressor building. [49 CFR 192.735(a)]

B. Aboveground oil or gasoline storage tanks must be protected in accordance with National Fire Protection Association Standard No. 30. [49 CFR 192.735(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1270 (June 2004).

§2936. Compressor Stations: Gas Detection [49 CFR 192.736]

A. Not later than September 16, 1996, each compressor building in a compressor station must have a fixed gas detection and alarm system, unless the building is: [49 CFR 192.736(a)]

1. constructed so that at least 50 percent of its upright side area is permanently open; or [49 CFR 192.736(a)(1)]

2. located in an unattended field compressor station of 1,000 horsepower (746 kW) or less. [49 CFR 192.736(a)(2)]

B. Except when shutdown of the system is necessary for maintenance under Subsection C of this Section, each gas detection and alarm system required by this Section must: [49 CFR 192.736(b)]

1. continuously monitor the compressor building for a concentration of gas in air of not more than 25 percent of the lower explosive limit; and [49 CFR 192.736(b)(1)]

2. if that concentration of gas is detected, warn persons about to enter the building and persons inside the building of the danger. [49 CFR 192.736(b)(2)]

C. Each gas detection and alarm system required by this Section must be maintained to function properly. The maintenance must include performance tests. [49 CFR 192.736(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:824 (August 1995), amended LR 27:1549 (September 2001), LR 30:1270 (June 2004).

§2939. Pressure Limiting and Regulating Stations: Inspection and Testing [49 CFR 192.739]

A. Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is: [49 CFR 192.739]

1. in good mechanical condition; [49 CFR 192.739(a)]

2. adequate from the standpoint of capacity and reliability of operation for the service in which it is employed; [49 CFR 192.739(b)]

3. set to control or relieve at the correct pressure consistent with the pressure limits of §1161.A; and [49 CFR 192.739(c)]

4. properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation. [49 CFR 192.739(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1270 (June 2004).

§2941. Pressure Limiting and Regulating Stations: Telemetry or Recording Gages [49 CFR 192.741]

A. Each distribution system supplied by more than one district pressure regulating station must be equipped with telemetry or recording pressure gages to indicate the gas pressure in the district. [49 CFR 192.741(a)]

B. On distribution systems supplied by a single district pressure regulating station, the operator shall determine the necessity of installing telemetry or recording gages in the district, taking into consideration the number of customers supplied, the operating pressures, the capacity of the installation, and other operating conditions. [49 CFR 192.741(b)]

C. If there are indications of abnormally high- or low-pressure, the regulator and the auxiliary equipment must be inspected and the necessary measures employed to correct any unsatisfactory operating conditions. [49 CFR 192.741(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1270 (June 2004).

**§2943. Pressure Limiting and Regulating Stations:
Testing of Relief Devices [49 CFR 192.743]**

A. Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected consistent with the pressure limits of §1161.A. This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations. [49 CFR 192.743(a)]

B. If review and calculations are used to determine if a device has sufficient capacity, the calculated capacity must be compared with the rated or experimentally determined relieving capacity of the device for the conditions under which it operates. After the initial calculations, subsequent calculations need not be made if the annual review documents that parameters have not changed to cause the rated or experimentally determined relieving capacity to be insufficient. [49 CFR 192.743(b)]

C. If a relief device is of insufficient capacity, a new or additional device must be installed to provide the capacity required by Subsection A of this Section. [49 CFR 192.743(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:538 (July 1984), LR 30:1271 (June 2004).

**§2945. Valve Maintenance: Transmission Lines
[49 CFR 192.745]**

A. Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year. [49 CFR 192.745(a)]

B. Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve. [49 CFR 192.745(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:539 (July 1984), LR 30:1271 (June 2004).

**§2947. Valve Maintenance: Distribution Systems
[49 CFR 192.747]**

A. Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year. [49 CFR 192.747(a)]

B. Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve. [49 CFR 192.747(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:539 (July 1984), LR 30:1271 (June 2004).

§2949. Vault Maintenance [49 CFR 192.749]

A. Each vault housing pressure regulating and pressure limiting equipment, and having a volumetric internal content of 200 cubic feet (5.66 cubic meters) or more, must be

inspected at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is in good physical condition and adequately ventilated. [49 CFR 192.749(a)]

B. If gas is found in the vault, the equipment in the vault must be inspected for leaks, and any leaks found must be repaired. [49 CFR 192.749(b)]

C. The ventilating equipment must also be inspected to determine that it is functioning properly. [49 CFR 192.749(c)]

D. Each vault cover must be inspected to assure that it does not present a hazard to public safety. [49 CFR 192.749(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:539 (July 1984), LR 27:1549 (September 2001), LR 30:1271 (June 2004).

**§2951. Prevention of Accidental Ignition
[49 CFR 192.751]**

A. Each operator shall take steps to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion, including the following: [49 CFR 192.751]

1. when a hazardous amount of gas is being vented into open air, each potential source of ignition must be removed from the area and a fire extinguisher must be provided; [49 CFR 192.751(a)]

2. gas or electric welding or cutting may not be performed on pipe or on pipe components that contain a combustible mixture of gas and air in the area of work; [49 CFR 192.751(b)]

3. post warning signs, where appropriate. [49 CFR 192.751(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:247 (April 1983), amended LR 10:539 (July 1984), LR 30:1271 (June 2004).

**§2953. Caulked Bell and Spigot Joints
[49 CFR 192.753]**

A. Each cast-iron caulked bell and spigot joint that is subject to pressures of more than 25 psi (172 kPa) gage must be sealed with: [49 CFR 192.753(a)]

1. a mechanical leak clamp; or [49 CFR 192.753(a)(1)]

2. a material or device which: [49 CFR 192.753(a)(2)]
a. does not reduce the flexibility of the joint; [49 CFR 192.753(a)(2)(i)]

b. permanently bonds, either chemically or mechanically, or both, with the bell and spigot metal surfaces or adjacent pipe metal surfaces; and [49 CFR 192.753(a)(2)(ii)]

c. seals and bonds in a manner that meets the strength, environmental, and chemical compatibility requirements of §703.A.1 and A.2 and §1103. [49 CFR 192.753(a)(2)(iii)]

B. Each cast iron caulked bell and spigot joint that is subject to pressures of 25 psi (172 kPa) gage or less and is exposed for any reason, must be sealed by a means other than caulking. [49 CFR 192.753(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:247 (April 1983), amended LR 10:539 (July 1984), LR 27:1549 (September 2001), LR 30:1271 (June 2004).

§2955. Protecting Cast-Iron Pipelines [49 CFR 192.755]

A. When an operator has knowledge that the support for a segment of a buried cast-iron pipeline is disturbed: [49 CFR 192.755]

1. that segment of the pipeline must be protected, as necessary, against damage during the disturbance by: [49 CFR 192.755(a)]

a. vibrations from heavy construction equipment, trains, trucks, buses, or blasting; [49 CFR 192.755(a)(1)]

b. impact forces by vehicles; [49 CFR 192.755(a)(2)]

c. earth movement; [49 CFR 192.755(a)(3)]

d. apparent future excavations near the pipeline; or [49 CFR 192.755(a)(4)]

e. other foreseeable outside forces which may subject that segment of the pipeline to bending stress; [49 CFR 192.755(a)(5)]

2. as soon as feasible, appropriate steps must be taken to provide permanent protection for the disturbed segment from damage that might result from external loads, including compliance with applicable requirements of §§1717.A, 1719, and 1911.B through D. [49 CFR 192.755(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:247 (April 1983), amended LR 10:539 (July 1984), LR 30:1272 (June 2004).

Chapter 31. Operator Qualification [Subpart N]

§3101. Scope [49 CFR 192.801]

A. This Chapter prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility. [49 CFR 192.801(a)]

B. For the purpose of this Chapter, a covered task is an activity, identified by the operator, that: [49 CFR 192.801(b)]

1. is performed on a pipeline facility; [49 CFR 192.801(b)(1)]

2. is an operations or maintenance task; [49 CFR 192.801(b)(2)]

3. is performed as a requirement of this Part; and [49 CFR 192.801(b)(3)]

4. affects the operation or integrity of the pipeline. [49 CFR 192.801(b)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004).

§3103. Definitions [49 CFR 192.803]

Abnormal Operating Condition A condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

1. indicate a condition exceeding design limits; or

2. result in a hazard(s) to persons, property, or the environment.

Evaluation A process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

1. written examination;
2. oral examination;
3. work performance history review;
4. observation during:
 - a. performance on the job;
 - b. on the job training; or
 - c. simulations; or
5. other forms of assessment.

Qualified That an individual has been evaluated and can:

1. perform assigned covered tasks; and
2. recognize and react to abnormal operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004).

§3105. Qualification Program [49 CFR 192.805]

A. Each operator shall have and follow a written qualification program. The program shall include provisions to: [49 CFR 192.805]

1. identify covered tasks; [49 CFR 192.805(a)]

2. ensure through evaluation that individuals performing covered tasks are qualified; [49 CFR 192.805(b)]

3. allow individuals that are not qualified pursuant to this Subpart to perform a covered task if directed and observed by an individual that is qualified; [49 CFR 192.805(c)]

4. evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Chapter 3 of this Part; [49 CFR 192.805(c)]

5. evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task; [49 CFR 192.805(e)]

6. communicate changes that affect covered tasks to individuals performing those covered tasks; and [49 CFR 192.805(f)]

7. identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed. [49 CFR 192.805(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004).

§3107. Recordkeeping [49 CFR 192.807]

A. Each operator shall maintain records that demonstrate compliance with this Subpart. [49 CFR 192.807]

1. Qualification records shall include: [49 CFR 192.807(a)]

a. identification of qualified individual(s); [49 CFR 192.807(a)(1)]

b. identification of the covered tasks the individual is qualified to perform; [49 CFR 192.807(a)(2)]

c. date(s) of current qualification; and [49 CFR 192.807(a)(3)]

d. qualification method(s). [49 CFR 192.807(a)(4)]

2. Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered

tasks shall be retained for a period of five years. [49 CFR 192.807(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004).

§3109. General [49 CFR 192.809]

A. Operators must have a written qualification program by April 27, 2001. [49 CFR 192.809(a)]

B. Operators must complete the qualification of individuals performing covered tasks by October 28, 2002. [49 CFR 192.809(b)]

C. Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to October 26, 1999. [49 CFR 192.809(c)]

D. After October 28, 2002, work performance history may not be used as a sole evaluation method. [49 CFR 192.809(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1273 (June 2004).

Chapter 33. Pipeline Integrity Management [Subpart O]

§3301. What Do the Regulations in This Chapter Cover? [49 CFR 192.901]

A. This Chapter prescribes minimum requirements for an integrity management program on any gas transmission pipeline covered under this Part. For gas transmission pipelines constructed of plastic, only the requirements in §§3317, 3321, 3335 and 3337 apply. [49 CFR 192.901]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1273 (June 2004).

§3303. What Definitions Apply to This Chapter? [49 CFR 192.903]

A. The following definitions apply to this Chapter.

Assessment The use of nondestructive testing techniques as allowed in this Chapter to ascertain the condition of a covered pipeline segment.

Confirmatory Direct Assessment An assessment method using more focused application of the principles and techniques of direct assessment to identify internal and external corrosion in a covered transmission pipeline segment.

Covered Segment or Covered Pipeline Segment A segment of gas transmission pipeline located in a high consequence area. The terms gas and transmission line are defined in §503.

Direct Assessment An integrity assessment method that utilizes a process to evaluate certain threats (i.e., external corrosion, internal corrosion and stress corrosion cracking) to a covered pipeline segment's integrity. The process includes the gathering and integration of risk factor data, indirect examination or analysis to identify areas of suspected corrosion, direct examination of the pipeline in these areas, and post assessment evaluation.

High Consequence Area An area established by one of the methods described in Subparagraphs a or b below.

a. An area defined as:

- i. a Class 3 location under §505; or
- ii. a Class 4 location under §505; or
- iii. any area outside a Class 3 or Class 4 location

where the potential impact radius is greater than 660 feet (200 meters), and the area within a potential impact circle contains 20 or more buildings intended for human occupancy; or

iv. the area within a potential impact circle containing an identified site.

b. The area within a potential impact circle containing:

i. 20 or more buildings intended for human occupancy, unless the exception in Subparagraph d applies; or

ii. an identified site.

c. Where a potential impact circle is calculated under either Subparagraph a or b to establish a high consequence area, the length of the high consequence area extends axially along the length of the pipeline from the outermost edge of the first potential impact circle that contains either an identified site or 20 or more buildings intended for human occupancy to the outermost edge of the last contiguous potential impact circle that contains either an identified site or 20 or more buildings intended for human occupancy. (See Figure E.I.A. in §5109, Appendix E.)

d. If in identifying a high consequence area under Clause a.iii or Clause b.i, the radius of the potential impact circle is greater than 660 feet (200 meters), the operator may identify a high consequence area based on a prorated number of buildings intended for human occupancy within a distance 660 feet (200 meters) from the centerline of the pipeline until December 17, 2006. If an operator chooses this approach, the operator must prorate the number of buildings intended for human occupancy based on the ratio of an area with a radius of 660 feet (200 meters) to the area of the potential impact circle (i.e., the prorated number of buildings intended for human occupancy is equal to $[20 \times (660 \text{ feet (or 200 meters)})^2 / \text{potential impact radius in feet (or meters)}]^2$).

Identified Site Each of the following areas:

a. an outside area or open structure that is occupied by 20 or more persons on at least 50 days in any 12 month period. (The days need not be consecutive.) Examples include but are not limited to, beaches, playgrounds, recreational facilities, camping grounds, outdoor theaters, stadiums, recreational areas near a body of water, or areas outside a rural building such as a religious facility); or

b. a building that is occupied by 20 or more persons on at least five days a week for 10 weeks in any 12 month period. (The days and weeks need not be consecutive). Examples include, but are not limited to, religious facilities, office buildings, community centers, general stores, 4-H facilities, or roller skating rinks); or

c. a facility occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate. Examples include but are not limited to hospitals, prisons, schools, day-care facilities, retirement facilities or assisted-living facilities.

Potential Impact Circle A circle of radius equal to the potential impact radius (PIR).

Potential Impact Radius (PIR) The radius of a circle within which the potential failure of a pipeline could have

significant impact on people or property. PIR is determined by the formula $r = 0.69 * [\text{square root of } (p*d^2)]$, where 'r' is the radius of a circular area in feet surrounding the point of failure, 'p' is the maximum allowable operating pressure (MAOP) in the pipeline segment in pounds per square inch and 'd' is the nominal diameter of the pipeline in inches.

Note: 0.69 is the factor for natural gas. This number will vary for other gases depending upon their heat of combustion. An operator transporting gas other than natural gas must use Section 3.2 of ASME/ANSI B31.8S-2001 (Supplement to ASME B31.8; ibr, see §507) to calculate the impact radius formula.

Remediation—A repair or mitigation activity an operator takes on a covered segment to limit or reduce the probability of an undesired event occurring or the expected consequences from the event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1273 (June 2004).

§3305. How Does an Operator Identify a High Consequence Area? [49 CFR 192.905]

A. General. To determine which segments of an operator's transmission pipeline system are covered by this Chapter, an operator must identify the high consequence areas. An operator must use method (a) or (b) from the definition in §3303 to identify a high consequence area. An operator may apply one method to its entire pipeline system, or an operator may apply one method to individual portions of the pipeline system. An operator must describe in its integrity management program which method it is applying to each portion of the operator's pipeline system. The description must include the potential impact radius when utilized to establish a high consequence area. (See §5109, Appendix E.I for guidance on identifying high consequence areas.) [49 CFR 192.905(a)]

B. Identified Sites. An operator must identify an identified site, for purposes of this Chapter, from information the operator has obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. These public officials could include officials on a local emergency planning commission or relevant Native American tribal officials. If a public official with safety or emergency response or planning responsibilities informs an operator that it does not have the information to identify an identified site, the operator must use one of the following sources, as appropriate, to identify these sites: [49 CFR 192.905(b)]

1. visible marking (e.g., a sign); or [49 CFR 192.905(b)(1)]

2. the site is licensed or registered by a federal, state, or local government agency; or [49 CFR 192.905(b)(2)]

3. the site is on a list (including a list on an internet web site) or map maintained by or available from a federal, state, or local government agency and available to the general public. [49 CFR 192.905(b)(3)]

C. Newly-Identified Areas. When an operator has information that the area around a pipeline segment not previously identified as a high consequence area could satisfy any of the definitions in §3303, the operator must complete the evaluation using method (a) or (b). If the

segment is determined to meet the definition as a high consequence area, it must be incorporated into the operator's baseline assessment plan as a high consequence area within one year from the date the area is identified. [49 CFR 192.905(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1274 (June 2004).

§3307. What Must an Operator do to Implement This Chapter? [49 CFR 192.907]

A. General. No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in §3311 and that addresses the risks on each covered transmission pipeline segment. The initial integrity management program must consist, at a minimum, of a framework that describes the process for implementing each program element, how relevant decisions will be made and by whom, a time line for completing the work to implement the program element, and how information gained from experience will be continuously incorporated into the program. The framework will evolve into a more detailed and comprehensive program. An operator must make continual improvements to the program. [49 CFR 192.907(a)]

B. Implementation Standards. In carrying out this Chapter, an operator must follow the requirements of this Chapter and of ASME/ANSI B31.8S (ibr, see §507) and its appendices, where specified. An operator may follow an equivalent standard or practice only when the operator demonstrates the alternative standard or practice provides an equivalent level of safety to the public and property. In the event of a conflict between this Chapter and ASME/ANSI B31.8S, the requirements in this Chapter control. [49 CFR 192.907(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1274 (June 2004).

§3309. How Can an Operator Change Its Integrity Management Program? [49 CFR 192.909]

A. General. An operator must document any change to its program and the reasons for the change before implementing the change. [49 CFR 192.909(a)]

B. Notification. An operator must notify OPS, in accordance with Section §3349, of any change to the program that may substantially affect the program's implementation or may significantly modify the program or schedule for carrying out the program elements. An operator must also notify a state or local pipeline safety authority when a covered segment is located in a state where OPS has an interstate agent agreement, and a state or local pipeline safety authority that regulates a covered pipeline segment within that state. An operator must provide the notification within 30 days after adopting this type of change into its program. [49 CFR 192.909(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1274 (June 2004).

§3311. What are the Elements of an Integrity Management Program? [49 CFR 192.911]

A. An operator's initial integrity management program begins with a framework (see §3307) and evolves into a more detailed and comprehensive integrity management program, as information is gained and incorporated into the program. An operator must make continual improvements to its program. The initial program framework and subsequent program must, at minimum, contain the following elements: [(When indicated, refer to ASME/ANSI B31.8S (ibr, see §507) for more detailed information on the listed element.] [49 CFR 192.911]

1. an identification of all high consequence areas, in accordance with §3305; [49 CFR 192.911(a)]

2. a baseline assessment plan meeting the requirements of §§3319 and 3321; [49 CFR 192.911(b)]

3. an identification of threats to each covered pipeline segment, which must include data integration and a risk assessment. An operator must use the threat identification and risk assessment to prioritize covered segments for assessment (§3317) and to evaluate the merits of additional preventive and mitigative measures (§3335) for each covered segment; [49 CFR 192.911(c)]

4. a direct assessment plan, if applicable, meeting the requirements of §3323, and depending on the threat assessed, of §§3325, 3327, or 3329; [49 CFR 192.911(d)]

5. provisions meeting the requirements of §3333 for remediating conditions found during an integrity assessment; [49 CFR 192.911(e)]

6. a process for continual evaluation and assessment meeting the requirements of §3337; [49 CFR 192.911(f)]

7. if applicable, a plan for confirmatory direct assessment meeting the requirements of §3331; [49 CFR 192.911(g)].

8. provisions meeting the requirements of §3335 for adding preventive and mitigative measures to protect the high consequence area; [49 CFR 192.911(h)]

9. a performance plan as outlined in ASME/ANSI B31.8S, Section 9 that includes performance measures meeting the requirements of §3343; [49 CFR 192.911(i)]

10. record keeping provisions meeting the requirements of §3347; [49 CFR 192.911(j)]

11. a management of change process as outlined in ASME/ANSI B31.8S, Section 11; [49 CFR 192.911(k)]

12. a quality assurance process as outlined in ASME/ANSI B31.8S, Section 12; [49 CFR 192.911(l)]

13. a communication plan that includes the elements of ASME/ANSI B31.8S, Section 10, and that includes procedures for addressing safety concerns raised by: [49 CFR 192.911(m)]

a. OPS; and [49 CFR 192.911(m)(1)]

b. a state or local pipeline safety authority when a covered segment is located in a state where OPS has an interstate agent agreement; [49 CFR 192.911(m)(2)]

14. procedures for providing (when requested), by electronic or other means, a copy of the operator's risk analysis or integrity management program to: [49 CFR 192.911(n)]

a. OPS; and [49 CFR 192.911(n)(1)]

b. a state or local pipeline safety authority when a covered segment is located in a state where OPS has an interstate agent agreement; [49 CFR 192.911(n)(2)]

15. procedures for ensuring that each integrity assessment is being conducted in a manner that minimizes environmental and safety risks; [49 CFR 192.911(o)]

16. a process for identification and assessment of newly-identified high consequence areas. (See §§3305 and 3321) [49 CFR 192.911(p)]

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1275 (June 2004).

§3313. When May an Operator Deviate Its Program from Certain Requirements of This Chapter? [49 CFR 192.913]

A. General. ASME/ANSI B31.8S (ibr, see §507) provides the essential features of a performance-based or a prescriptive integrity management program. An operator that uses a performance-based approach that satisfies the requirements for exceptional performance in Subsection B of this Section may deviate from certain requirements in this Chapter, as provided in Subsection C of this Section. [49 CFR 192.913(a)]

B. Exceptional Performance. An operator must be able to demonstrate the exceptional performance of its integrity management program through the following actions. [49 CFR 192.913(b)]

1. To deviate from any of the requirements set forth in Subsection C of this Section, an operator must have a performance-based integrity management program that meets or exceed the performance-based requirements of ASME/ANSI B31.8S and includes, at a minimum, the following elements: [49 CFR 192.913(b)(1)]

a. a comprehensive process for risk analysis; [49 CFR 192.913(b)(1)(i)]

b. all risk factor data used to support the program; [49 CFR 192.913(b)(1)(ii)]

c. a comprehensive data integration process; [49 CFR 192.913(b)(1)(iii)]

d. a procedure for applying lessons learned from assessment of covered pipeline segments to pipeline segments not covered by this Chapter; [49 CFR 192.913(b)(1)(iv)]

e. a procedure for evaluating every incident, including its cause, within the operator's sector of the pipeline industry for implications both to the operator's pipeline system and to the operator's integrity management program; [49 CFR 192.913(b)(1)(v)]

f. a performance matrix that demonstrates the program has been effective in ensuring the integrity of the covered segments by controlling the identified threats to the covered segments; [49 CFR 192.913(b)(1)(vi)]

g. semi-annual performance measures beyond those required in §3343 that are part of the operator's performance plan [see §3311(9)]. An operator must submit these measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with §3351; and [49 CFR 192.913(b)(1)(vii)]

h. an analysis that supports the desired integrity reassessment interval and the remediation methods to be used for all covered segments. [49 CFR 192.913(b)(1)(viii)]

2. In addition to the requirements for the performance-based plan, an operator must: [49 CFR 192.913(b)(2)]

a. have completed at least two integrity assessments of all covered pipeline segments, and be able to demonstrate that each assessment effectively addressed the identified threats on the covered segments; [49 CFR 192.913(b)(2)(i)]

b. remediate all anomalies identified in the more recent assessment according to the requirements in §3333, and incorporate the results and lessons learned from the more recent assessment into the operator's data integration and risk assessment. [49 CFR 192.913(b)(2)(ii)]

C. Deviation. Once an operator has demonstrated that it has satisfied the requirements of Subsection B of this Section, the operator may deviate from the prescriptive requirements of ASME/ANSI B31.8S and of this Chapter only in the following instances. [49 CFR 192.913(c)]

1. The time frame for reassessment as provided in §3339 except that reassessment by some method allowed under this Chapter (e.g., confirmatory direct assessment) must be carried out at intervals no longer than seven years. [49 CFR 192.913(c)(1)]

2. The time frame for remediation as provided in §3333 if the operator demonstrates the time frame will not jeopardize the safety of the covered segment. [49 CFR 192.913(c)(2)]

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§3315. What Knowledge and Training Must Personnel Have to Carry Out an Integrity Management Program? [49 CFR 192.915]

A. Supervisory Personnel. The integrity management program must provide that each supervisor whose responsibilities relate to the integrity management program possesses and maintains a thorough knowledge of the integrity management program and of the elements for which the supervisor is responsible. The program must provide that any person who qualifies as a supervisor for the integrity management program has appropriate training or experience in the area for which the person is responsible. [49 CFR 192.915(a)]

B. Persons Who Carry Out Assessments and Evaluate Assessment Results. The integrity management program must provide criteria for the qualification of any person: [49 CFR 192.915(b)]

1. who conducts an integrity assessment allowed under this Chapter; or [49 CFR 192.915(b)(1)]

2. who reviews and analyzes the results from an integrity assessment and evaluation; or [49 CFR 192.915(b)(2)]

3. who makes decisions on actions to be taken based on these assessments. [49 CFR 192.915(b)(3)]

C. Persons Responsible for Preventive and Mitigative Measures. The integrity management program must provide criteria for the qualification of any person: [49 CFR 192.915(c)]

1. who implements preventive and mitigative measures to carry out this Chapter, including the marking and locating of buried structures; or [49 CFR 192.915(c)(1)]

2. who directly supervises excavation work carried out in conjunction with an integrity assessment. [49 CFR 192.915(c)(2)]

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§3317. How Does an Operator Identify Potential Threats to Pipeline Integrity and Use the Threat Identification in Its Integrity Program? [49 CFR 192.917]

A. Threat Identification. An operator must identify and evaluate all potential threats to each covered pipeline segment. Potential threats that an operator must consider include, but are not limited to, the threats listed in ASME/ANSI B31.8S (ibr, see §3507), Section 2 and the following: [49 CFR 192.917(a)]

1. time dependent threats such as internal corrosion, external corrosion, and stress corrosion cracking; [49 CFR 192.917(a)(1)]

2. static or resident threats, such as fabrication or construction defects; [49 CFR 192.917(a)(2)]

3. time independent threats such as third party damage and outside force damage; and [49 CFR 192.917(a)(3)]

4. human error. [49 CFR 192.917(a)(4)]

B. Data Gathering and Integration. To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate data and information on the entire pipeline that could be relevant to the covered segment. In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, Section 4. At a minimum, an operator must gather and evaluate the set of data specified in Appendix A to ASME/ANSI B31.8S, and consider both on the covered segment and similar non-covered segments, past incident history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, internal inspection records and all other conditions specific to each pipeline. [49 CFR 192.917(b)]

C. Risk Assessment. An operator must conduct a risk assessment that follows ASME/ANSI B31.8S, Section 5, and considers the identified threats for each covered segment. An operator must use the risk assessment to prioritize the covered segments for the baseline and continual reassessments (§§3319, 3321, 3337), and to determine what additional preventive and mitigative measures are needed (§3335) for the covered segment. [49 CFR 192.917(c)]

D. Plastic Transmission Pipeline. An operator of a plastic transmission pipeline must assess the threats to each covered segment using the information in Sections 4 and 5 of ASME B31.8S, and consider any threats unique to the integrity of plastic pipe. [49 CFR 192.917(d)]

E. Actions to Address Particular Threats. If an operator identifies any of the following threats, the operator must take the following actions to address the threat. [49 CFR 192.917(e)]

1. Third Party Damage. An operator must utilize the data integration required in Subsection B of this Section and ASME/ANSI B31.8S, Appendix A7 to determine the susceptibility of each covered segment to the threat of third party damage. If an operator identifies the threat of third party damage, the operator must implement comprehensive additional preventive measures in accordance with §3335

and monitor the effectiveness of the preventive measures. If, in conducting a baseline assessment under §3321, or a reassessment under §3337, an operator uses an internal inspection tool, such as a caliper, geometry or magnetic flux leakage tool, to address other identified threats on the covered segment, the operator must integrate data from these tool runs with data related to any encroachment or foreign line crossing on the covered segment, to define where potential indications of third party damage may exist in the covered segment. An operator must also have procedures in its integrity management program addressing actions it will take to respond to findings from this data integration. [49 CFR 192.917(e)(1)]

2. Cyclic Fatigue. An operator must evaluate whether cyclic fatigue or other loading condition (including ground movement, suspension bridge condition) could lead to a failure of a deformation, including a dent or gouge, or other defect in the covered segment. An evaluation must assume the presence of threats in the covered segment that could be exacerbated by cyclic fatigue. An operator must use the results from the evaluation together with the criteria used to evaluate the significance of this threat to the covered segment to prioritize the integrity baseline assessment or reassessment. [49 CFR 192.917(e)(2)]

3. Manufacturing and Construction Defects. If an operator identifies the threat of manufacturing and construction defects (including seam defects) in the covered segment, an operator must analyze the covered segment to determine the risk of failure from these defects. An operator may consider manufacturing and construction related defects to be stable defects if the operating conditions on the covered segment have not significantly changed since December 17, 1998. If any of the following changes occur in the covered segment, an operator must prioritize the covered segment as a high risk segment for the baseline assessment or a subsequent reassessment: [49 CFR 192.917(e)(3)]

a. operating pressure increases above the historic operating pressure (i.e. the highest pressure recorded since December 17, 1998); [49 CFR 192.917(e)(3)(i)]

b. MAOP increases; or [49 CFR 192.917(e)(3)(ii)]

c. the stresses leading to cyclic fatigue increase. [49 CFR 192.917(e)(3)(iii)]

4. ERW Pipe. If a covered pipeline segment contains low frequency electric resistance welded pipe (ERW) or lap welded pipe that satisfies the conditions specified in ASME/ANSI B31.8 S, Appendix A4.3 and A4.4, an operator must select an assessment technology or technologies with a proven application capable of assessing seam integrity and of detecting seam corrosion anomalies. The operator must prioritize the covered segment as a high risk segment for the baseline assessment or a subsequent reassessment. [49 CFR 192.917(e)(4)]

5. Corrosion. If an operator identifies corrosion on a covered pipeline segment that could adversely affect the integrity of the line (conditions specified in §3331), the operator must evaluate and remediate, as necessary, all pipeline segments (both covered and non-covered) with similar material coating and environmental characteristics. An operator must establish a schedule for evaluating and remediating, as necessary, the similar segments that is consistent with the operator's established operating and

maintenance procedures under Subpart 3 for testing and repair. [49 CFR 192.917(e)(5)]

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§3319. What Must Be in the Baseline Assessment Plan? [49 CFR 192.919]

A. An operator must include each of the following elements in its written baseline assessment plan: [49 CFR 192.919]

1. identification of the potential threats to each covered pipeline segment and the information supporting the threat identification (see §3317); [49 CFR 192.919(a)]

2. the methods selected to assess the integrity of the line pipe, including an explanation of why the assessment method was selected to address the identified threats to each covered segment. The integrity assessment method an operator uses must be based on the threats identified to the covered segment (see §3317). More than one method may be required to address all the threats to the covered pipeline segment; [49 CFR 192.919(b)]

3. a schedule for completing the integrity assessment of all covered segments, including, risk factors considered in establishing the assessment schedule; [49 CFR 192.919(c)]

4. if applicable, a direct assessment plan that meets the requirements of §3323, and depending on the threat to be addressed, of §§3325, 3327, or 3329; and [49 CFR 192.919(d)]

5. a procedure to ensure that the baseline assessment is being conducted in a manner that minimizes environmental and safety risks. [49 CFR 192.919(e)]

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§3321. How Is the Baseline Assessment to be Conducted? [49 CFR 192.921]

A. Assessment Methods. An operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods depending on the threats to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified to the covered segment (see §3317): [49 CFR 192.921(a)]

1. internal inspection tool or tools capable of detecting corrosion, and any other threats to which the covered segment is susceptible. An operator must follow ASME/ANSI B31.8S (ibr, see §507), Section 6.2 in selecting the appropriate internal inspection tools for the covered segment; [49 CFR 192.921(a)(1)]

2. pressure test conducted in accordance with Chapter 23 of this Part; [49 CFR 192.921(a)(2)]

3. direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking. An operator must conduct the direct assessment in accordance with the requirements listed in §3323 and with, as applicable, the requirements specified in §§3325, 3327 or 3329; [49 CFR 192.921(a)(3)]

4. other technology that an operator demonstrates can provide an equivalent understanding of the condition of the

line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 180 days before conducting the assessment, in accordance with §3349. [49 CFR 192.921(a)(4)]

B. Prioritizing Segments. An operator must prioritize the covered pipeline segments for the baseline assessment according to a risk analysis that considers the potential threats to each covered segment. The risk analysis must comply with the requirements in §3317. [49 CFR 192.921(b)]

C. Assessment for Particular Threats. In choosing an assessment method for the baseline assessment of each covered segment, an operator must take the actions required in §3317.D to address particular threats that it has identified. [49 CFR 192.921(c)]

D. Time Period. An operator must prioritize all the covered segments for assessment in accordance with §3317.C and Subsection B of this Section. An operator must assess at least 50 percent of the covered segments beginning with the highest risk segments, by December 17, 2007. An operator must complete the baseline assessment of all covered segments by December 17, 2012. [49 CFR 192.921(d)]

E. Prior Assessment. An operator may use a prior integrity assessment conducted before December 17, 2002 as a baseline assessment for the covered segment, if the integrity assessment meets the baseline requirements in this Chapter and subsequent remedial actions to address the conditions listed in §3333 have been carried out. In addition, if an operator uses this prior assessment as its baseline assessment, the operator must reassess the line pipe in the covered segment according to the requirements of §3337 and §3339. [49 CFR 192.921(e)]

F. Newly-Identified Areas. When an operator identifies a new high consequence area (see §3305), an operator must complete the baseline assessment of the line pipe in the newly-identified high consequence area within 10 years from the date the area is identified. [49 CFR 192.921(f)]

G. Newly-Installed Pipe. An operator must complete the baseline assessment of a newly- installed segment of pipe covered by this Chapter within 10 years from the date the pipe is installed. An operator may conduct a post-installation pressure test, in accordance with Chapter 23 of this Part, to satisfy the requirement for a baseline assessment. [49 CFR 192.921(g)]

H. Plastic Transmission Pipeline. If the threat analysis required in §3317.D on a plastic transmission pipeline indicates that a covered segment is susceptible to failure from causes other than third-party damage, an operator must conduct a baseline assessment of the segment in accordance with the requirements of this Section and of §3317. The operator must justify the use of an alternative assessment method that will address the identified threats to the covered segment. [49 CFR 192.921(h)]

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§3323. How Is Direct Assessment Used and for What Threats? [49 CFR 192.923]

A. General. An operator may use direct assessment either as a primary assessment method or as a supplement to the

other assessment methods allowed under this Chapter. An operator may only use direct assessment as the primary assessment method to address the identified threats of external corrosion (ECDA), internal corrosion (ICDA), and stress corrosion cracking (SCCDA). [49 CFR 192.923(a)]

B. Primary Method. An operator using direct assessment as a primary assessment method must have a plan that complies with the requirements in: [49 CFR 192.923(b)]

1. ASME/ANSI B31.8S (ibr, see §507), Section 6.4; NACE RP0502-2002 (ibr, see §507); and §3325 if addressing external corrosion (ECDA); [49 CFR 192.923(b)(1)]

2. ASME/ANSI B31.8S, Section 6.4 and Appendix B2, and §3327 if addressing internal corrosion (ICDA); [49 CFR 192.923(b)(2)]

3. ASME/ANSI B31.8S Appendix A3, and §3329 if addressing stress corrosion cracking (SCCDA). [49 CFR 192.923(b)(3)]

C. Supplemental Method. An operator using direct assessment as a supplemental assessment method for any applicable threat must have a plan that follows the requirements for confirmatory direct assessment in §3331. [49 CFR 192.923(c)]

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§3325. What Are the Requirements for Using External Corrosion Direct Assessment (ECDA)? [49 CFR 192.925]

A. Definition. ECDA is a four-step process that combines preassessment, indirect inspection, direct examination, and post assessment to evaluate the threat of external corrosion to the integrity of a pipeline. [49 CFR 192.925(a)]

B. General Requirements. An operator that uses direct assessment to assess the threat of external corrosion must follow the requirements in this Section, in ASME/ANSI B31.8S (ibr, see §507), Section 6.4, and NACE RP 0502-2002 (ibr, see §507). An operator must develop and implement a direct assessment plan that has procedures addressing preassessment, indirect inspections, direct examination, and post-assessment. [49 CFR 192.925(b)]

1. Preassessment. In addition to the requirements in ASME/ANSI B31.8S Section 6.4 and NACE RP 0502-2002, Section 3, the plan's procedures for preassessment must include: [49 CFR 192.925(b)(1)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a covered segment; and [49 CFR 192.925(b)(1)(i)]

b. the basis on which an operator selects at least two different, but complementary indirect assessment tools to assess each ECDA Region. If an operator utilizes an indirect inspection method that is not discussed in Appendix A of NACE RP0502-2002, the operator must demonstrate the applicability, validation basis, equipment used, application procedure, and utilization of data for the inspection method. [49 CFR 192.925(b)(1)(ii)]

2. Indirect Examination. In addition to the requirements in ASME/ANSI B31.8S Section 6.4 and NACE RP 0502-2002, Section 4, the plan's procedures for indirect

examination of the ECDA regions must include: [49 CFR 192.925(b)(2)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a covered segment; [49 CFR 192.925(b)(2)(i)]

b. criteria for identifying and documenting those indications that must be considered for excavation and direct examination. Minimum identification criteria include the known sensitivities of assessment tools, the procedures for using each tool, and the approach to be used for decreasing the physical spacing of indirect assessment tool readings when the presence of a defect is suspected; [49 CFR 192.925(b)(2)(ii)]

c. criteria for defining the urgency of excavation and direct examination of each indication identified during the indirect examination. These criteria must specify how an operator will define the urgency of excavating the indication as immediate, scheduled or monitored; and [49 CFR 192.925(b)(2)(iii)]

d. criteria for scheduling excavation of indications for each urgency level. [49 CFR 192.925(b)(2)(iv)]

3. Direct Examination. In addition to the requirements in ASME/ANSI B31.8S Section 6.4 and NACE RP 0502-2002, Section 5, the plan's procedures for direct examination of indications from the indirect examination must include: [49 CFR 192.925(b)(3)]

a. provisions for applying more restrictive criteria when conducting ECDA for the first time on a covered segment; [49 CFR 192.925(b)(3)(i)]

b. criteria for deciding what action should be taken if either (a) corrosion defects are discovered that exceed allowable limits (Section 5.5.2.2 of NACE RP0502-2002), or (b) root cause analysis reveals conditions for which ECDA is not suitable (Section 5.6.2 of NACE RP0502-2002); [49 CFR 192.925(b)(3)(ii)]

c. criteria and notification procedures for any changes in the ECDA Plan, including changes that affect the severity classification, the priority of direct examination, and the time frame for direct examination of indications; and [49 CFR 192.925(b)(3)(iii)]

d. criteria that describe how and on what basis an operator will reclassify and reprioritize any of the provisions that are specified in Section 5.9 of NACE RP0502-2002. [49 CFR 192.925(b)(3)(iv)]

4. Post Assessment and Continuing Evaluation. In addition to the requirements in ASME/ANSI B31.8S Section 6.4 and NACE RP 0502-2002, Section 6, the plan's procedures for post assessment of the effectiveness of the ECDA process must include: [49 CFR 192.925(b)(4)]

a. measures for evaluating the long-term effectiveness of ECDA in addressing external corrosion in covered segments; and [49 CFR 192.925(b)(4)(i)]

b. criteria for evaluating whether conditions discovered by direct examination of indications in each ECDA region indicate a need for reassessment of the covered segment at an interval less than that specified in §3339. (See Appendix D of NACE RP0502-2002.) [49 CFR 192.925(b)(4)(ii)]

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§3327. What Are the Requirements for Using Internal Corrosion Direct Assessment (ICDA)?

[49 CFR 192.927]

A. Definition. Internal Corrosion Direct Assessment (ICDA) is a process an operator uses to identify areas along the pipeline where fluid or other electrolyte introduced during normal operation or by an upset condition may reside, and then focuses direct examination on the locations in covered segments where internal corrosion is most likely to exist. The process identifies the potential for internal corrosion caused by microorganisms, or fluid with CO₂, O₂, hydrogen sulfide or other contaminants present in the gas. [49 CFR 192.927(a)]

B. General Requirements. An operator using direct assessment as an assessment method to address internal corrosion in a covered pipeline segment must follow the requirements in this Section and in ASME/ANSI B31.8S (ibr, see §507), Section 6.4 and Appendix B2. The ICDA process described in this Section applies only for a segment of pipe transporting nominally dry natural gas, and not for a segment with electrolyte nominally present in the gas stream. If an operator uses ICDA to assess a covered segment operating with electrolyte present in the gas stream, the operator must develop a plan that demonstrates how it will conduct ICDA in the segment to effectively address internal corrosion. [49 CFR 192.927(b)]

C. The ICDA Plan. An operator must develop and follow an ICDA plan that provides for preassessment, identification of ICDA regions and excavation locations, detailed examination of pipe at excavation locations, and post-assessment evaluation and monitoring. [49 CFR 192.927(c)]

1. Preassessment. In the preassessment stage, an operator must gather and integrate data and information needed to evaluate the feasibility of ICDA for the covered segment, and to support use of a model to identify the locations along the pipe segment where electrolyte may accumulate, to identify ICDA regions, and to identify areas within the covered segment where liquids may potentially be entrained. This data and information includes, but is not limited to: [49 CFR 192.927(c)(1)]

a. all data elements listed in Appendix A2 of ASME/ANSI B31.8S; [49 CFR 192.927(a)(1)(i)]

b. information needed to support use of a model that an operator must use to identify areas along the pipeline where internal corrosion is most likely to occur (see Subsection A of this Section). This information, includes, but is not limited to, location of all gas input and withdrawal points on the line; location of all low points on covered segments such as sags, drips, inclines, valves, manifolds, dead-legs, and traps; the elevation profile of the pipeline in sufficient detail that angles of inclination can be calculated for all pipe segments; and the diameter of the pipeline, and the range of expected gas velocities in the pipeline; [49 CFR 192.927(c)(1)(ii)]

c. operating experience data that would indicate historic upsets in gas conditions, locations where these upsets have occurred, and potential damage resulting from these upset conditions; and [49 CFR 192.927(c)(1)(iii)]

d. information on covered segments where cleaning pigs may not have been used or where cleaning pigs may deposit electrolytes. [49 CFR 192.927(c)(1)(iv)]

2. ICDA Region Identification. An operator's plan must identify where all ICDA Regions are located in the transmission system, in which covered segments are located. An ICDA Region extends from the location where liquid may first enter the pipeline and encompasses the entire area along the pipeline where internal corrosion may occur and where further evaluation is needed. An ICDA Region may encompass one or more covered segments. In the identification process, an operator must use the model in GRI 02-0057, "Internal Corrosion Direct Assessment of Gas Transmission Pipelines—Methodology," (ibr, see §507). An operator may use another model if the operator demonstrates it is equivalent to the one shown in GRI 02-0057. A model must consider changes in pipe diameter, locations where gas enters a line (potential to introduce liquid) and locations down stream of gas draw-offs (where gas velocity is reduced) to define the critical pipe angle of inclination above which water film cannot be transported by the gas. [49 CFR 192.927(c)(2)]

3. Identification of Locations for Excavation and Direct Examination. An operator's plan must identify the locations where internal corrosion is most likely in each ICDA region. In the location identification process, an operator must identify a minimum of two locations for excavation within each ICDA Region within a covered segment and must perform a direct examination for internal corrosion at each location, using ultrasonic thickness measurements, radiography, or other generally accepted measurement technique. One location must be the low point (e.g., sags, drips, valves, manifolds, dead-legs, traps) within the covered segment nearest to the beginning of the ICDA Region. The second location must be at the upstream end of the pipe containing a covered segment, having a slope not exceeding the critical angle of inclination nearest the end of the ICDA Region. If corrosion exists at either location, the operator must: [49 CFR 192.927(c)(3)]

a. evaluate the severity of the defect (remaining strength) and remediate the defect in accordance with §3333; [49 CFR 192.927(c)(3)(i)]

b. as part of the operator's current integrity assessment either perform additional excavations in each covered segment within the ICDA region, or use an alternative assessment method allowed by this Subpart to assess the line pipe in each covered segment within the ICDA region for internal corrosion; and [49 CFR 192.927(c)(3)(ii)]

c. evaluate the potential for internal corrosion in all pipeline segments (both covered and non-covered) in the operator's pipeline system with similar characteristics to the ICDA region containing the covered segment in which the corrosion was found, and as appropriate, remediate the conditions the operator finds in accordance with §3333. [49 CFR 192.927(c)(3)(iii)]

4. Post-Assessment Evaluation and Monitoring. An operator's plan must provide for evaluating the effectiveness of the ICDA process and continued monitoring of covered segments where internal corrosion has been identified. The evaluation and monitoring process includes: [49 CFR 192.927(c)(4)]

a. evaluating the effectiveness of ICDA as an assessment method for addressing internal corrosion and determining whether a covered segment should be

reassessed at more frequent intervals than those specified in §3339. This evaluation must be carried out in the same year in which ICDA is used; and [49 CFR 192.927(c)(4)(i)]

b. continually monitoring each covered segment where internal corrosion has been identified using techniques such as coupons, UT sensors or electronic probes, periodically drawing off liquids at low points and chemically analyzing the liquids for the presence of corrosion products. An operator must base the frequency of the monitoring and liquid analysis on results from all integrity assessments that have been conducted in accordance with the requirements of this Chapter, and risk factors specific to the covered segment. If an operator finds any evidence of corrosion products in the covered segment, the operator must take prompt action in accordance with one of the two following required actions and remediate the conditions the operator finds in accordance with §3333: [49 CFR 192.927(c)(4)(ii)]

i. conduct excavations of covered segments at locations downstream from where the electrolyte might have entered the pipe; or [49 CFR 192.927(c)(4)(ii)(A)]

ii. assess the covered segment using another integrity assessment method allowed by this Chapter. [49 CFR 192.927(c)(4)(ii)(B)]

5. Other Requirements. The ICDA plan must also include: [49 CFR 192.927(c)(5)]

a. criteria an operator will apply in making key decisions (e.g., ICDA feasibility, definition of ICDA Regions, conditions requiring excavation) in implementing each stage of the ICDA process; [49 CFR 192.927(c)(5)(i)]

b. provisions for applying more restrictive criteria when conducting ICDA for the first time on a covered segment and that become less stringent as the operator gains experience; and [49 CFR 192.927(c)(5)(ii)]

c. provisions that analysis be carried out on the entire pipeline in which covered segments are present, except that application of the remediation criteria of §3333 may be limited to covered segments. [49 CFR 192.927(c)(5)(iii)]

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§3329. What Are the Requirements for Using Direct Assessment for Stress Corrosion Cracking (SCCDA)? [49 CFR 192.929]

A. Definition. Stress Corrosion Direct Assessment (SCCDA) is a process to assess a covered pipe segment for the presence of SCC primarily by systematically gathering and analyzing excavation data for pipe having similar operational characteristics and residing in a similar physical environment. [49 CFR 192.929(a)]

B. General Requirements. An operator using direct assessment as an integrity assessment method to address stress corrosion cracking in a covered pipeline segment must have a plan that provides, at minimum, for: [49 CFR 192.929(b)]

1. Data Gathering and Integration. An operator's plan must provide for a systematic process to collect and evaluate data for all covered segments to identify whether the conditions for SCC are present and to prioritize the covered segments for assessment. This process must include gathering and evaluating data related to SCC at all sites an

operator excavates during the conduct of its pipeline operations where the criteria in ASME/ANSI B31.8S (ibr, see §507), Appendix A3.3 indicate the potential for SCC. This data includes at minimum, the data specified in ASME/ANSI B31.8S, Appendix A3; [49 CFR 192.929(b)(1)]

2. Assessment Method. The plan must provide that if conditions for SCC are identified in a covered segment, an operator must assess the covered segment using an integrity assessment method specified in ASME/ANSI B31.8S, Appendix A3, and remediate the threat in accordance with ASME/ANSI B31.8S, Appendix A3, Section A3.4. [49 CFR 192.929(b)(2)]

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1280 (June 2004).

§3331. How May Confirmatory Direct Assessment (CDA) Be Used? [49 CFR 192.931]

A. An operator using the confirmatory direct assessment (CDA) method as allowed in §3337 must have a plan that meets the requirements of this Section and of §3325 (ECDA) and §3327 (ICDA). [49 CFR 192.931]

1. Threats. An operator may only use CDA on a covered segment to identify damage resulting from external corrosion or internal corrosion. [49 CFR 192.931(a)]

2. External Corrosion Plan. An operator's CDA plan for identifying external corrosion must comply with §3325 with the following exceptions. [49 CFR 192.931(b)]

a. The procedures for indirect examination may allow use of only one indirect examination tool suitable for the application. [49 CFR 192.931(b)(1)]

b. The procedures for direct examination and remediation must provide that: [49 CFR 192.931(b)(2)]

(i) all immediate action indications must be excavated for each ECDA region; and [49 CFR 192.931(b)(2)(i)]

(ii) at least one high risk indication that meets the criteria of scheduled action must be excavated in each ECDA region. [49 CFR 192.931(b)(2)(ii)]

3. Internal Corrosion Plan. An operator's CDA plan for identifying internal corrosion must comply with §3327 except that the plan's procedures for identifying locations for excavation may require excavation of only one high risk location in each ICDA region. [49 CFR 192.931(c)]

4. Defects Requiring Near-Term Remediation. If an assessment carried out under Paragraph 2 or 3 of this Section reveals any defect requiring remediation prior to the next scheduled assessment, the operator must schedule the next assessment in accordance with NACE RP 0502-2002 (ibr, see §507), Section 6.2 and 6.3. If the defect requires immediate remediation, then the operator must reduce pressure consistent with §3333 until the operator has completed reassessment using one of the assessment techniques allowed in §3337. [49 CFR 192.931(d)]

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1281 (June 2004).

§3333. What Actions Must Be Taken to Address Integrity Issues? [49 CFR 192.933]

A. General Requirements. An operator must take prompt action to address all anomalous conditions that the operator discovers through the integrity assessment. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure that the condition is unlikely to pose a threat to the integrity of the pipeline until the next reassessment of the covered segment. If an operator is unable to respond within the time limits for certain conditions specified in this Section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. If pressure is reduced, an operator must determine the temporary reduction in operating pressure using ASME/ANSI B31G (ibr, see §507) or AGA Pipeline Research Committee Project PR-3-805 [(RSTRENG); ibr, see §507] or reduce the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. (See §5101, Appendix A to this Part for information on availability of incorporation by reference information). A reduction in operating pressure cannot exceed 365 days without an operator providing a technical justification that the continued pressure restriction will not jeopardize the integrity of the pipeline. [49 CFR 192.933(a)]

B. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information about the condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after conducting an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator demonstrates that the 180-day period is impracticable. [49 CFR 192.933(b)]

C. Schedule for Evaluation and Remediation. An operator must complete remediation of a condition according to a schedule that prioritizes the conditions for evaluation and remediation. Unless a special requirement for remediating certain conditions applies, as provided in Subsection D of this Section, an operator must follow the schedule in ASME/ANSI B31.8S (ibr, see §507), Section 7, Figure 4. If an operator cannot meet the schedule for any condition, the operator must justify the reasons why it cannot meet the schedule and that the changed schedule will not jeopardize public safety. An operator must notify OPS in accordance with §3349 if it cannot meet the schedule and cannot provide safety through a temporary reduction in operating pressure or other action. An operator must also notify a state or local pipeline safety authority when a covered segment is located in a state where OPS has an interstate agent agreement, and a state or local pipeline safety authority that regulates a covered pipeline segment within that state. [49 CFR 192.933(c)]

D. Special Requirements for Scheduling Remediation. [49 CFR 192.933(d)]

1. Immediate Repair Conditions. An operator's evaluation and remediation schedule must follow ASME/ANSI B31.8S, Section 7 in providing for immediate

repair conditions. To maintain safety, an operator must temporarily reduce operating pressure in accordance with Subsection A of this Section or shut down the pipeline until the operator completes the repair of these conditions. An operator must treat the following conditions as immediate repair conditions: [49 CFR 192.933(d)(1)]

a. a calculation of the remaining strength of the pipe shows a predicted failure pressure less than or equal to 1.1 times the maximum allowable operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, ASME/ANSI B31G; RSTRENG; or an alternative equivalent method of remaining strength calculation. These documents are incorporated by reference and available at the addresses listed in §5101, Appendix A to this Part; [49 CFR 192.933(d)(1)(i)]

b. a dent that has any indication of metal loss, cracking or a stress riser; [49 CFR 192.933(d)(1)(ii)]

c. an anomaly that in the judgment of the person designated by the operator to evaluate the assessment results requires immediate action. [49 CFR 192.933(d)(1)(iii)]

2. One-Year Conditions. Except for conditions listed in Paragraphs D.1 and D.3 of this Section, an operator must remediate any of the following within one year of discovery of the condition: [49 CFR 192.933(d)(2)]

a. a smooth dent located between the 8 o'clock and 4 o'clock positions (upper 2/3 of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than Nominal Pipe Size (NPS) 12); [49 CFR 192.933(d)(2)(i)]

b. a dent with a depth greater than 2 percent of the pipeline's diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or at a longitudinal seam weld. [49 CFR 192.933(d)(2)(ii)]

3. Monitored Conditions. An operator does not have to schedule the following conditions for remediation, but must record and monitor the conditions during subsequent risk assessments and integrity assessments for any change that may require remediation: [49 CFR 192.933(d)(3)]

a. a dent with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than NPS 12) located between the 4 o'clock position and the 8 o'clock position (bottom 1/3 of the pipe); [49 CFR 192.933(d)(3)(i)]

b. a dent located between the 8 o'clock and 4 o'clock positions (upper 2/3 of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than Nominal Pipe Size (NPS) 12), and engineering analyses of the dent demonstrate critical strain levels are not exceeded; [49 CFR 192.933(d)(3)(ii)]

c. a dent with a depth greater than 2 percent of the pipeline's diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or a longitudinal seam weld, and engineering analyses of the dent and girth or seam weld demonstrate critical strain levels are not exceeded. These analyses must consider weld properties. [49 CFR 192.933(d)(3)(iii)]

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§3335. What Additional Preventive and Mitigative Measures Must an Operator Take to Protect the High Consequence Area? [49 CFR 192.935]

A. General Requirements. An operator must take additional measures beyond those already required by this Subpart to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. An operator must base the additional measures on the threats the operator has identified to each pipeline segment (see §3317). An operator must conduct, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S (ibr, see §507), Section 5, a risk analysis of its pipeline to identify additional measures to protect the high consequence area and enhance public safety. Such additional measures include, but are not limited to, installing automatic shut-off valves or remote control valves, installing computerized monitoring and leak detection systems, replacing pipe segments with pipe of heavier wall thickness, providing additional training to personnel on response procedures, conducting drills with local emergency responders and implementing additional inspection and maintenance programs. [49 CFR 192.935(a)]

B. Third Party Damage and Outside Force Damage [49 CFR 192.935(b)]

1. Third Party Damage. An operator must enhance its damage prevention program, as required under §2714 of this Subpart, with respect to a covered segment to prevent and minimize the consequences of a release due to third party or outside force damage. Enhanced measures to an existing damage prevention program include, at a minimum: [49 CFR 192.935(b)(1)]

a. using qualified personnel (see §3315) for work an operator is conducting that could adversely affect the integrity of a covered segment, such as marking, locating, and direct supervision of known excavation work; [49 CFR 192.935(b)(1)(i)]

b. collecting in a central database information that is location specific on excavation damage that occurs in on covered and non covered segments in the transmission system and the root cause analysis to support identification of targeted additional preventative and mitigative measures in the high consequence areas. This information must include recognized damage that is not required to be reported as an incident under Subpart 2 of this Part; [49 CFR 192.935(b)(1)(ii)]

c. participating in one-call systems in locations where covered segments are present; [49 CFR 192.935(b)(1)(iii)]

d. monitoring of excavations conducted on covered pipeline segments by pipeline personnel. When there is physical evidence of encroachment involving excavation near a covered segment, an operator must either excavate the area near the encroachment or conduct an above ground survey using methods defined in NACE RP-0502-2002 (ibr, see §507). An operator must excavate, and remediate, in accordance with ANSI/ASME B318.S and §3333 any indication of coating holidays or discontinuity warranting direct examination. [49 CFR 192.935(b)(1)(iv)]

2. Outside Force Damage. If an operator determines that outside force (e.g., earth movement, floods, unstable suspension bridge) is a threat to the integrity of a covered segment, the operator must take measures to minimize the consequences to the covered segment from outside force damage. These measures include, but are not limited to, increasing the frequency of aerial, foot or other methods of patrols, adding external protection, reducing external stress, and relocating the line. [49 CFR 192.935(b)(2)]

C. Automatic Shut-Off Valves (ASV) or Remote Control Valves (RCV). If an operator determines, based on a risk analysis, that an ASV or RCV would be an efficient means of adding protection to a high consequence area in the event of a gas release, an operator must install the ASV or RCV. In making that determination, an operator must, at least, consider the following factors: swiftness of leak detection and pipe shutdown capabilities, the type of gas being transported, operating pressure, the rate of potential release, pipeline profile, the potential for ignition, and location of nearest response personnel. [49 CFR 192.935(c)]

D. Pipelines Operating below 30 Percent SMYS. With respect to a transmission pipeline operating below 30 percent SMYS located in a Class 3 or 4 area but not in a high consequence area, an operator must: [49 CFR 192.935(d)]

1. apply the requirements in Subparagraphs B.1.a and B.1.c of this Section to the pipeline; and [49 CFR 192.935(d)(1)]

2. either monitor excavations near the pipeline, or conduct patrols as required by §2905 of the pipeline at bi-monthly intervals. If an operator finds any indication of unreported construction activity, the operator must conduct a follow up investigation to determine if mechanical damage has occurred. [49 CFR 192.935(d)(2)]

E. Plastic Transmission Pipeline. An operator of a plastic transmission pipeline must apply the requirements in Subparagraphs B.1.a, B.1.c and B.1.d of this Section to the covered segments of the pipeline. [49 CFR 192.935(e)]

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§3337. What Is a Continual Process of Evaluation and Assessment to Maintain a Pipeline's Integrity? [49 CFR 192.937]

A. General. After completing the baseline integrity assessment of a covered segment, an operator must continue to assess the line pipe of that segment at the intervals specified in §3339 and periodically evaluate the integrity of each covered pipeline segment as provided in Subsection B of this Section. An operator must reassess a covered segment on which a prior assessment is credited as a baseline under §3321.E by no later than December 17, 2009. An operator must reassess a covered segment on which a baseline assessment is conducted during the baseline period specified in §3321.D by no later than seven years after the baseline assessment of that covered segment unless the evaluation under Subsection B of this Section indicates earlier reassessment. [49 CFR 192.937(a)]

B. Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure the integrity of each covered segment. The periodic evaluation must be

based on a data integration and risk assessment of the entire pipeline as specified in §3317. For plastic transmission pipelines, the periodic evaluation is based on the threat analysis specified in §3317.D. For all other transmission pipelines, the evaluation must consider the past and present integrity assessment results, data integration and risk assessment information (§3317), and decisions about remediation (§3333) and additional preventive and mitigative actions (§3335). An operator must use the results from this evaluation to identify the threats specific to each covered segment and the risk represented by these threats. [49 CFR 192.935(b)]

C. Assessment Methods. In conducting the integrity reassessment, an operator must assess the integrity of the line pipe in the covered segment by any of the following methods as appropriate for the threats to which the covered segment is susceptible (see §3317), or by confirmatory direct assessment under the conditions specified in §3331: [49 CFR 192.935(c)]

1. internal inspection tool or tools capable of detecting corrosion, and any other threats to which the covered segment is susceptible. An operator must follow ASME/ANSI B31.8S (ibr, see §507), Section 6.2 in selecting the appropriate internal inspection tools for the covered segment; [49 CFR 192.935(c)(1)]

2. pressure test conducted in accordance with Chapter 23 of this Subpart; [49 CFR 192.935(c)(2)]

3. direct assessment to address threats of external corrosion, internal corrosion, or stress corrosion cracking. An operator must conduct the direct assessment in accordance with the requirements listed in §3323 and with as applicable, the requirements specified in §§3325, 3327 or 3329; [49 CFR 192.935(c)(3)]

4. other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 180 days before conducting the assessment, in accordance with §3349; [49 CFR 192.935(c)(4)]

5. confirmatory direct assessment when used on a covered segment that is scheduled for reassessment at a period longer than seven years. An operator using this reassessment method must comply with §3331. [49 CFR 192.935(c)(5)]

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§3339. What Are the Required Reassessment Intervals? [49 CFR 192.939]

A. An operator must comply with the following requirements in establishing the reassessment interval for the operator's covered pipeline segments. [49 CFR 192.939]

1. Pipelines Operating at or above 30 Percent SMYS. An operator must establish a reassessment interval for each covered segment operating at or above 30 percent SMYS in accordance with the requirements of this Section. The minimum reassessment interval by an allowable reassessment method is seven years. If an operator establishes a reassessment interval that is greater than seven years, the operator must, within the seven-year period, conduct a confirmatory direct assessment on the covered

segment, and then conduct the follow-up reassessment at the interval the operator has established. A reassessment carried out using confirmatory direct assessment must be done in accordance with §3331. (For ease of reference, the table that follows this Section sets forth the required reassessment intervals.) [49 CFR 192.939(a)]

a. Pressure Test or Internal Inspection or Other Equivalent Technology. An operator that uses pressure testing or internal inspection as an assessment method must establish the reassessment interval for a covered pipeline segment by: [49 CFR 192.939(a)(1)]

i. basing the interval on the identified threats for the segment as listed in §3317 of this Section and in ASME/ANSI B31.8S (ibr, see §507), Section 9, Tables 6 and 7, and on the analysis of the results from the last integrity assessment and from the data integration and risk assessment required by §3311; or [49 CFR 192.939(a)(1)(i)]

ii. using the intervals specified for different stress levels of pipeline (operating at or above 30 percent SMYS) listed in ASME/ANSI B31.8S, Section 5, Table 3. [49 CFR 192.939(a)(1)(ii)]

b. External Corrosion Direct Assessment. An operator that uses ECDA that meets the requirements of this Chapter must determine the reassessment interval according to the requirements in Paragraphs 6.2 and 6.3 of NACE RP0502-2002 (ibr, see §507). [49 CFR 192.939(a)(2)]

c. Internal Corrosion or SCC Direct Assessment. An operator that uses ICDA or SCCDA in accordance with the requirements of this Chapter must determine the reassessment interval according to the following calculation. However, the reassessment interval cannot exceed those specified for direct assessment in ASME/ANSI B31.8S, Section 5, Table 3: [49 CFR 192.939(a)(3)]

i. determine the largest defect most likely to remain in the covered segment and the corrosion rate appropriate for the pipe, soil and protection conditions; [49 CFR 192.939(a)(3)(i)]

ii. use the largest remaining defect as the size of the largest defect discovered in the SCC or ICDA segment; and [49 CFR 192.939(a)(3)(ii)]

iii. estimate the reassessment interval as half the time required for the largest defect to grow to a critical size. [49 CFR 192.939(a)(3)(iii)]

2. Pipelines Operating below 30 Percent SMYS. An operator must establish a reassessment interval for each covered segment operating below 30 percent SMYS in accordance with the requirements of this Section. The minimum reassessment interval by an allowable reassessment method is seven years. An operator must establish reassessment by at least one of the following: [49 CFR 192.939(b)]

a. reassessment by pressure test, internal inspection or other equivalent technology following the requirements in Subparagraph 1.a of this Section except that the stress level referenced in Clause 1.a.ii would be adjusted to reflect the lower operating stress level. If an established interval is more than seven years, the operator must conduct by the seventh year of the interval either a confirmatory direct assessment in accordance with §3331, or a low stress reassessment in accordance with §3341; [49 CFR 192.939(b)(1)]

b. reassessment by ECDA following the requirements in Subparagraph 1.b of this Section; [49 CFR 192.939(b)(2)]

c. reassessment by ICDA or SCCDA following the requirements in Subparagraph 1.c of this Section; [49 CFR 192.939(b)(3)]

d. reassessment by confirmatory direct assessment at 7-year intervals in accordance with §3331, with reassessment by one of the methods listed in Subparagraphs A.2.a-c of this Section by year 20 of the interval; [49 CFR 192.939(b)(4)]

e. reassessment by the low stress assessment method at seven-year intervals in accordance with §3341 with reassessment by one of the methods listed in Subparagraphs 2.a-c of this Section by Year 20 of the interval. [49 CFR 192.939(b)(5)]

B. For ease of reference, the following table sets forth the required reassessment intervals. Also refer to §5101, Appendix E.II for guidance on Assessment Methods and Assessment schedule for Transmission Pipelines Operating Below 30 percent SMYS. In case of conflict between the rule and the guidance in the Appendix, the requirements of the rule control. An operator must comply with the following requirements in establishing a reassessment interval for a covered segment maximum reassessment interval.

Maximum Reassessment Interval			
Assessment Method	Pipeline operating at or above 50% SMYS	Pipeline operating at or above 30% SMYS, up to 50% SMYS	Pipeline operating below 30% SMYS
Internal Inspection Tool, Pressure Test or Direct Assessment	10 years (*)	15 years (*)	20 years (**)
Confirmatory Direct Assessment	7 years	7 years	7 years
Low stress reassessment	not applicable	not applicable	7 years + ongoing actions specified in §3341.

(*) A confirmatory direct assessment as described in §3331 must be conducted by year 7 in a 10-year interval and years 7 and 14 of a 15-year interval.

(**) A low stress reassessment or confirmatory direct assessment must be conducted by years 7 and 14 of the interval.

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1283 (June 2004).

§3341. What Is a Low Stress Reassessment? [49 CFR 192.941]

A. General. An operator of a transmission line that operates below 30 percent SMYS may use the following method to reassess a covered segment in accordance with §3339. This method of reassessment addresses the threats of external and internal corrosion. The operator must have conducted a baseline assessment of the covered segment in accordance with the requirements of §§3319 and 3321. [49 CFR 192.941(a)]

B. External Corrosion. An operator must take one of the following actions to address external corrosion on the low stress covered segment. [49 CFR 192.941(b)]

1. Cathodically Protected Pipe. To address the threat of external corrosion on cathodically protected pipe in a covered segment, an operator must perform an electrical survey (i.e. indirect examination tool/method) at least every seven years on the covered segment. An operator must use the results of each survey as part of an overall evaluation of the cathodic protection and corrosion threat for the covered segment. This evaluation must consider, at minimum, the leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment. [49 CFR 192.941(b)(1)]

2. Unprotected Pipe or Cathodically Protected Pipe Where Electrical Surveys Are Impractical. If an electrical survey is impractical on the covered segment an operator must: [49 CFR 192.941(b)(2)]

a. conduct leakage surveys as required by §2906 at 4-month intervals; and [49 CFR 192.941(b)(2)(i)]

b. every 1 1/2 years, identify and remediate areas of active corrosion by evaluating leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment. [49 CFR 192.941(b)(2)(ii)]

C. Internal Corrosion. To address the threat of internal corrosion on a covered segment, an operator must: [49 CFR 192.941(c)]

1. conduct a gas analysis for corrosive agents at least once each calendar year; [49 CFR 192.941(c)(1)]

2. conduct periodic testing of fluids removed from the segment. At least once each calendar year test the fluids removed from each storage field that may affect a covered segment; and [49 CFR 192.941(c)(2)]

3. at least every seven years, integrate data from the analysis and testing required by Paragraphs C.1. and 2 with applicable internal corrosion leak records, incident reports, safety-related condition reports, repair records, patrol records, exposed pipe reports, and test records, and define and implement appropriate remediation actions. [49 CFR 192.941(c)(3)]

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§3343. When Can an Operator Deviate from These Reassessment Intervals? [49 CFR 192.943]

A. Waiver from Reassessment Interval in Limited Situations. In the following limited instances, OPS may allow a waiver from a reassessment interval required by §3339 if OPS finds a waiver would not be inconsistent with pipeline safety. [49 CFR 192.943(a)]

1. Lack of Internal Inspection Tools. An operator who uses internal inspection as an assessment method may be able to justify a longer assessment period for a covered segment if internal inspection tools are not available to assess the line pipe. To justify this, the operator must demonstrate that it cannot obtain the internal inspection tools within the required assessment period and that the actions the operator is taking in the interim ensure the integrity of the covered segment. [49 CFR 192.943(a)(1)]

2. Maintain Product Supply. An operator may be able to justify a longer reassessment period for a covered segment if the operator demonstrates that it cannot maintain local product supply if it conducts the reassessment within the required interval. [49 CFR 192.943(a)(2)]

B. How to Apply. If one of the conditions specified in Paragraph A.1 or 2 of this Section applies, an operator may seek a waiver of the required reassessment interval. An operator must apply for a waiver in accordance with 49 U.S.C. 60118(c), at least 180 days before the end of the required reassessment interval, unless local product supply issues make the period impractical. If local product supply issues make the period impractical, an operator must apply for the waiver as soon as the need for the waiver becomes known. [49 CFR 192.943(b)]

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§3345. What Methods Must an Operator Use to Measure Program Effectiveness? [49 CFR 192.945]

A. General. An operator must include in its integrity management program methods to measure, on a semi-annual basis, whether the program is effective in assessing and evaluating the integrity of each covered pipeline segment and in protecting the high consequence areas. These measures must include the four overall performance measures specified in ASME/ANSI B31.8S (ibr, see §507), Section 9.4, and the specific measures for each identified threat specified in ASME/ANSI B31.8S, Appendix A. An operator must submit these measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with §3351. [49 CFR 192.945(a)]

B. External Corrosion Direct Assessment. In addition to the general requirements for performance measures in Subsection A of this Section, an operator using direct assessment to assess the external corrosion threat must define and monitor measures to determine the effectiveness of the ECDA process. These measures must meet the requirements of §3325. An operator must submit these measures, by electronic or other means, on a semi-annual frequency to OPS in accordance with §3351. [49 CFR 192.945 (b)]

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§3347. What Records Must an Operator Keep? [49 CFR 192.947]

A. An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this Chapter. At minimum, an operator must maintain the following records for review during an inspection: [49 CFR 192.947]

1. a written integrity management program in accordance with §3307; [49 CFR 192.947(a)]

2. documents supporting the threat identification and risk assessment in accordance with §3317; [49 CFR 192.947(b)]

3. a written baseline assessment plan in accordance with §3319; [49 CFR 192.947(c)]

4. documents to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program. Documents include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements; [49 CFR 192.947(d)]

5. documents that demonstrate personnel have the required training, including a description of the training program, in accordance with §3315; [49 CFR 192.947(e)]

6. schedule required by §3333 that prioritizes the conditions found during an assessment for evaluation and remediation, including technical justifications for the schedule; [49 CFR 192.947(f)]

7. documents to carry out the requirements in §3323 through §3329 for a direct assessment plan; [49 CFR 192.947(g)]

8. documents to carry out the requirements in §3331 for confirmatory direct assessment; [49 CFR 192.947(h)]

9. verification that an operator has provided any documentation or notification required by this Chapter to be provided to OPS, and when applicable, a state authority with which OPS has an interstate agent agreement, and a state or local pipeline safety authority that regulates a covered pipeline segment within that state. [49 CFR 192.947(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1285 (June 2004).

§3349. How Does an Operator Notify OPS and the Louisiana Commissioner of Conservation? **[49 CFR 192.949]**

A. An operator must provide any notification required by this Chapter to OPS by: [49 CFR 192.949]

1. sending the notification to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington DC 20590; [49 CFR 192.949(a)(1)]

2. sending the notification to the Information Resources Manager by facsimile to (202) 366-7128; or [49 CFR 192.949(a)(2)]

3. entering the information directly on the Integrity Management Database (IMDB) web site at <http://primis.rspa.dot.gov/gasimp/>. [49 CFR 192.949(a)(3)]

B. Any notification required by §3349.A must be sent concurrently to the Commissioner of Conservation, Office of Conservation, Pipeline Safety Section, P.O. Box 94279 Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004).

§3351. Where Does an Operator File a Report? **[49 CFR 192.951]**

A. An operator must send any performance report required by this Chapter to the Information Resources Manager: [49 CFR 192.951]

1. by mail to the Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 7128, 400 Seventh Street SW, Washington, DC 20590; [49 CFR 192.951(1)]

2. via facsimile to (202) 366-7128; or [49 CFR 192.951(2)]

3. through the online reporting system provided by OPS for electronic reporting available at the OPS Home Page at <http://ops.dot.gov>. [49 CFR 192.951(3)]

B. Any report required by §3351.A must be sent concurrently to the Commissioner of Conservation, Office of Conservation, Pipeline Safety Section, P.O. Box 94279 Baton Rouge, LA 70804-9275.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004).

Chapter 51. Appendices

§5101. Appendix A Incorporated by Reference

I. List of Organizations and Addresses

A. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, VA 22209.

B. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036.

C. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

D. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017.

E. The American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

F. Manufactures Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NW., Vienna, VA 22180.

G. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy MA 02269-9101.

II. Documents Incorporated by Reference.

(Numbers in parentheses indicate applicable editions.)

A. American Gas Association (AGA)

1. AGA Pipeline Research Committee, Project PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 22, 1989).

B. American Petroleum Institute (API)

1. API Specification 5L "Specification for Line Pipe" (41st edition, 1995).

2. API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe" (4th edition, 1990).

3. API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball and Check Valves)" (21st edition, 1994).

4. API Standard 1104 "Welding of Pipelines and Related Facilities" (18th edition, 1994).

C. American Society for Testing and Materials (ASTM)

1. ASTM Designation: A 53 "Standard Specification for Pipe, Steel, Black and Hot-Dipped Zinc-Coated, Welded and Seamless" (A 53-96)

2. ASTM Designation: A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-95).

3. ASTM Designation: A333/A333M "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (A333/A 333M-94).

4. ASTM Designation: A372/A372M "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels" (A372/A 372M-95).

5. ASTM Designation: A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems" (A381-93).

6. ASTM Designation: A671 "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (A671-94).

7. ASTM Designation: A672 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A672-94).

8. ASTM Designation: A691 "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (A691-93).

9. ASTM Designation: D638 "Standard Test Method for Tensile Properties of Plastics" (D638-96).

10. ASTM Designation: D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing and Fittings" (D2513-87 edition for 713.A.1, otherwise D2513-96a).

11. ASTM Designation: D2517 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (D2517-94)

12. ASTM Designation: F1055 "Standard Specification for Electro Fusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing" (F1055-95)

D. The American Society of Mechanical Engineers (ASME)

1. ASME/ANSI B16.1 "Cast Iron Pipe Flanges and Flanged Fittings" (1989).

2. ASME/ANSI B16.5 "Pipe Flanges and Flanged Fittings" (1988 with October 1988 Errata and ASME/ANSI B16.5a-1992 Addenda).

3. ASME/ANSI B31G "Manual for Determining the Remaining Strength of Corroded Pipelines" (1991).

4. ASME/ANSI B31.8 "Gas Transmission and Distribution Piping Systems" (1995).

5. ASME Boiler and Pressure Vessel Code, Section I "Power Boilers" (1995 edition with 1995 Addenda).

6. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Pressure Vessels" (1995 edition with 1995 Addenda).

7. ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Pressure Vessels: Alternative Rules" (1995 edition with 1995 Addenda).

8. ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualification" (1995 edition with 1995 Addenda).

9. ASME/ANSI B31.8S-2001 (Supplement to B31.8), "Managing Systems Integrity of Gas Pipelines," July 19, 2002.

E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

1. MSS SP-44-96 "Steel Pipe Line Flanges" (includes 1996 errata)(1996).

2. [Reserved].

F. National Fire Protection Association (NFPA):

1. NFPA 30 "Flammable and Combustible Liquids Code" (1996).

2. ANSI/NFPA 58 "Standard for the Storage and Handling of Liquefied Petroleum Gases"(1995).

3. ANSI/NFPA 59 "Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants" (1995).

4. ANSI/NFPA 70 "National Electrical Code" (1996).

G. NACE International

1. NACE RP-0502-2002 "Pipeline External Corrosion Direct Assessment Methodology." 2002.

H. Gas Research Institute

1. GRI 02-0057, "Internal Corrosion Direct Assessment of Gas Transmission Pipeline-Methodology," April 1, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:539 (July 1984), amended LR 18:858 (August 1992), LR 27:1550, 1551 (September 2001), amended LR 30:1286 (June 2004).

§5103. Appendix B Qualification of Pipe

I. Listed Pipe Specifications

(Numbers in parentheses indicate applicable editions.)

API 5L Steel pipe (1995)

ASTM A53 Steel pipe (1995a)

ASTM A106 Steel pipe (1994a)

ASTM A333/A 333M Steel pipe (1994)

ASTM A381 Steel pipe (1993)

ASTM A671 Steel pipe (1994)

ASTM A672 Steel pipe (1994)

ASTM A691 Steel pipe (1993)

ASTM D2513 Thermoplastic pipe and tubing (1995(c))

ASTM D2517 Thermosetting plastic pipe and tubing (1994)

II. Steel Pipe of Unknown or Unlisted Specification

A. Bending properties. For pipe 2 inches (51 millimeters) or less in diameter, a length of pipe must be cold bent through at least 90 degrees around a cylindrical mandrel that has a diameter 12 times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld.

For pipe more than 2 inches (51 millimeters) in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM A53, except that the number of tests must be at least equal to the minimum required in Paragraph II.D of this appendix to determine yield strength.

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Chapter 13 of this Part. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104. If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with Section IX of the ASME Boiler and Pressure Vessels Code. The same number of chemical tests must be made as are required for testing a girth weld.

C. Inspection. The pipe must be cleaned enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are no defects which might impair the strength or tightness of the pipe.

D. Tensile Properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 psi (165 MPa) or less, or the tensile properties may be established by performing tensile tests as set forth in API Specification 5L. All test specimens shall be selected at random and the following number of tests must be performed.

Number of Tensile Tests-All Sizes	
10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths, but not less than 20 tests.

If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in §705.C5(c).

III. Steel Pipe Manufactured before November 12, 1970, to Earlier Editions of Listed Specifications

Steel pipe manufactured before November 12, 1970, in accordance with a specification of which a later edition is listed in Section I of this Appendix, is qualified for use under this Part if the following requirements are met.

A. Inspection. The pipe must be clean enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and that there are no defects which might impair the strength or tightness of the pipe.

B. Similarity of Specification Requirements. The edition of the listed specification under which the pipe was manufactured must have substantially the same requirements with respect to the following properties as a later edition of that specification listed in Section I of this Appendix:

1. physical (mechanical) properties of pipe, including yield and tensile strength, elongation, and yield to tensile ratio, and testing requirements to verify those properties;
2. chemical properties of pipe and testing requirements to verify those properties.

C. Inspection or Test of Welded Pipe. On pipe with welded seams, one of the following requirements must be met.

1. The edition of the listed specification to which the pipe was manufactured must have substantially the same requirements with respect to nondestructive inspection of welded seams and the standards of acceptance or rejection and repair as a later edition of the specification listed in Section I of this Appendix.

2. The pipe must be tested in accordance with Chapter 23 of this Part to at least 1.25 times the maximum allowable operating pressure if it is to be installed in a Class I location and to at least 1.5 times the maximum allowable operating pressure if it is to be installed in a Class 2, 3, or 4 location. Notwithstanding any shorter time period permitted under Chapter 23 of this Part, the test pressure must be maintained for at least eight hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:541 (July 1984), amended LR 18:859 (August 1992), LR 27:1551, 1552 (September 2001), amended LR 30:1287 (June 2004).

§5105. Appendix C **Qualification of Welders for Low Stress Level Pipe**

I. Basic Test

The test is made on pipe 12 inches (305 millimeters) or less in diameter. The test weld must be made with the pipe in a horizontal fixed position so that the test weld includes at least one section of overhead position welding. The beveling, root opening, and other details must conform to the specifications of the procedure under which the welder is being qualified. Upon completion, the test weld is cut into four coupons and subjected to a root bend test. If, as a result of this test, two or more of the four coupons develop a crack in the weld material, or between the weld material and base metal, that is more than 1/8-inch (3.2 millimeters) long in any direction, the weld is unacceptable. Cracks that occur on the corner of the specimen during testing are not considered.

II. Additional Tests for Welders of Service Line Connections to Mains

A service line connection fitting is welded to a pipe section with the same diameter as a typical main. The weld is made in the same position as it is made in the field. The weld is unacceptable if it shows a serious undercutting or if it has rolled edges. The weld is tested by attempting to break the fitting off the run pipe. The weld is unacceptable if it breaks and shows incomplete fusion, overlap, or poor penetration at the junction of the fitting and run pipe.

III. Periodic Tests for Welders of Small Service Lines

Two samples of the welder's work, each about 8 inches (203 millimeters) long with the weld located approximately in the center, are cut from steel service line and tested as follows.

1. One sample is centered in a guided bend testing machine and bent to the contour of the die for a distance of 2 inches (51 millimeters) on each side of the weld. If the sample shows any breaks or cracks after removal from the bending machine, it is unacceptable.

2. The ends of the second sample are flattened and the entire joint subjected to a tensile strength test. If failure occurs adjacent to or in the weld metal, the weld is unacceptable. If a

tensile strength testing machine is not available, this sample must also pass the bending test prescribed in Subparagraph 1, of this Paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:543 (July 1984), amended LR 18:860 (August 1992), LR 27:1552 (September 2001), amended LR 30:1288 (June 2004).

§5107. Appendix D **Criteria for Cathodic Protection and Determination of Measurements**

I. Criteria for Cathodic Protection

A. Steel, Cast Iron, and Ductile Iron Structures

1. A negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-coppersulfate half cell. Determination of this voltage must be made with the protective current applied, and in accordance with Sections II and IV of this Appendix.

2. A negative (cathodic) voltage shift of at least 300 millivolts. Determination of this voltage shift must be made with the protective current applied, and in accordance with Sections II and IV of this Appendix. This criterion of voltage shift applies to structures not in contact with metals of different anodic potentials.

3. A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Sections III and IV of this Appendix.

4. A voltage at least as negative (cathodic) as that originally established at the beginning of the Tafel segment of the E-log-I curve. This voltage must be measured in accordance with Section IV of this Appendix.

5. A net protective current from the electrolyte into the structure surface as measured by the earth current technique applied at predetermined current discharge (anodic) points of the structure.

B. Aluminum Structures

1. Except as provided in Paragraphs 3 and 4. of this Paragraph, a minimum negative (cathodic) voltage shift of 150 millivolts, produced by the application of protective current. The voltage shift must be determined in accordance with Sections II and IV of this Appendix.

2. Except as provided in Paragraphs 3 and 4. of this Paragraph, a minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Sections III and IV of this Appendix.

3. Notwithstanding the alternative minimum criteria in Paragraphs 1 and 2 of this Paragraph, aluminum, if cathodically protected at voltages in excess of 1.20 volts as measured with reference to a copper-copper sulfate half cell, in accordance with Section IV of this Appendix, and compensated for the voltage (IR) drops other than those across the structure-electrolyte boundary may suffer corrosion resulting from the build-up of alkali on the metal surface. A voltage in excess of 1.20 volts may not be used unless previous test results indicate no appreciable corrosion will occur in the particular environment.

4. Since aluminum may suffer from corrosion under high pH conditions, and since application of cathodic protection tends to increase the pH at the metal surface, careful investigation or testing must be made before applying cathodic protection to stop pitting attack on aluminum structures in environments with a natural pH in excess of 8.

C. Copper Structures. A minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift must be determined in accordance with Sections III and IV. of this Appendix.

D. Metals of Different Anodic Potentials. A negative (cathodic) voltage, measured in accordance with Section IV. of this Appendix, equal to that required for the most anodic metal in the system must be maintained. If amphoteric structures are involved that could be damaged by high alkalinity covered by Paragraphs 3 and 4 of Paragraph B of this Section, they must

be electrically isolated with insulating flanges, or the equivalent.

II. Interpretation of Voltage Measurement

Voltage (IR) drops other than those across the structure electrolyte boundary must be considered for valid interpretation of the voltage measurement in Paragraphs A.1 and 2 and Paragraph B.1 of this Section I of this Appendix.

III. Determination of Polarization Voltage Shift

The polarization voltage shift must be determined by interrupting the protective current and measuring the polarization decay. When the current is initially interrupted, an immediate voltage shift occurs. The voltage reading after the immediate shift must be used as the base reading from which to measure polarization decay in Paragraphs A.3 and B.2 and C of Section I of this Appendix.

IV. Reference Half Cells

A. Except as provided in Paragraphs B and C of this Section, negative (cathodic) voltage must be measured between the structure surface and a saturated copper-copper sulfate half cell contacting the electrolyte.

B. Other standard reference half cells may be substituted for the saturated copper-copper sulfate half cell. Two commonly used reference half cells are listed below along with their voltage equivalent to -0.85 volt as referred to a saturated copper-copper sulfate half cell.

1. Saturated KC1 calomel half cell: -0.78 volt
2. Silver-silver chloride half cell used in sea water: -0.80 volt

C. In addition to the standard reference half cells, an alternate metallic material or structure may be used in place of the saturated copper-copper sulfate half cell if its potential stability is assured and if its voltage equivalent referred to a saturated copper-copper sulfate half cell is established.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:544 (July 1984), amended LR 18:860 (August 1992), LR 27:1553 (September 2001), amended LR 30:1288 (June 2004).

§5109. Appendix E Guidance on Determining High Consequence Areas and on Carrying out Requirements in the Integrity Management Rule

I. Guidance on Determining a High Consequence Area

To determine which segments of an operator's transmission pipeline system are covered for purposes of the integrity management program requirements, an operator must identify the high consequence areas. An operator must use method (a) or (b) from the definition in §3303 to identify a high consequence area. An operator may apply one method to its entire pipeline system, or an operator may apply one method to individual portions of the pipeline system (refer to figure E.1.A for a diagram of a high consequence area).

(a) If an operator selects method (a), then:

(1) all pipeline in Class 3 and Class 4 locations is considered to be in a high consequence area;

(2) the operator is to calculate potential impact circles, as defined in §3303, centered on the centerline of the pipeline for:

(i) any areas of its pipeline system that are not in Class 3 or Class 4 locations which could include an identified site as defined in §3303; and

(ii) any pipeline in Class 3 and Class 4 locations for which the potential impact radius would be greater than 660 feet (200 meters) and for which an identified site may exist in the area more than 660 feet (200 meters) but less than the potential impact radius from the pipeline;

(3) the operator is to evaluate the potential impact circles to determine if they contain identified sites, as defined in §3303, in accordance with Paragraph (c) of the same Section;

(4) the operator is to complete identification of high consequence areas by December 17, 2004.

(b) If an operator selects method (b) then:

(1) the operator is to calculate potential impact circles, as defined in §3303, centered on the centerline of the pipeline for all areas of its pipeline where the circles could contain 20 buildings intended for human occupancy or an identified site;

(2) the operator is to evaluate the potential impact circles to determine if they contain 20 buildings intended for human occupancy. Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy:

(i) if the radius of the potential impact circle is greater than 660 feet (200 meters), the operator may identify a high consequence area based on a prorated number of buildings intended for human occupancy until December 17, 2006. If an operator chooses this approach, the operator must prorate the number of buildings intended for human occupancy based on the ratio of an area with a radius of 660 feet (200 meters) to the area of the potential impact circle (i.e., the prorated number of buildings intended for human occupancy is equal to $\{20 \times [660 \text{ feet (or 200 meters)/potential impact radius in feet (or meters)}]^2\}$);

(3) the operator is to evaluate the potential impact circles to determine if they contain identified sites, as defined in §3303, in accordance with Paragraph (c) of this Section;

(4) the operator is to complete identification of high consequence areas by December 17, 2004.

(c) Operators are to identify sites meeting the criteria of identified sites, as defined in §3303. The process for identification is in §3305. Further guidance was provided in (68 FR 42456; July 17, 2003) titled issuance of advisory bulletin. Operators must document, and retain for review during inspections, their rationale for selecting the source(s) used, including why it/they are appropriate for use.

(d) Requirements for incorporating newly-identified high consequence areas into an integrity management program are in §3305.

Determining High Consequence Area

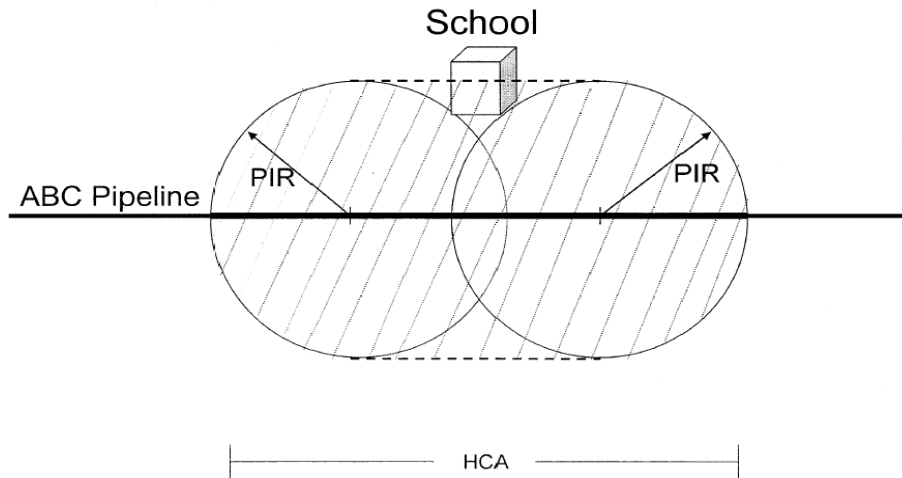


Figure E.I.A

II. Guidance on Assessment Methods for Transmission Pipelines Operating Below 30 percent SMYS

1. Table E.II.1 gives guidance to help an operator implement requirements on assessment methods for addressing time dependent and independent threats, for transmission pipelines operating below 30 percent SMYS not in HCAs (i.e., outside of potential impact circle) but located within Class 3 and 4 Locations.

2. Table E.II.2 gives guidance to help an operator implement requirements on assessment methods for

addressing time dependent and independent threats, for transmission pipelines operating below 30 percent SMYS in HCAs.

3. Table E.II.3 gives guidance on preventative and mitigative measures addressing time dependent and independent threats for transmission pipelines that operate below 30 percent SMYS, in HCAs.

Table E.II.1: Assessment Methods for Transmission Pipelines Operating below 30 percent SMYS Not in HCAs but in Class 3 and 4 Locations			
(Column 1) Threat	Existing Subpart 3 Requirements		(Column 4) Additional (to Subpart 3 Requirements) Assessments
	(Column 2) Primary	(Column 3) Secondary	
External Corrosion	2107 (Gen. Post 1971), 2109 (Gen. Pre-1971) 2111 (Examination), 2113 (Ext. Coating) 2115 (CP), 2117 (Monitoring) 2119 (Elect isolation), 2121 (Test Stations) 2123 (Test leads), 2125 (Interference) 2131 (Atmospheric), 2133 (Atmospheric) 2137 (Remedial), 2905 (Patrol) 2906 (Leak Survey), 2911 (Repair Gen.) 2917 (Repair Perm.)	2703-(Gen Operation) 2713-(Surveillance)	For Cathodically Protected Transmission Pipeline: <ul style="list-style-type: none"> Perform semi-annual leak surveys. For Unprotected Transmission Pipelines or for Cathodically Protected Pipe where Electrical Surveys are Impractical: <ul style="list-style-type: none"> Perform quarterly leak surveys
Internal Corrosion	2127 (Gen IC), 2129 (IC monitoring) 2137 (Remedial), 2905 (Patrol) 2906 (Leak Survey), 2911 (Repair Gen.) 2917 (Repair Perm.)	703(A)(1) (Materials) 2703 (Gen Operation) 2713 (Surveillance)	<ul style="list-style-type: none"> Perform semi-annual leak surveys.
3rd Party Damage	903 (Gen. Design), 911 (Design Factor) 1717 (Hazard Prot), 1727 (Cover) 2714 (Dam. Prevent), 2716 (Public Education) 2905 (Patrol), 2907 (Line Markers) 2911 (Repair - Gen.), 2917 (Repair - Perm.)	2715 (Emergency Plan)	<ul style="list-style-type: none"> Participation in state one-call system: Use of qualified operator employees and contractors to perform marking and locating of buried structures and in direct supervision of excavation work, AND Either monitoring of excavations near operator's transmission pipelines, or bi-monthly patrol of transmission pipelines in Class 3 and 4 locations. Any indications of unreported construction activity would require a follow up investigation to determine if mechanical damage occurred.

**Table E.II.2 Assessment Requirements for Transmission Pipelines in HCAs
(Re-assessment intervals are maximum allowed.)**

Baseline Assessment Method (see Note 3)	Re-Assessment Requirements (see Note 3)					
	At or above 50 percent SMYS		At or above 30 percent SMYS up to 50 percent SMYS		Below 30 percent SMYS	
	Max Re-Assessment Interval	Assessment Method	Max Re-Assessment Interval	Assessment Method	Max Re-Assessment Interval	Assessment Method
Pressure Testing	7	CDA	7	CDA	Ongoing	Preventative & Mitigative (P&M) Measures (see Table E.II.3), (see Note 2)
	10	Pressure Test or ILI or DA				
		Repeat inspection cycle every 10 years	15 (see Note 1)	Pressure Test or ILI or DA (see Note 1)		
				Repeat inspection cycle every 15 years	20	Pressure Test or ILI or DA
						Repeat inspection cycle every 20 years
In-Line Inspection	7	CDA	7	CDA	Ongoing	Preventative & Mitigative (P&M) Measures (see Table E.II.3), (see Note 2)
	10	Pressure Test or ILI or DA				
		Repeat inspection cycle every 10 years	15 (see Note 1)	ILI or DA or Pressure Test (see Note 1)		
				Repeat inspection cycle every 15 years	20	ILI or DA or Pressure Test
						Repeat inspection cycle every 20 years
Direct Assessment	7	CDA	7	CDA	Ongoing	Preventative & Mitigative (P&M) Measures (see Table E.II.3), (see Note 2)
	10	DA or ILI or Pressure Test				
		Repeat inspection cycle every 10 years	15 (see Note 1)	DA or ILI or Pressure Test (see Note 1)		
				Repeat inspection cycle every 15 years	20	DA or ILI or Pressure Test
						Repeat inspection cycle every 20 years

Note 1: Operator may choose to utilize CDA at year 14, then utilize ILI, Pressure Test, or DA at year 15 as allowed under ASME B31.8S

Note 2: Operator may choose to utilize CDA at year 7 and 14 in lieu of P&M

Note 3: Operator may utilize "other technology that an operator demonstrates can provide an equivalent understanding of the condition of line pipe"

Table E.II.3 Preventative & Mitigative Measures addressing Time Dependent and Independent Threats for Transmission Pipelines that Operate Below 30 percent SMYS, in HCAs

Threat	Existing Subpart 3 Requirements		Additional (to Subpart 3 Requirements) Preventive & Mitigative Measures
	Primary	Secondary	
External Corrosion	2107☑(Gen. Post 1971) 2109☑(Gen. Pre-1971) 2111☑(Examination) 2113☑(Ext. Coating) 2115☑(CP) 2117☑(Monitoring) 2119☑(Elect Isolation) 2121☑(Test Stations) 2123☑(Test Leads) 2125☑(Interference) 2131☑(Atmospheric) 2133☑(Atmospheric) 2137☑(Remedial) 2905☑(Patrol) 2906☑(Leak Survey) 2911☑(Repair☑Gen.) 2917☑(Repair☑Perm.)	2703☑(Gen Oper) 2713☑(Surveil)	For Cathodically Protected Trmn. Pipelines <ul style="list-style-type: none"> Perform an electrical survey (i.e. indirect examination tool/method) at least every 7 years. Results are to be utilized as part of an overall evaluation of the CP system and corrosion threat for the covered segment. Evaluation shall include consideration of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment. For Unprotected Trmn. Pipelines or for Cathodically Protected Pipe Where Electrical Surveys are Impracticable <ul style="list-style-type: none"> Conduct quarterly leak surveys AND Every 1-1/2 years, determine areas of active corrosion by evaluation of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment.
Internal Corrosion	2127☑(Gen IC) 2129☑(IC Monitoring) 2137☑(Remedial) 2905☑(Patrol) 2906☑(Leak Survey) 2911☑(Repair☑Gen.) 2917☑(Repair☑Perm.)	703(A)(1)☑(Materials) 2703☑(Gen Oper) 2713☑(Surveil)	<ul style="list-style-type: none"> Obtain and review gas analysis data each calendar year for corrosive agents from transmission pipelines in HCAs, Periodic testing of fluid removed from pipelines. Specifically, once each calendar year from each storage field that may affect transmission pipelines in HCAs, AND At least every 7 years, integrate data obtained with applicable internal corrosion leak records, incident reports, safety related condition reports, repair records, patrol records, exposed pipe reports, and test records.

3rd Party Damage	903 (Gen. Design) 911 (Design Factor) 1717 (Hazard Prot) 1727 (Cover) 2714 (Dam. Prevent) 2716 (Public Educat) 2905 (Patrol) 2907 (Line Markers) 2911 (Repair Gen.) 2917 (Repair Perm.)	2715 (Emerg Plan)	<ul style="list-style-type: none"> • Participation in state one-call system, • Use of qualified operator employees and contractors to perform marking and locating of buried structures and in direct supervision of excavation work, AND • Either monitoring of excavations near operator's transmission pipelines, or bi-monthly patrol of transmission pipelines in HCAs or Class 3 and 4 locations. Any indications of unreported construction activity would require a follow up investigation to determine if mechanical damage occurred.
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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1289 (June 2004).

Subpart 4. Drug and Alcohol Testing

Chapter 61. General [Part 199 Subpart A]

§6101. Scope [49 CFR 199.1]

A. This Subpart requires operators of pipeline facilities subject to LAC 43:XIII or LAC 33:V.Subpart 3 (49 CFR Part 192 and 195) to test covered employees for the presence of prohibited drugs and alcohol. [49 CFR 199.1]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 27:1554 (September 2001), LR 30:1292 (June 2004).

§6102. Applicability [49 CFR 199.2]

A. This Subpart applies to pipeline operators' only with respect to employees located within the territory of the United States, including those employees located within the limits of the *Outer Continental Shelf* as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331). [49 CFR 199.2(a)]

B. This Subpart does not apply to any person for whom compliance with LAC 43:XIII or LAC 33:V.Subpart 3 (49 CFR Part 192 and 195) domestic laws or policies of another country. [49 CFR 199.2(b)]

C. This Subpart does not apply to covered functions performed on: [49 CFR 199.2(c)]

1. master meter systems, as defined in §303 of this Part; or [49 CFR 199.2(c)(1)]

2. pipeline systems that transport only petroleum gas or petroleum gas/air mixtures. [49 CFR 199.2(c)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

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§6103. Definitions [49 CFR 199.3]

A. As used in this Chapter:

Accident Can incident reportable under 49 CFR Part 191 involving gas pipeline facilities or LNG facilities, or an accident reportable under CFR Part 195 involving hazardous liquid pipeline facilities.

Administrator The Administrator, Research and Special Programs Administration or his or her delegate.

Covered Employee, Employee, or Individual to be Tested A person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors.

Covered Function An operations, maintenance, or emergency-response function regulated by 49 CFR Part 192, 193, or 195 that is performed on a pipeline or on an LNG facility.

DOT Procedures The "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" published by the Office of the Secretary of Transportation in CFR Part 40.

Fail a Drug Test The confirmation test result shows positive evidence of the presence under DOT procedures of a prohibited drug in an employee's system.

Operator A person who owns or operates pipeline facilities subject to CFR Part 192, 193, or 195.

Pass a Drug Test Initial testing or confirmation testing under DOT procedures does not show evidence of the presence of a prohibited drug in a person's system.

Performs a Covered Function Includes actually performing, ready to perform, or immediately available to perform a covered function.

Positive Rate for Random Drug Testing The number of verified positive results for random drug tests conducted under this Subpart plus the number of refusals of random drug tests required by this Subpart, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this Subpart.

Prohibited Drug Any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act, (21 U.S.C. §812) marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

Refuse to Submit, Refuse, or Refuse to Take Behavior consistent with DOT procedures concerning refusal to take a drug test of refusal to take an alcohol test.

State Agency An agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws. (49 U.S.C. 60101 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

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§6105. DOT Procedures [49 CFR 199.5]

A. The anti-drug and alcohol programs required by this Subpart must be conducted according to the requirements of this Subpart and the DOT procedures. Terms and concepts

used in this Subpart have the same meaning as in the DOT procedures. Violations of DOT procedures with respect to anti-drug and alcohol programs required by this Subpart are violations of this Subpart. [49 CFR 199.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 30:1292 (June 2004).

§6107. Stand-Down Waivers [49 CFR 199.7]

A. Each operator who seeks a waiver under 49 CFR §40.21 from the stand-down restriction must submit an application for waiver in duplicate to the Associate Administrator for Pipeline Safety, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590. [49 CFR 199.7(a)]

B. Each applicant must: [49 CFR 199.7(b)]

1. identify 49 CFR 40.21 as the rule from which the waiver is sought; [49 CFR 199.7(b)(1)]

2. explain why the waiver is requested and describe the employees to be covered by the waiver; [49 CFR 199.7(b)(2)]

3. contain the information required by 49 CFR §40.21 and any other information or arguments to support the waiver requested; and [49 CFR 199.7(b)(3)]

4. unless good cause is shown in the application, be submitted at least 60 days before the proposed effective date of the waiver. [49 CFR 199.7(b)(4)]

C. No public hearing or other proceeding is held directly on an application before its disposition under this Section. If the associate administrator determines that the application contains adequate justification, he or she grants the waiver. If the associate administrator determines that the application does not justify granting the waiver, he or she denies the application. The associate administrator notifies each applicant of the decision to grant or deny an application. [49 CFR 199.7(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1293 (June 2004).

§6109. Preemption of State and Local Laws [49 CFR 199.9]

A. Except as provided in Subsection B of this Section, this Subpart preempts any state or local law, rule, regulation, or order to the extent that: [49 CFR 199.9(a)]

1. compliance with both the state or local requirement and this Subpart is not possible; [49 CFR 199.9(a)(1)]

2. compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement in this Subpart; or [49 CFR 199.9(a)(2)]

3. the state or local requirement is a pipeline safety standard applicable to interstate pipeline facilities. [49 CFR 199.9(a)(3)]

B. This Chapter shall not be construed to preempt provisions of state criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public. [49 CFR 199.9(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:829 (August 1995), amended LR 30:1293 (June 2004).

Chapter 63. Drug Testing [Subpart B] §6300. Purpose [49 CFR 199.100]

A. The purpose of this Chapter is to establish programs designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities subject to 49 CFR Part 192, 193, or 195. [49 CFR 199.100]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:852 (August 1992), amended LR 21:828 (August 1995), LR 30:1293 (June 2004).

§6301. Anti-Drug Plan [49 CFR 199.101]

A. Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this Chapter and the DOT procedures. The plan must contain: [49 CFR 199.101(a)]

1. methods and procedures for compliance with all the requirements of this Chapter, including the employee assistance program; [49 CFR 199.101(a)(1)]

2. the name and address of each laboratory that analyzes the specimens collected for drug testing; and [49 CFR 199.101(a)(2)]

3. the name and address of the operator's medical review officer and, substance abuse professional; and [49 CFR 199.101(a)(3)]

4. procedures for notifying employees of the coverage and provisions of the plan. [49 CFR 199.101(a)(4)]

B. The administrator or the state agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) With respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety. [49 CFR 199.101(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

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§6303. Use of Persons Who Fail or Refuse a Drug Test [49 CFR 199.103]

A. An operator may not knowingly use as an employee any person who: [49 CFR 199.103(a)]

1. fails a drug test required by this Chapter and the medical review officer makes a determination under DOT procedures; or [49 CFR 199.103(a)(1)]

2. refuses to take a drug test required by this Chapter. [49 CFR 199.103(a)(2)]

B. Paragraph A.1 of this Section does not apply to a person who has: [49 CFR 199.103(b)]

1. passed a drug test under DOT procedures; [49 CFR 199.103(b)(1)]

2. been considered by the medical review officer in accordance with DOT procedures and been determined by a substance abuse professional to have successfully completed required education or treatment; and [49 CFR 199.103(b)(2)]

3. not failed a drug test required by this Chapter after returning to duty. [49 CFR 199.103(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 30:1293 (June 2004).

§6305. Drug Tests Required [49 CFR 199.105]

A. Each operator shall conduct the following drug tests for the presence of a prohibited drug. [49 CFR 199.105]

1. Pre-Employment Testing. No operator may hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this Chapter. [49 CFR 199.105(a)]

2. Post-Accident Testing. As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this Paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use. [49 CFR 199.105(b)].

3. Random Testing [49 CFR 199.105(c)].

a. Except as provided in Subparagraph 3.b through d of this Subsection, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees. [49 CFR 199.105(c)(1)]

b. The administrator's decision to increase or decrease the minimum annual percentage rate for random drug testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the drug MIS reports required by this Chapter. In order to ensure reliability of the data, the administrator considers the quality and completeness of the reported data, may obtain additional information or reports from operators, and may make appropriate modifications in calculating the industry positive rate. Each year, the administrator will publish in the *Federal Register* the minimum annual percentage rate for random drug testing of covered employees. The new minimum annual percentage rate for random drug testing will be applicable starting January 1 of the calendar year following publication. [49 CFR 199.105(c)(2)]

c. When the minimum annual percentage rate for random drug testing is 50 percent, the administrator may lower this rate to 25 percent of all covered employees if the administrator determines that the data received under the reporting requirements of §6319 for two consecutive calendar years indicate that the reported positive rate is less than 1 percent. [49 CFR 199.105(c)(3)]

d. When the minimum annual percentage rate for random drug testing is 25 percent, and the data received under the reporting requirements of §6319 for any calendar year indicate that the reported positive rate is equal to or greater than 1 percent, the administrator will increase the minimum annual percentage rate for random drug testing to 50 percent of all covered employees. [49 CFR 199.105(c)(4)]

e. The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' social security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made. [49 CFR 199.105(c)(5)]

f. The operator shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random drug testing determined by the administrator. If the operator conducts random drug testing through a consortium, the number of employees to be tested may be calculated for each individual operator or may be based on the total number of covered employees covered by the consortium who are subject to random drug testing at the same minimum annual percentage rate under this Chapter or any DOT drug testing rule. [49 CFR 199.105(c)(6)]

g. Each operator shall ensure that random drug tests conducted under this Chapter are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year. [49 CFR 199.105(c)(7)]

h. If a given covered employee is subject to random drug testing under the drug testing rules of more than one DOT agency for the same operator, the employee shall be subject to random drug testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the employee's function. [49 CFR 199.105(c)(8)]

i. If an operator is required to conduct random drug testing under the drug testing rules of more than one DOT agency, the operator may: [49 CFR 199.105(c)(9)]

i. establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same required rate; or [49 CFR 199.105(c)(9)(i)]

ii. randomly select such employees for testing at the highest percentage rate established for the calendar year by any DOT agency to which the operator is subject. [49 CFR 199.105(c)(9)(ii)]

4. Testing Based on Reasonable Cause. Each operator shall drug test each employee when there is reasonable cause to believe the employee is using a prohibited drug. The decision to test must be based on a reasonable and articulable belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence between the two supervisors

may be by telephone. However, in the case of operators with 50 or fewer employees subject to testing under this Chapter, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test. [49 CFR 199.105(d)]

5. Return-to-Duty. A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has complied with applicable provisions of DOT procedures concerning substance abuse professionals and the return-to-duty process. [49 CFR 199.105(e)]

6. Follow-Up Testing. A covered employee refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary. [49 CFR 199.105(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

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§6307. Drug Testing Laboratory [49 CFR 199.107]

A. Each operator shall use for the drug testing required by this Chapter only drug testing laboratories certified by the Department of Health and Human Services under the DOT procedures. [49 CFR 199.107(a)]

B. The drug testing laboratory must permit: [49 CFR 199.107(b)]

1. inspections by the operator before the laboratory is awarded a testing contract; and [49 CFR 199.107(b)(1)]

2. unannounced inspections, including examination of records, at any time, by the operator, the administrator, and if the operator is subject to state agency jurisdiction, a representative of that state agency. [49 CFR 199.107(b)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

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§6309. Review of Drug Testing Results

[49 CFR 199.109]

A. MRO Appointment. Each operator shall designate or appoint a medical review officer (MRO). If an operator does not have a qualified individual on staff to serve as MRO, the operator may contract for the provision of MRO services as part of its anti-drug program. [49 CFR 199.109(a)]

B. MRO Qualifications. Each MRO must be a licensed physician who has the qualifications required by DOT procedures. [49 CFR 199.109(b)]

C. MRO Duties. The MRO must perform functions for the operator as required by DOT procedures. [49 CFR 199.109(c)]

D. MRO Reports. The MRO must report all drug test results to the operator in accordance with DOT procedure. [49 CFR 199.109(d)]

E. Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment or costs shall be made in accordance with the operator/employee agreements and operator/employee policies. [49 CFR 199.109(e)]

F. The operator shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This Subsection does not prohibit a substance abuse professional from referring a covered employee for assistance provided through: [49 CFR 199.109(f)]

1. a public agency, such as state, parish, or municipality; [49 CFR 199.109(f)(1)]

2. the operator or a person under contract to provide treatment for drug problems on behalf of the operator; [49 CFR 199.109(f)(2)]

3. the sole source or therapeutically appropriate treatment under the employee's health insurance program; or [49 CFR 199.109(f)(3)]

4. the sole source of therapeutically appropriate treatment reasonably accessible to the employee. [49 CFR 199.109(f)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:135 (February 1990), repromulgated LR 16:534 (June 1990), amended LR 27:1554 (September 2001), LR 30:1295 (June 2004).

§6311. Retention of Samples and Additional Testing [49 CFR 199.111]

A. Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT procedures. Within this 365-day period, the employee or his representative, the operator, the administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period. [49 CFR 199.111(a)]

B. If the medical review officer (MRO) determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, and if timely additional testing is requested by the employee according to DOT procedures, the split specimen must be tested. The employee may specify testing by the original laboratory that is certified by the Department of

Health and Hospitals. The operator may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the sample, but the employee must be reimbursed for such expense if the additional test is negative. [49 CFR 199.111(b)]

C. If the employee specifies testing by a second laboratory, the original laboratory must follow approved chain-of-custody procedures in transferring a portion of the sample. [49 CFR 199.111(c)]

D. Since some analytes may deteriorate during storage, detected levels of the drug below the detection limits established in the DOT procedures, but equal to or greater than the established sensitivity of the assay, must, as technically appropriate, be reported and considered corroborative of the original positive results. [49 CFR 199.111(d)]

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February 1990), repromulgated LR 16:535 (June 1990), amended LR 21:827 (August 1995), LR 27:1555 (September 2001), LR 30:1295 (June 2004).

§6313. Employee Assistance Program [49 CFR 199.113]

A. Each operator shall provide an employee assistance program (EAP) for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. The operator may establish the EAP as a part of its internal personnel services or the operator may contract with an entity that provides EAP services. Each EAP must include education and training on drug use. At the discretion of the operator, the EAP may include an opportunity for employee rehabilitation. [49 CFR 199.113(a)]

B. Education under each EAP must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the employer's policy regarding the use of prohibited drugs. [49 CFR 199.113(b)]

C. Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use. [49 CFR 199.113(c)]

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February 1990), repromulgated LR 16:535 (June 1990), amended LR 30:1296 (June 2004).

§6315. Contractor Employees [49 CFR 199.115]

A. With respect to those employees who are contractors or employed by a contractor, an operator may provide by contract that the drug testing, education, and training required by this Chapter be carried out by the contractor provided: [49 CFR 199.115]

1. the operator remains responsible for ensuring that the requirements of this Chapter are complied with; and [49 CFR 199.115(a)]

2. the contractor allows access to property and records by the operator, the administrator, and if the operator is

subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirements of this Chapter. [49 CFR 199.115(b)]

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:751-757.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 16:136 (February 1990), repromulgated LR 16:535 (June 1990), amended LR 30:1296 (June 2004).

§6317. Recordkeeping [49 CFR 199.117]

A. Each operator shall keep the following records for the periods specified and permit access to the records as provided by Subsection B of this Section. [49 CFR 199.117(a)]

1. Records that demonstrate the collection process conforms to this Chapter must be kept for at least three years. [49 CFR 199.117(a)(1)]

2. Records of employee drug test that indicate a verified positive result, records that demonstrate compliance with the recommendations of a substance abuse professional, and MIS annual report data shall be maintained for a minimum of five years: [49 CFR 199.117(a)(2)]

a. the function performed by each employee who had a positive drug test; [49 CFR 199.117(a)(2)(i)]

b. the prohibited drugs which were used by an employee who had a positive drug test; [49 CFR 199.117(a)(2)(ii)]

c. the disposition of each employee who had a positive drug test or refused a drug test (e.g., termination, rehabilitation, removed from covered function, other). [49 CFR 199.117(a)(2)(iii)]

3. Records of employee drug test results that show employees passed a drug test must be kept for at least one year. [49 CFR 199.117(a)(3)]

4. Records confirming that supervisors and employees have been trained as required by this Chapter must be kept for at least three years. [49 CFR 199.117(a)(4)]

B. Information regarding an individual's drug testing results or rehabilitation must be released upon written consent of the individual and as provided by DOT procedures. Statistical data related to drug testing and rehabilitation that is not name-specific and training records must be made available to the administrator or the representative of a state agency upon request. [49 CFR 199.117(b)]

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:751-757.

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§6319. Reporting of Anti-Drug Testing Results [49 CFR 199.25]

A. Each large operator (having more than 50 covered employees) shall submit an annual MIS report to RSPA of its anti-drug testing using the Management Information System (MIS) form and instructions as required by 49 CFR Part 40 (at 40.25 and Appendix H to Part 40), not later than March 15 of each year for the prior calendar year (January 1-December 31). The administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to

prepare and submit such reports to RSPA. [49 CFR 199.119(a)]

B. Each report, required under this Section, shall be submitted to the Office of Pipeline Safety Compliance (OPS), Research and Special Programs Administration, Department of Transportation, Room 2103, 400 Seventh Street, SW, Washington, DC 20590. The operator may submit a paper report or data electronically using the version of the MIS form provided by DOT. This electronic version of the form can be accessed via the Internet at the following Office of Pipeline Safety web address: <http://ops.dot.gov/drug.htm>. [49 CFR 199.119(b)]

C. To calculate the total number of covered employees eligible for random testing throughout the year, as an operator, you must add the total number of covered employees eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in an employer's random testing pool, and all covered employees must be in the random pool. If you are an employer conducting random testing more often than once per month (e.g., you select daily, weekly, bi-weekly), you do not need to compute this total number of covered employees rate more than on a once per month basis. [49 CFR 199.119(c)]

D. As an employer, you may use a service agent (e.g., C/TPA) to perform random selections for you; and your covered employees may be part of a larger random testing pool of covered employees. However, you must ensure that the service agent you use is testing at the appropriate percentage established for your industry and that only covered employees are in the random testing pool. [49 CFR 199.119(d)]

E. Each operator that has a covered employee who performs multi-DOT agency functions (e.g., an employee performs pipeline maintenance duties and drives a commercial motor vehicle), count the employee only on the MIS report for the DOT agency under which he or she is randomly tested. Normally, this will be the DOT agency under which the employee performs more than 50 percent of his or her duties. Operators may have to explain the testing data for these employees in the event of a DOT agency inspection or audit. [49 CFR 199.119(e)]

F. A service agent (e.g., Consortia/Third Party Administrator as defined in 49 CFR Part 40) may prepare the MIS report on behalf of an operator. However, each report shall be certified by the operator's anti-drug manager or designated representative for accuracy and completeness. [49 CFR 199.119(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:828 (August 1995), amended LR 30:1296 (June 2004).

Chapter 65. Alcohol Misuse Prevention Program **[Subpart C]**

§6501. Purpose [49 CFR 199.200]

A. The purpose of this Chapter is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol by employees who perform covered functions for operators of certain pipeline facilities

subject to LAC 43:XIII, and LAC 33:V Subpart 3 [Parts 192, 193, or 195]. [49 CFR 199.200]

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:828 (August 1995), amended LR 30:1297 (June 2004).

§6502. Alcohol Misuse Plan [49 CFR 199.202]

A. Each operator must maintain and follow a written alcohol misuse plan that conforms to the requirements of this part and DOT procedures concerning alcohol testing programs. The plan shall contain methods and procedures for compliance with all the requirements of this Chapter, including required testing, recordkeeping, reporting, education and training elements. [49 CFR 199.202]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:828 (August 1995), amended LR 30:1297 (June 2004).

§6509. Other Requirements Imposed by Operators **[49 CFR 199.209]**

A. Except as expressly provided in this Chapter, nothing in this Chapter shall be construed to affect the authority of operators, or the rights of employees, with respect to the use or possession of alcohol, including authority and rights with respect to alcohol testing and rehabilitation. [49 CFR 199.209(a)]

B. Operators may, but are not required to, conduct pre-employment alcohol testing under this Subpart. Each operator that conducts pre-employment alcohol testing must: [49 CFR 199.209(b)]

1. conduct a pre-employment alcohol test before the first performance of covered functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of covered functions); [49 CFR 199.209(b)(1)]

2. treat all covered employees the same for the purpose of pre-employment alcohol testing (i.e., you must not test some covered employees and not others); [49 CFR 199.209(b)(2)]

3. conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test; [49 CFR 199.209(b)(3)]

4. conduct all pre-employment alcohol tests using the alcohol testing procedures in DOT procedures; and [49 CFR 199.209(b)(4)]

5. not allow any covered employee to begin performing covered functions unless the results of the employee's test indicates an alcohol concentration of less than 0.04. [49 CFR 199.209(b)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:829 (August 1995), amended LR 30:1297 (June 2004).

§6511. Requirement for Notice [49 CFR 199.211]

A. Before performing an alcohol test under this Chapter, each operator shall notify a covered employee that the alcohol test is required by this Chapter. No operator shall

falsely represent that a test is administered under this Chapter. [49 CFR 199.211]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:830 (August 1995), amended LR 30:1297 (June 2004).

§6515. Alcohol Concentration [49 CFR 199.215]

A. Each operator shall prohibit a covered employee from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. No operator having actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater shall permit the employee to perform or continue to perform covered functions. [49 CFR 199.215]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:830 (August 1995), amended LR 30:1298 (June 2004).

§6517. On-Duty Use [49 CFR 199.217]

A. Each operator shall prohibit a covered employee from using alcohol while performing covered functions. No operator having actual knowledge that a covered employee is using alcohol while performing covered functions shall permit the employee to perform or continue to perform covered functions. [49 CFR 199.217]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:830 (August 1995), amended LR 30:1298 (June 2004).

§6519. Pre-Duty Use [49 CFR 199.219]

A. Each operator shall prohibit a covered employee from using alcohol within four hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. No operator having actual knowledge that a covered employee has used alcohol within four hours prior to performing covered functions or within the time period after the employee has been notified to report for duty shall permit that covered employee to perform or continue to perform covered functions. [49 CFR 199.219]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:830 (August 1995), amended LR 30:1298 (June 2004).

§6521. Use Following an Accident [49 CFR 199.221]

A. Each operator shall prohibit a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not been discounted by the operator as a contributing factor to the accident from using alcohol for eight hours following the accident, unless he or she has been given a post-accident test under §6525.A, or the operator has determined that the employee's performance could not have contributed to the accident. [49 CFR 199.221]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:830 (August 1995), amended LR 30:1298 (June 2004).

§6523. Refusal to Submit to a Required Alcohol Test [49 CFR 199.223]

A. Each operator shall require a covered employee to submit to a post-accident alcohol test required under §6525.A.1, a reasonable suspicion alcohol test required under §6525.A.2, or a follow-up alcohol test required under §6525.A.4. No operator shall permit an employee who refuses to submit to such a test to perform or continue to perform covered functions. [49 CFR 199.223]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:830 (August 1995), amended LR 30:1298 (June 2004).

§6525. Alcohol Tests Required [49 CFR 199.225]

A. Each operator shall conduct the following types of alcohol tests for the presence of alcohol. [49 CFR 199.225]

1. Post-Accident [49 CFR 199.225(a)]

a. As soon as practicable following an accident, each operator shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this Section shall be based on the operator's determination, using the best available information at the time of the determination, that the covered employee's performance could not have contributed to the accident. [49 CFR 199.225(a)(1)]

b. If a test required by this Section is not administered within two hours following the accident, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by Paragraph A.1 is not administered within eight hours following the accident, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. [49 CFR 199.225(a)(2)(i)]

c. A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the operator or operator representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the operator to have refused to submit to testing. Nothing in this Section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. [49 CFR 199.225(a)(3)]

2. Reasonable Suspicion Testing [49 CFR 199.225(b)]

a. Each operator shall require a covered employee to submit to an alcohol test when the operator has reasonable suspicion to believe that the employee has violated the prohibitions in this Chapter. [49 CFR 199.225(b)(1)]

b. The operator's determination that reasonable suspicion exists to require the covered employee to undergo an alcohol test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms of alcohol misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on that employee. [49 CFR 199.225(b)(2)]

c. Alcohol testing is authorized by this Section only if the observations required by Subparagraph 2.b of this Section are made during, just preceding, or just after the period of the work day that the employee is required to be in compliance with this Chapter. A covered employee may be directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions. [49 CFR 199.225(b)(3)]

d.i. If a test required by this Section is not administered within two hours following the determination under Subparagraph 2.b of this Section, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this Section is not administered within eight hours following the determination under Subparagraph 2.b of this Section, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Records shall be submitted to RSPA upon request of the administrator. [49 CFR 199.225(b)(4)(i)]

ii. Reserved.

iii. Notwithstanding the absence of a reasonable suspicion alcohol test under this Section, an operator shall not permit a covered employee to report for duty or remain on duty requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall an operator permit the covered employee to perform or continue to perform covered functions, until: [49 CFR 199.225(b)(4)(iii)]

(a). an alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or [49 CFR 199.225(b)(4)(iii)(A)]

(b). the start of the employee's next regularly scheduled duty period, but not less than eight hours following the determination under Subparagraph 2.b of this Section that there is reasonable suspicion to believe that the employee has violated the prohibitions in this Chapter. [49 CFR 199.225(b)(4)(iii)(B)]

iv. Except as provided in Clause 2.d.ii, no operator shall take any action under this Chapter against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. This does not prohibit an operator with the authority independent of this Chapter from taking any action otherwise consistent with law. [49 CFR 199.225(b)(4)(iv)]

3. Return-to-Duty Testing. Each operator shall ensure that before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§6515-6523, the employee shall undergo a

return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. [49 CFR 199.225(c)]

4. Follow-Up Testing [49 CFR 199.225(d)]

a. Following a determination under §6543 that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, each operator shall ensure that the employee is subject to unannounced follow-up alcohol testing as directed by a substance abuse professional in accordance with the provisions of §6543.C.2.b. [49 CFR 199.225(d)(1)]

b. Follow-up testing shall be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions. [49 CFR 199.225(d)(2)]

5. Retesting of Covered Employees with an Alcohol Concentration of 0.02 or Greater but Less Than 0.04. Each operator shall retest a covered employee to ensure compliance with the provisions of §6537, if an operator chooses to permit the employee to perform a covered function within eight hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04. [49 CFR 199.225(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

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§6527. Retention of Records [49 CFR 199.227]

A. General Requirement. Each operator shall maintain records of its alcohol misuse prevention program as provided in this Section. The records shall be maintained in a secure location with controlled access. [49 CFR 199.227(a)]

B. Period of Retention. Each operator shall maintain the records in accordance with the following schedule. [49 CFR 199.227(b)]

1. Five Years. Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required alcohol tests, calibration documentation, employee evaluation and referrals, and MIS annual report data shall be maintained for a minimum of five years. [49 CFR 199.227(b)(1)]

2. Two Years. Records related to the collection process (except calibration of evidential breath testing devices), and training shall be maintained for a minimum of two years. [49 CFR 199.227(b)(2)]

3. One Year. Records of all test results below 0.02 (as defined in 49 CFR Part 40) shall be maintained for a minimum of one year. [49 CFR 199.227(b)(3)]

C. Types of Records. The following specific records shall be maintained: [49 CFR 199.227(c)]

1. records related to the collection process: [49 CFR 199.227(c)(1)]

a. collection log books, if used; [49 CFR 199.227(c)(1)(i)]

b. calibration documentation for evidential breath testing devices; [49 CFR 199.227(c)(1)(ii)]

c. documentation of breath alcohol technician training; [49 CFR 199.227(c)(1)(iii)]

d. documents generated in connection with decisions to administer reasonable suspicion alcohol tests; [49 CFR 199.227(c)(1)(iv)]

e. documents generated in connection with decisions on post-accident tests; [49 CFR 199.227(c)(1)(v)]

f. documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing; [49 CFR 199.227(c)(1)(vi)]

2. records related to test results: [49 CFR 199.227(c)(2)]

a. the operator's copy of the alcohol test form, including the results of the test; [49 CFR 199.227(c)(2)(i)]

b. documents related to the refusal of any covered employee to submit to an alcohol test required by this Chapter; [49 CFR 199.227(c)(2)(ii)]

c. documents presented by a covered employee to dispute the result of an alcohol test administered under this Chapter; [49 CFR 199.227(c)(2)(iii)]

3. records related to other violations of this chapter; [49 CFR 199.227(c)(3)]

4. records related to evaluations: [49 CFR 199.227(c)(4)]

a. records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance; [49 CFR 199.227(c)(4)(i)]

b. records concerning a covered employee's compliance with the recommendations of the substance abuse professional; [49 CFR 199.227(c)(4)(ii)]

5. records related to the operator's MIS annual testing data; [49 CFR 199.227(c)(5)]

6. records related to education and training: [49 CFR 199.227(c)(6)]

a. materials on alcohol misuse awareness, including a copy of the operator's policy on alcohol misuse; [49 CFR 199.227(c)(6)(i)]

b. documentation of compliance with the requirements of §3335; [49 CFR 199.227(c)(6)(ii)]

c. documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion; [49 CFR 199.227(c)(6)(iii)]

d. certification that any training conducted under this Chapter complies with the requirements for such training. [49 CFR 199.227(c)(6)(iv)]

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:832 (August 1995), amended LR 30:1299 (June 2004).

§6529. Reporting of Alcohol Testing Results **[49 CFR 199.229]**

A. Each large operator (having more than 50 covered employees) shall submit an annual (MIS) report to RSPA of its alcohol testing results using the Management Information System (MIS) form and instructions as required by 49 CFR Part 40 (at §40.25 and Appendix H to Part 40), not later than March 15 of each year for the previous calendar year (January 1-December 31). The administrator may require by written notice that small operators (50 or fewer covered employees), not otherwise required to submit annual MIS reports, submit such a report to RSPA. [49 CFR 199.229(a)]

B. Each operator that has a covered employee who performs multi-DOT agency functions (e.g., an employee performs pipeline maintenance duties and drives a commercial motor vehicle), count the employee only on the MIS report for the DOT agency under which he or she is tested. Normally, this will be the DOT agency under which the employee performs more than 50 percent of his or her duties. Operators may have to explain the testing data for these employees in the event of a DOT agency inspection or audit. [49 CFR 199.229(b)]

C. Each report, required under this Section, shall be submitted to the Office of Pipeline Safety Compliance (OPS), Research and Special Programs Administration, Department of Transportation, Room 2335, 400 Seventh Street, SW, Washington, DC 20590. The operator may report data electronically using the version of the MIS form provided by DOT. This form can be accessed via the Internet at the following Office of Pipeline Safety web address: <http://ops.dot.gov/drug.htm>. [49 CFR 199.229(c)]

D. A service agent (e.g., Consortia/Third Party Administrator as defined in Part 40) may prepare the MIS report on behalf of an operator. However, each report shall be certified by the operator's anti-drug manager or designated representative for accuracy and completeness. [49 CFR 199.229(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

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§6531. Access to Facilities and Records **[49 CFR 199.231]**

A. Except as required by law or expressly authorized or required in this Chapter, no employer shall release covered employee information that is contained in records required to be maintained in §6527. [49 CFR 199.231(a)]

B. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests. The operator shall promptly provide the records requested by the employee. Access to a employee's records shall not be contingent upon payment for records other than those specifically requested. [49 CFR 199.231(b)]

C. Each operator shall permit access to all facilities utilized in complying with the requirements of this Chapter to the secretary of transportation, any DOT agency, or a representative of a state agency with regulatory authority over the operator. [49 CFR 199.231(c)]

D. Each operator shall make available copies of all results for employer alcohol testing conducted under this Chapter and any other information pertaining to the operator's alcohol misuse prevention program, when requested by the secretary of transportation, any DOT agency with regulatory authority over the operator, or a representative of a state agency with regulatory authority over the operator. The information shall include name-specific alcohol test results, records, and reports. [49 CFR 199.231(d)]

E. When requested by the National Transportation Safety Board as part of an accident investigation, an operator shall disclose information related to the operator's administration

of any post-accident alcohol tests administered following the accident under investigation. [49 CFR 199.231(e)]

F. An operator shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee's written request. [49 CFR 199.231(f)]

G. An operator may disclose information without employee consent as provided by DOT procedures concerning certain legal proceedings. [49 CFR 199.231(g)]

H. An operator shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent. [49 CFR 199.231(h)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:833 (August 1995), amended LR 30:1300 (June 2004).

§6533. Removal from Covered Function
[49 CFR 199.233]

A. Except as provided in §§6539-6543, no operator shall permit any covered employee to perform covered functions if the employee has engaged in conduct prohibited by §§6515 through 6523 or an alcohol misuse rule of another DOT agency. [49 CFR 199.233]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:834 (August 1995), amended LR 30:1301 (June 2004).

§6535. Required Evaluation and Testing
[49 CFR 199.235]

A. No operator shall permit a covered employee who has engaged in conduct prohibited by §§6515-6523 to perform covered functions unless the employee has met the requirements of §6543. [49 CFR 199.235]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:834 (August 1995), amended LR 30:1301 (June 2004).

§6537. Other Alcohol-Related Conduct
[49 CFR 199.237]

A. No operator shall permit a covered employee tested under the provisions of §6525, who is found to have an alcohol concentration of 0.02 or greater but less than 0.04, to perform or continue to perform covered functions, until: [49 CFR 199.237(a)]

1. the employee's alcohol concentration measures less than 0.02 in accordance with a test administered under §6525.A.5; or [49 CFR 199.237(a)(1)]

2. the start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test. [49 CFR 199.237(a)(2)]

B. Except as provided in Subsection A of this Section, no operator shall take any action under this Chapter against an

employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an operator with authority independent of this Chapter from taking any action otherwise consistent with law. [49 CFR 199.237(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

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§6539. Operator Obligation to Promulgate a Policy on the Misuse of Alcohol [49 CFR 199.239]

A. General Requirements. Each operator shall provide educational materials that explain these alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements. [49 CFR 199.239(a)]

1. The operator shall ensure that a copy of these materials is distributed to each covered employee prior to start of alcohol testing under this Chapter, and to each person subsequently hired for or transferred to a covered position. [49 CFR 199.239(a)(1)]

2. Each operator shall provide written notice to representatives of employee organizations of the availability of this information. [49 CFR 199.239(a)(2)]

B. Required Content. The materials to be made available to covered employees shall include detailed discussion of at least the following: [49 CFR 199.239(b)]

1. the identity of the person designated by the operator to answer covered employee questions about the materials; [49 CFR 199.239(b)(1)]

2. the categories of employees who are subject to the provisions of this Chapter; [49 CFR 199.239(b)(2)]

3. sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with this Chapter; [49 CFR 199.239(b)(3)]

4. specific information concerning covered employee conduct that is prohibited by this Chapter; [49 CFR 199.239(b)(4)]

5. the circumstances under which a covered employee will be tested for alcohol under this Chapter; [49 CFR 199.239(b)(5)]

6. the procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee; [49 CFR 199.239(b)(6)]

7. the requirement that a covered employee submit to alcohol tests administered in accordance with this Chapter; [49 CFR 199.239(b)(7)]

8. an explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences; [49 CFR 199.239(b)(8)]

9. the consequences for covered employees found to have violated the prohibitions under this Chapter, including the requirement that the employee be removed immediately from covered functions, and the procedures under §6543; [49 CFR 199.239(b)(9)]

10. the consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04; [49 CFR 199.239(b)(10)]

11. information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management. [49 CFR 199.239(b)(11)]

C. Optional Provisions. The materials supplied to covered employees may also include information on additional operator policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the operator's authority independent of this Chapter. Any such additional policies or consequences shall be clearly described as being based on independent authority. [49 CFR 199.239(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:834 (August 1995), amended LR 30:1301 (June 2004).

§6541. Training for Supervisors [49 CFR 199.241]

A. Each operator shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under §6525.A.2 receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. [49 CFR 199.241]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:834 (August 1995), amended LR 30:1302 (June 2004).

§6543. Referral, Evaluation, and Treatment [49 CFR 199.243]

A. Each covered employee who has engaged in conduct prohibited by §§6515-6523 of this Chapter shall be advised of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. [49 CFR 199.243(a)]

B. Each covered employee who engages in conduct prohibited under §§6515-6523 shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse. [49 CFR 199.243(b)]

C.1. Before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§6515-6523 of this Chapter, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. [49 CFR 199.243(c)(1)]

2. In addition, each covered employee identified as needing assistance in resolving problems associated with alcohol misuse: [49 CFR 199.243(c)(2)]

a. shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed under Subsection B of this Section, and [49 CFR 199.243(c)(2)(i)]

b. shall be subject to unannounced follow-up alcohol tests administered by the operator following the employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the employee's return to duty. In addition, follow-up testing may include testing for drugs, as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary. [49 CFR 199.243(c)(2)(ii)]

D. Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment of costs shall be made in accordance with the operator/employee agreements and operator/employee policies. [49 CFR 199.243(d)]

E. The operator shall ensure that a substance abuse professional who determines that a covered employee requires assistance in resolving problems with alcohol misuse does not refer the employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This Subsection does not prohibit a substance abuse professional from referring an employee for assistance provided through: [49 CFR 199.243(e)]

1. a public agency, such as a state, county, or municipality; [49 CFR 199.243(e)(1)]

2. the operator or a person under contract to provide treatment for alcohol problems on behalf of the operator; [49 CFR 199.243(e)(2)]

3. the sole source of therapeutically appropriate treatment under the employee's health insurance program; or [49 CFR 199.243(e)(3)]

4. the sole source of therapeutically appropriate treatment reasonably accessible to the employee. [49 CFR 199.243(e)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:835 (August 1995), amended LR 30:1302 (June 2004).

§6545. Contractor Employees [49 CFR 199.245]

A. With respect to those covered employees who are contractors or employed by a contractor, an operator may provide by contract that the alcohol testing, training and education required by this Chapter be carried out by the contractor provided: [49 CFR 199.245(a)]

1. the operator remains responsible for ensuring that the requirements of this Chapter and 49 CFR Part 40 are complied with; and [49 CFR 199.245(b)]

2. the contractor allows access to property and records by the operator, the administrator, any DOT agency with regulatory authority over the operator or covered employee, and, if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purposes

of monitoring the operator's compliance with the requirements of this Chapter and 49 CFR Part 40. [49 CFR 199.245(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:835 (August 1995), amended LR 30:1302 (June 2004).

James H. Welsh
Commissioner

0406#041

RULE

**Department of Public Safety and Corrections
Board of Private Investigator Examiners**

Committees (LAC 46:LVII.109)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505.B.(1), the Louisiana Department of Public Safety and Corrections, Louisiana State Board of Private Investigator Examiners, hereby amends Part LVII of Title 46, amending Chapter 1, §109 by repealing §109.A.3, deleting the Ethics Committee as a standing committee of the Louisiana State Board of Private Investigator Examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LVII. Private Investigator Examiners

**Chapter 1. Organizational and General Provisions
§109. Committees**

A. Standing committees of the board are:

1. General Committee, whose duties include special projects authorized by the chair; and

2. Finance Committee, whose duties include periodic review of the budget, recommendations regarding the establishment of fees charged by the board, and recommendations to the board regarding all expenditures in excess of \$500.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3505(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 19:1332 (October 1993), amended LR 30:1303 (June 2004).

A. Edward Hardin
Chairman

0406#048

RULE

**Department of Public Safety and Corrections
Office of the State Fire Marshal**

Fire Codes (LAC 55:V.103 and 303)

In accordance with the provisions of R.S. 49:950, et seq. and R.S. 40:1563.F, relative to the authority of the State Fire

Marshal to promulgate and enforce Rules, the Office of the State Fire Marshal amends the following Rule.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 1. Preliminary Provisions

§103. General Provisions

A. It shall be the policy of the State Fire Marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the State Fire Marshal, that the *Standard Building Code* published by the Southern Building Code Congress International, and the *International Building Code* published by the International Code Council, and the *National Fire Codes* published by the National Fire Protection Association as specifically identified in the following list, shall be used as the resource materials for determinations by the State Fire Marshal.

NFPA 1	2003 Edition	Uniform Fire Code
NFPA 10	2002 Edition	Standard for Portable Fire Extinguishers
NFPA 11	2002 Edition	Standard for Low-, Medium-, and High-Expansion Foam
NFPA 12	2000 Edition	Standard on Carbon Dioxide Extinguishing Systems
NFPA 12A	1997 Edition	Standard on Halon 1301 Fire Extinguishing Systems
NFPA 13	2002 Edition	Standard for the Installation of Sprinkler Systems
NFPA 13D	2002 Edition	Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
NFPA 13R	2002 Edition	Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height
NFPA 14	2003 Edition	Standard for the Installation of Standpipe and Hose Systems
NFPA 15	2001 Edition	Standard for Water Spray Fixed Systems for Fire Protection
NFPA 16	2003 Edition	Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems
NFPA 17	2002 Edition	Standard for Dry Chemical Extinguishing Systems
NFPA 17A	2002 Edition	Standard for Wet Chemical Extinguishing Systems
NFPA 18	1995 Edition	Standard on Wetting Agents
NFPA 20	1999 Edition	Standard for the Installation of Stationary Pumps for Fire Protection
NFPA 22	2003 Edition	Standard for Water Tanks for Private Fire Protection
NFPA 25	2002 Edition	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems
NFPA 30	2000 Edition	Flammable and Combustible Liquids Code
NFPA 30A	2000 Edition	Code for Motor Fuel Dispensing Facilities and Repair Garages
NFPA 30B	2002 Edition	Code for the Manufacture and Storage of Aerosol Products
NFPA 31	2001 Edition	Standard for the Installation of Oil-Burning Equipment
NFPA 32	2000 Edition	Standard for Drycleaning Plants
NFPA 33	2000 Edition	Standard for Spray Application Using Flammable or Combustible Materials

NFPA 34	2000 Edition	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids
NFPA 37	2002 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 42	2002 Edition	Code for the Storage of Pyroxylin Plastic
NFPA 45	2000 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 49	1994 Edition	Standard on Fire Protection for Laboratories Using Chemicals
NFPA 50	2001 Edition	Standard for Bulk Oxygen Systems at Consumer Sites
NFPA 50A	1999 Edition	Standard for Gaseous Hydrogen Systems at Consumer Sites
NFPA 50B	1999 Edition	Standard for Liquefied Hydrogen Systems at Consumer Sites
NFPA 51	2002 Edition	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 51B	1999 Edition	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work
NFPA 52	2002 Edition	Compressed Natural Gas (CNG) Vehicular Fuel Systems Code
NFPA 53	1999 Edition	Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres
NFPA 54	2002 Edition	ANSI Z223.1-2002 National Fuel Gas Code
NFPA 55	2003 Edition	Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks
NFPA 57	2002 Edition	Liquefied Natural Gas (LNG) Vehicular Fuel Systems Code
NFPA 58	2001 Edition	Liquefied Petroleum Gas Code
NFPA 59A	2001 Edition	Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)
NFPA 61	2002 Edition	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities
NFPA 68	2002 Edition	Guide for Venting of Deflagrations
NFPA 69	2002 Edition	Standard on Explosion Prevention Systems
NFPA 70	2002 Edition	National Electrical Code
NFPA 72	2002 Edition	National Fire Alarm Code
NFPA 80	1999 Edition	Standard for Fire Doors and Fire Windows
NFPA 82	1999 Edition	Standard on Incinerators and Waste and Linen Handling Systems and Equipment
NFPA 88A	2002 Edition	Standard for Parking Structures
NFPA 88B	1997 Edition	Standard for Repair Garages
NFPA 90A	2002 Edition	Standard for the Installation of Air-Conditioning and Ventilating Systems
NFPA 90B	2002 Edition	Standard for the Installation of Warm Air Heating and Air-Conditioning Systems
NFPA 92A	2000 Edition	Recommended Practice for Smoke-Control Systems
NFPA 92B	2000 Edition	Guide for Smoke Management Systems in Malls, Atria, and Large Areas
NFPA 96	2001 Edition	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations
NFPA 99	2002 Edition	Standard for Health Care Facilities
NFPA 99B	2002 Edition	Standard for Hypobaric Facilities

NFPA 101	2003 Edition	Life Safety Code
NFPA 101A	2001 Edition	Guide on Alternative Approaches to Life Safety
NFPA 102	1995 Edition	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures
NFPA 105	2003 Edition	Standard for the Installation of Smoke Door Assemblies
NFPA 110	2002 Edition	Standard for Emergency and Standby Power Systems
NFPA 111	2001 Edition	Standard on Stored Electrical Energy Emergency and Standby Power Systems
NFPA 140	1999 Edition	Standard on Motion Picture and Television Production Studio Soundstages and Approved Production Facilities
NFPA 150	2000 Edition	Standard on Fire Safety in Racetrack Stables
NFPA 160	2001 Edition	Standard for Flame Effects Before an Audience
NFPA 170	2002 Edition	Standard for Fire Safety Symbols
NFPA 204	2002 Edition	Standard for Smoke and Heat Venting
NFPA 211	2003 Edition	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances
NFPA 220	1999 Edition	Standard on Types of Building Construction
NFPA 221	2000 Edition	Standard for Fire Walls and Fire Barrier Walls
NFPA 230	2003 Edition	Standard for the Fire Protection of Storage
NFPA 231D	1994 Edition	Standard for Storage of Rubber Tires
NFPA 303	2000 Edition	Fire Protection Standard for Marinas and Boatyards
NFPA 307	2000 Edition	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves
NFPA 407	2001 Edition	Standard for Aircraft Fuel Servicing
NFPA 409	2001 Edition	Standard on Aircraft Hangars
NFPA 415	2002 Edition	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways
NFPA 418	2001 Edition	Standard for Heliports
NFPA 430	2000 Edition	Code for the Storage of Liquid and Solid Oxidizers
NFPA 432	2002 Edition	Code for the Storage of Organic Peroxide Formulations
NFPA 434	2002 Edition	Code for the Storage of Pesticides
NFPA 484	2002 Edition	Standard for Combustible Metals, Metal Powders, and Metal Dusts
NFPA 490	2002 Edition	Code for the Storage of Ammonium Nitrate
NFPA 495	2001 Edition	Explosive Materials Code
NFPA 513	1998 Edition	Standard for Motor Freight Terminals
NFPA 654	2000 Edition	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids
NFPA 664	2002 Edition	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities
NFPA 701	1999 Edition	Standard Methods of Fire Tests for Flame Propagation of Textiles and Films
NFPA 703	2000 Edition	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials
NFPA 750	2003 Edition	Standard on Water Mist Fire Protection Systems

NFPA 801	2003 Edition	Standard for Fire Protection For Facilities Handling Radioactive Materials
NFPA 820	1999 Edition	Standard for Fire Protection in Wastewater Treatment and Collection Facilities
NFPA 901	2001 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 902	1997 Edition	Fire Reporting Field Incident Guide
NFPA 903	1996 Edition	Fire Reporting Property Survey
NFPA 904	1996 Edition	Incident Follow-up Report Guide
NFPA 906	1998 Edition	Guide for Fire Incident Field Notes
NFPA 909	2001 Edition	Code for the Protection of Cultural Resources
NFPA 914	2001 Edition	Code for Fire Protection of Historic Structures
NFPA 1031	1998 Edition	Professional Qualifications for Fire Inspector and Plan Examiner
NFPA 1123	2000 Edition	Code for Fireworks Display
NFPA 1124	2003 Edition	Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles
NFPA 1126	2001 Edition	Standard for the Use of Pyrotechnics before a Proximate Audience
NFPA 1221	2002 Edition	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems
NFPA 1402	2002 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	2002 Edition	Standard on Live Fire Training Evolutions
NFPA 2001	2000 Edition	Standard on Clean Agent Fire Extinguishing Systems
NFPA 8501	1997 Edition	Standard for Single Burner Boiler Operation
NFPA 8502	1999 Edition	Standard for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers

B. All inspections and other evaluations of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal for review shall be made utilizing new construction requirements set forth in the *Life Safety Code* published by the National Fire Protection Association and the 'Special Provisions for High-Rise Buildings' Section of the *Standard Building Code* published by the Southern Building Code Congress International as follows.

Building Constructed or Remodeled	Life Safety Code Edition	Section / Standard Building Code Edition	Sections / International Building Code Edition
prior to 1/1/1975	1967	-	-
1/1/1975 to 12/31/1979	1973	518 / 1974 Chapter 4 revisions to 1973	-
1/1/1980 to 8/31/1981	1976	518 / 1974 Chapter 4 revisions to 1973	-
9/1/1981 to 8/31/1986	1981	506 / 1979	-
9/1/1986 to 2/18/1989	1985	506 / 1985	-
2/19/1989 to 5/31/1992	1988	506 / 1985	-
6/1/1992 to 1/4/1995	1991	506 / 1988	-
1/5/1995 to 5/31/1998	1994	506 / 1991	-
6/1/1998 to 6/30/2001	1997	412 / 1994	-
7/1/2001 to 12/31/2001	2000	412 / 1994	-
1/1/2002 to 6/30/2004	2000	412 / 1997	-
after 6/30/2004	2003	-	-

C. All references to performance based criteria in the *Life Safety Code* shall only be considered by the Office of

State Fire Marshal after an appeal of a decision has been timely made.

D. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:857 (June 2001), LR 2257 (December 2001), repromulgated LR 29:183 (February 2003), amended LR 30:1303 (June 2004).

Chapter 3. Buildings

§303. Plans and Specifications for New Buildings

A. As of July 1, 2004, the plans and specifications for every structure built or remodeled in the state of Louisiana must be drawn in accordance with the requirements of the 2003 Edition of the *Life and Safety Code* (excluding Chapter 5 and all TIA's) of the National Fire Protection Association. Chapter 5, Performance Based Option, may be used as a basis for appeal equivalency determinations.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July 1981), LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:116 (February 1986), LR 15:96 (February 1989), LR 17:1115 (November 1991), LR 23:1692 (December 1997), amended LR 30:1305 (June 2004).

V. J. Bella
State Fire Marshal

0406#022

RULE

Department of Revenue Policy Services Division

Cleaning Services (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4301 relative to the definition of cleaning services for sales tax purposes.

Revised Statute 47:301(14)(e) defines *sales of services* to include "The furnishing of laundry, cleaning, pressing and dyeing services, including by way of extension and not of limitation, the cleaning and renovation of clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for clothing, furs and rugs." In *Intracoastal Pipe Service Co., Inc. v. Assumption Parish Sales and Use Tax Department, et al.*, 558 So.2d 1296 (La. 1990), the Louisiana Supreme Court ruled that the furnishing of taxable cleaning services under the statute is limited to items like fabric or fur and that cleaning services for pipes, tanks, barges, vehicles,

and similar items are not subject to sales tax. These amendments provide guidance concerning the types of transactions that are subject to sales tax under existing legal interpretations.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Sales of Services

a. - f. ...

g. Revised Statute 47:301(14)(e) defines laundry, cleaning, pressing, and dyeing services; including the cleaning and renovation of clothing, furs, furniture, carpets, and rugs; as taxable services.

i. *Sales of services* under R.S. 47:301(14)(e) includes cleaning, pressing, and dyeing objects made primarily of materials like fabric, fur, leather, or cloth by cleaners, laundries, washaterias, and other cleaning establishments. Examples of taxable services include cleaning the following items:

- (a). clothing;
- (b). furniture;
- (c). carpets;
- (d). linens;
- (e). pillows; and
- (f). draperies.

ii. Cleaning objects made primarily of metal, wood, plastic, glass, or other nonfabric material are not subject to tax under R.S. 47:301(14)(e). Examples of services that are not taxable include cleaning the following items:

- (a). automobiles;
- (b). barges;
- (c). pipes;
- (d). tanks; and
- (e). jewelry.

iii. Cleaning services performed to restore tangible personal property to a proper working condition, as when cleaning the inner workings of a watch or the fuel injectors in an engine, are considered repairs under R.S. 47:301(14)(g) and subject to tax.

iv. Taxable cleaning services under R.S. 47:301(14)(e) do not include transactions when customers personally operate cleaning equipment for a fee. An example of this would be patrons' use of commercial coin-operated washing machines at a laundromat. However, taxable leases or rentals exist when customers acquire possession or use of the cleaning equipment in accordance with R.S. 47:301(7). An example of this would be the rental of a carpet shampooer for use at home.

v. Revised Statute 47:301(14)(e) also defines the furnishing of storage space for clothing, furs, and rugs as *sales of services*. All charges pertaining to the furnishing of storage space for these items are included in the taxable amount regardless of whether the operator is engaged solely in furnishing storage space or the activity is incidental to another business.

h. - i.ii. ...

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554 (December 2002), LR 28:2556 (December 2002), LR 29:186 (February 2003), LR 30:1306 (June 2004).

Raymond E. Tangney
Senior Policy Consultant

0406#023

RULE

Department of Treasury Board of Trustees of the State Employees' Retirement System

Self-Directed Plan (LAC 58:I.Chapter 41)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employee's Retirement System ("LASERS") hereby adopts rules enacting Chapter 41 of Part I of Title 58 of the Louisiana Administrative Code, comprising LAC 58:I.4104 through 4133 and entitled "the Self-Directed Plan," under the authority of R.S. 11:515.

Title 58

RETIREMENT

Part I. State Employees' Retirement

Chapter 41. Self-Directed Plan

§4101. SDP Provider

A. System shall procure a single provider, selected by a competitive process, for participants in the Self-Directed Plan ("SDP") to utilize in providing investment options for the deposits made during the accumulation period in the Deferred Retirement Option Plan ("DROP") or funds acquired through the Initial Benefit Option ("IBO"). The investment options shall not be available to the participants until the DROP funds are transferred to the SDP provider at the end of the accumulation period, or until after the IBO funds are so transferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1306 (June 2004).

§4103. Persons Vesting for DROP Prior to January 1, 2004

A. Persons who became eligible for regular retirement prior to January 1, 2004 are eligible for participation in the SDP. Those persons may make an irrevocable election to transfer their DROP funds into the SDP. The DROP or IBO participants electing to transfer their funds into the SDP must transfer their entire DROP or IBO balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1306 (June 2004).

§4105. Eligibility for Transfer of Funds into SDP

A. The only funds which may be transferred into the SDP are LASERS DROP or IBO funds. Transfers or rollovers from other sources shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4107. Rollovers Out of SDP to Other Providers

A. At all times after becoming eligible to withdraw funds from the SDP, DROP participants may elect to rollover funds to eligible providers. Such rollovers shall be subject to applicable federal laws and the terms of the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4109. Right to Recover Overpayments

A. In the event of overpayment of funds are made by LASERS, then LASERS retains the ability at all times to recall funds from member at provider or to reduce future benefits pursuant to R.S. 11:192 to recover any such overpayment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4111. Time to Transfer Funds

A. LASERS shall forward the entire deposit balance of a participant to the third party administrator within 10 working days from the end of the DROP accumulation period. LASERS may supplement or otherwise correct balances forwarded in those instances where there are errors, missing documents or incomplete reports submitted by agencies reporting earnings for the participant.

B. For participants in the Initial Benefit Option ("IBO") or for those DROP participants whose accumulation period is less than six months, LASERS shall transfer 80 percent of the DROP/IBO balance within 45 days from the date of initial transfer into the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4113. Spousal Consent

A. LASERS may halt the processing of a participant's request to enter the SDP until any spousal consent form required by law or proof of divorce has been presented to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4115. Completion of Notification Form

A. All DROP participants shall complete and submit a form (#9-2 or #9-2a) to inform LASERS that they are ending the accumulation period. This form shall be submitted at

least 30 days prior to that date. Failure to submit this form could result in delaying access to DROP funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4117. Distributions

A. Distributions shall be in accordance with the provisions of Title 58, Part I, Chapter 27 of the Louisiana Administrative Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4119. No In-Service Distribution

A. Distributions prior to the date of termination from employment with the state of Louisiana are strictly prohibited in accordance with applicable Internal Revenue Code Provisions. The selected provider shall not make a distribution without a verification of termination from LASERS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4121. Civil Service Reinstatement

A. DROP participants who have been removed from state employment, then reinstated pursuant to a ruling by the Civil Service board, shall immediately notify LASERS in writing of their reinstatement, along with a projected date of retirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4123. Beneficiary

A. Each participant shall initially designate a beneficiary or beneficiaries to receive any amounts which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing a written notice on a form approved by LASERS. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4125. Investment Options

A. LASERS shall in its sole discretion select certain investment options to be used to determine income to be accrued on deferrals. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. In any event, it shall be the sole responsibility of LASERS to ensure that all investment options offered under the plan are appropriate and in compliance with any and all state laws pertaining to such investments.

B. In the absence of a written directive from the participant, the provider shall automatically invest the participant's DROP funds in its discretion in an appropriate interim investment until specific investment directions are received. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing by the participant. LASERS shall not be responsible for the propriety of any directed investment.

C. LASERS may, from time to time, change the investment options under the plan. If LASERS eliminates a certain investment option, all participants who had chosen that investment shall select another option. If no new option is selected by the participant, money remaining in the eliminated investment option shall be moved at the direction of LASERS. The participants shall have no right to require LASERS to select or retain any investment option. To the extent permitted by and subject to any rules or procedures adopted by the administrator, a participant may, from time to time, change his choice of investment option. Any change with respect to investment options made by LASERS or a participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options and may affect only income to be accrued after that change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4127. Participant Investment Direction

A. Participants shall have the option to direct the investment of their personal contributions and their share of any employer contributions among alternative investment options established as part of the overall SDP, unless otherwise specified by LASERS. A participant's right to direct the investment of any contribution shall apply only to making selections among the options made available under the SDP.

B. Each participant shall designate on the proper form or via website or telephone direction the investment that shall be used to determine the income to be accrued on amounts deposited. If the investment chosen by the participant experiences a gain, the participant's benefits under the SDP likewise shall reflect income for that period. If the investment chosen by a participant experiences a loss, or if charges are made under such investment, the participant's benefits under the SDP likewise shall reflect such loss or charge for that period.

C. Neither the state of Louisiana, LASERS, the administrator, nor any other person shall be liable for any losses incurred by virtue of following the participant's directions or with any reasonable administrative delay in implementing such directions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4129. Distributions from the Plan

A. The payment of benefits in accordance with the terms of the plan may be made by the trustee, or by any custodian or other person so authorized by LASERS to make such distribution. Neither LASERS, the trustee nor any other person shall be liable with respect to any distribution from the plan made at the direction of the employer or a person authorized by the employer to give disbursement direction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4131. Domestic Relations Orders

A. In all instances wherein a person beginning participation in the SDP is a party to a Domestic Relations Order ("DRO"), properly worded and approved by LASERS, and such DRO is to divide DROP funds with the participant's former spouse, LASERS shall establish a means whereby the former spouse may choose the investment options for his or her portion of the SDP.

B. The selection of investment options shall be in accordance with §4125 of this Chapter.

C. Withdrawals from the SDP by either the member spouse (under whom all service credit accumulated) or the former spouse are prohibited until such time as the member spouse terminates state employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4133. Disclaimer

A. LASERS makes no endorsement, guarantee or any other representation and shall not be liable to the plan or to any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the plan, or any other purpose) of any investment option in which amounts deferred under the plan are actually invested; or

2. the tax consequences of the plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

Robert L. Borden
Executive Director

0406#039

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Organic Farming (LAC 7:XLIII.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, hereby proposes to amend regulations governing the state's organic certification program.

The United States Congress passed legislation that preempts the regulations of organic certification programs by the states. The United States Department of Agriculture has adopted rules and regulations governing organic certification programs. Therefore, the Department of Agriculture and Forestry is repealing the department's rules and regulations governing the organic certification program in Louisiana. The department is enacting a fee schedule for providing organic certification services as authorized by federal regulations.

All previous regulations, Sections 101-129, of the department governing the organic certification program are repealed. Sections 101 and 103 are re-enacted to read as follows.

This Rule is enabled by R.S. 40:608.3.

Title 7

AGRICULTURE AND ANIMALS

Part XLIII. Organic Farming

Chapter 1. Organic Certification Program

§101. Organic Certification

A. Organic certification is governed by federal regulations which may be found in the Code of Federal Regulations Volume 65, Number 246, Part IV, 7 CFR Part 205, Subparts A-E, and Subpart G, Sections 600-607, 642-663; 670-681.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3 and 7 CFR 205.642.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 30:

§103. Organic Certification Fees

A. Producers, processors, handlers, and distributors participating in the National Organic Program certified by the Department of Agriculture and Forestry will be charged organic certification fees.

B. The organic application fee, organic certification fee or annual update fee shall be paid by new applicants or those applicants updating organic certification and shall be paid in accordance with the following schedule.

Organic Certification Fee Schedule		
A nonrefundable \$25 application fee is required for all business types. (Submitted with organic certification application.)		
Organic Business Type	Initial	Annual Update
Producer Land Area Based on Acres	\$	
Less than 5 acres	150	75
5 to 25 acres	200	100
Greater than 25 acres	300	150
Plus Each additional Increment of 25 acres	50	50
Producer Land Area Based on Square Feet	\$	
Less than 250 sq. ft.	100	50
250 to 1000 sq. ft.	150	75
Greater than 1000 sq. ft.	200	100
Plus Each Additional Increment of 250 sq. ft.	50	50
Handler/Processor	\$	
Handler/Processor	500	500
Handler Distributor only	300	300

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3 and 7 CFR 205.642.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 30:

§105. Certification; Evaluation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:394 (April 1994), repealed LR 30:

§107. Certification; Transitional Period

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:

§109. Recertification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:

§111. Required Records; Verification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:

§113. Auditing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:

§115. Louisiana Certified Organic Mark

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994), repealed LR 30:

§117. Conditions of Retail Sale

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994), repealed LR 30:

§119. Drugs and Medicinal Claims

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994), repealed LR 30:

§121. Enforcement and Complaint Investigation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994), repealed LR 30:

§123. Organic Certification Inspection Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994), repealed LR 30:

§125. Louisiana Organic Standards Advisory Council

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994), repealed LR 30:

§127. Prohibited Acts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994), repealed LR 30:

§129. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994), repealed LR 30:

Family Impact Statement

The proposed amendments to Rules LAC XLIII Chapter 1 governing organic farming regulations should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and

autonomy. Specifically there should be no known or foreseeable effect on:

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

All interested persons may submit written comments on the proposed Rule through, July 25, 2004 to Craig Roussel, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. No preamble concerning the proposed Rule is available.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Organic Farming**

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

Implementation of these rule changes will result in no costs or savings to state or local governmental units. The Louisiana Department of Agriculture and Forestry intends to repeal and amend the Organic Certification Program regulations to be in compliance with new federal regulations governing certification of organic producers or handlers. The changes in the regulations will allow the implementation of a federally accredited organic certification program by this department. The organic industry in Louisiana has requested that this department become accredited.

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

There will be an increase in gross revenue collections for the Fiscal Years 2005 of \$5,750 and 2006 of \$5,300, respectively, of this state department. The organic industry has not seen a significant growth in past years, therefore, future revenue collections or expected to stabilize at approximately \$5,300. The proposed fee change incorporates fees into the certification fee structure that were normally collected as separate fees used to cover costs for sample analysis. The federal regulations stipulate that all fees charged to organic producers must be part of the certification fee schedule.

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

This department has not collected organic certification fees since October 2002, when the federal rule was implemented. Prior to October 2002, this department had rules in place that set organic certification fees for a state organic program. When compared to these organic certification fees collected prior to October 2002, changes to the rule will represent a fee increase to the organic industry. However, certified organic producers in Louisiana, in order to maintain certification after October 2002, were forced to contract private out-of-state organic certifiers. Fees charged by private certifiers are substantially higher than the proposed fees by this department. Therefore, once this department obtains federal organic accreditation and the state rule changes are implemented, the fee structure proposed will actually offer a significant cost savings to organic producers in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The changes in the rule will assist the organic industry in Louisiana in being able to better compete with organic producers across the country. Louisiana grown produce marketed locally is fresher and is preferred by shoppers in Louisiana. A healthy and growing organic industry will create jobs and small business opportunities in rural areas where opportunities such as these are limited.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0406#055 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

Ethics

(LAC 52:I.101,611, 701, 704, 708, 801, 902, 1005, 1202, 1205, 1206, 1305, 1307, 1308, 1310, 1313, 1315, 1317, 1501, 1502, 1604, 1609, 1610, 1701-1725, 1801, 1803, 1902, 1905, 1906, 1907, 1909, 1910, 1911, 2001, and 2003)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics has initiated rulemaking procedures to promulgate rules, and amendments to the rules for the Board of Ethics, as well as repeals the procedural rules for drug testing elected officials, since that statutory provision was declared unconstitutional.

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 1. Definitions

§101. Definitions

* * *

Adversarial Public Hearing Any public hearing conducted by the board, or any other related matter, concerning charges issued, or a public hearing concerning a person's failure to pay late fees.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1288 (October 1997), amended LR 24:1893 (October 1998), LR 30:

Chapter 6. Advisory Opinions

§611. Persons to be Heard

A. At any time during the board's general agenda, opportunity to appear before the board shall be provided to persons who would like to comment on an item of the board's general agenda, excluding those items scheduled as adversarial public hearings.

B. Subject to the provisions of this Section, the chairman shall have the authority to regulate the course of comments in connection with an item before the board, including the authority to begin and terminate the consideration of an item before the board, to continue consideration of the item to another time or location, and to limit comments which would be excessively cumulative or not related to the purpose of the matter; provided that nothing herein shall be

construed to prevent the right of any citizen to speak at a public meeting.

C. Any person requesting to appear before the board, shall notify the executive secretary of their interest in the matter, and the group, organization or company they represent, if any, prior to the item being called by the board for consideration. Regarding comments provided before the board, the chairman shall give first preference for speaking to the person submitting the item to the board and second preference to any person who is the subject of the matter submitted. Thereafter the chairman shall allow those persons who have notified the executive secretary of their wish to appear before the board in order of the receipt of said notification. The chairman may fix the maximum amount of time that each person has to provide comments. The chairman shall allot the time in an equitable manner among those persons who are to be heard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

Chapter 7. Complaints

§701. General Requirements

A. The board shall consider any signed sworn or non-sworn complaint from any elector concerning a violation of any law within its jurisdiction or the regulations or orders issued by the board. The complaint may be based on firsthand knowledge or on information and belief. Upon consideration of a sworn complaint, the board may close the file, refer the complaint to investigation, or take such other action as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), amended LR 30:

§704. Notification

A. The executive secretary shall mail by certified mail a certified copy of the vote and explanation of the matter to the subject of the non-sworn complaint or other matter as provided in §703 of these rules within ten days after the vote occurs.

B. The executive secretary shall mail by certified mail a copy of the sworn complaint if one has been submitted to the Board to the subject of the sworn complaint and the complainant within ten days after the sworn complaint is received and considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), amended LR 30:

§708. Complaints; Action by the Board

A. The board shall have one year from the date upon which a sworn complaint is received to either dismiss the complaint or file formal charges.

1. The board shall consider any signed sworn or non-sworn complaint from any elector concerning a violation of any law within its jurisdiction or the regulations or orders issued by the board. The complaint may be based on firsthand knowledge or on information and belief. Upon consideration of a complaint, the board may close the file, refer the complaint to investigation, or take such other action as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1292 (October 1997), LR 30:

Chapter 8. Investigations

§801. General

A. Upon receiving a complaint or voting to consider a matter as provided in §703 of these rules, the board may instruct the staff to conduct a private investigation. In the event the board divides itself into panels, the board may instruct the chairman to assign each such matter to the appropriate panel for private investigation. The executive secretary or his designee shall provide written notification of the commencement of the investigation to the subject of the investigation and complainant not less than 10 days prior to the date set for the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997), amended LR 30:

Chapter 9. Consent Opinions

§902. Procedures

A. If the board decides to offer a consent opinion, it shall direct its staff to prepare a draft to be sent to the subject of the allegation for acceptance, modification, or rejection. If the subject of the allegation accepts the terms of the proposed consent opinion, then the opinion shall be placed on the board's executive agenda for review. The board shall have the option to reject a proposed consent opinion and take further appropriate action. If the opinion is accepted by the board, the opinion shall be placed on the board's general business agenda for adoption and publication. If the subject of the allegation refuses the offer, then the item shall be placed upon the board's agenda for further action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997), amended LR 30:

Chapter 10. Hearings

§1005. Notice of Public Hearings

A. The executive secretary shall cause notice of public hearings to be posted on the board's website and mailed to requesting parties at least five days prior thereto, except as otherwise specifically provided in Section 1141(E) of the Code of Governmental Ethics or in the case of emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1294 (October 1997), amended LR 30:

Chapter 12. Penalties

§1202. Late Filing; Notice

A. The staff shall mail by certified mail a notice of delinquency within four business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer, that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the

date it would otherwise be due that is not a federal or state holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 30:

§1205. Late Filing; Appeal and Good Cause

A. Any person assessed with automatic late filing fees may appeal, in writing, to the board within 30 days after the mailing of the assessment requiring the payment of late filing fees, setting forth the facts which tend to prove that the late filer had good cause for filing late. The late filer may request an appearance. The executive secretary shall place all such appeals on the board's agenda for consideration.

B. The board may waive late filing fees for good cause shown. Good cause means any actions or circumstances which, in the considered judgment of the board, were not within the control of the late filer and which were the direct cause of the late filing or any provision specified in R.S. 18:1511.5(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 30:

§1206. Late Filing; Failure to Pay Penalties Assessed

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), repealed LR 30:

Chapter 13. Records and Reports

§1305. Statements Filed Pursuant to Section 1120 of the Code

A. Statements Filed Pursuant to this Section contain:

1. the name and address of the elected official; and
2. a detailed description of the matter in question, including the description of the transaction to be voted upon as well as a description of the nature of the conflict, or potential conflict, and the reasons why despite the conflict the elected official is able to cast a vote that is fair, objective and in the public interest.

B. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997), amended LR 30:

§1307. Notices Filed Pursuant to Section 56A of the Lobbyist Disclosure Act; Fundraisers held during the Regular Legislative Session.

A. Notices filed pursuant to this Section shall:

1. be filed not less than 30 days prior to the fundraising event;
2. be in writing on a form provided by the board or a form which is substantially the same as the form provided by the board; and
3. contain:
 - a. the name of the legislator by or for whom the fundraising function is being given;

- b. the date of the fundraising function;
- c. the location of the fundraising function;
- d. a statement that the information contained in the notice is true and accurate and that no required information has been deliberately omitted.

B. When filed by any one other than the legislator, the notice shall also provide the name of the individual, group or organization giving or sponsoring the fundraising function and the statement of accuracy shall be made by the individual or by a representative of the group or organization sponsoring the fundraising event.

C. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997), amended LR 30:

§1308. Disclosure Forms Filed Pursuant to R.S. 39:1233.1

A. Disclosure forms filed pursuant to R.S. 39:1233.1 shall:

- 1. be in writing and on the form in §1911;

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1299 (October 1997), amended LR 30:

§1310. Notices Filed Pursuant to Section 56.1A of the Lobbyist Disclosure Act; Fundraisers held during a Special Legislative Session.

A. Notices filed pursuant to this Section shall:

1. be filed not later than two business days after the issuance of a proclamation stating the object of a special session;

2. be in writing on a form provided by the board or a form which is substantially the same as the form provided by the board; and

3. contain:

- a. the name of the legislator by or for whom the fundraising function is being given;
- b. the date of the fundraising function;
- c. the location of the fundraising function.

B. When filed by anyone other than a legislator, the notice shall also provide the name of the individual, group or organization giving or sponsoring the fundraising function and the statement of accuracy shall be made by the individual or by a representative of the group or organization sponsoring the fundraising event.

C. The executive secretary shall maintain these statements suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§1313. Disclosure Forms Filed Pursuant to R.S. 27:96.A and R.S. 27:261.A

A. Disclosure forms filed pursuant to R.S. 27:96.A and R.S. 27:261.A shall:

1. be in writing and on a form provided by the board or a form which is substantially similar to the form provided by the board;

2. be filed no later than five days prior to the public officer's performance;

3. contain:

- a. the name and address of the public officer;
- b. the position held by the public officer;
- c. the date, time and place of the performance;
- d. the amount of compensation the public officer has contracted to receive for the performance; and,
- e. the identity of the person or entity providing the compensation;

4. include a copy of the contract.

B. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§1315. Disclosure Forms Filed by Members of the Gaming Control Board Pursuant to R.S. 27:12.B

A. Disclosure forms filed pursuant to R.S. 27:12.B shall:

1. be in writing and on a form provided by the board or a form which is substantially similar to the form provided by the board;

2. filed before confirmation of the Gaming Control Board member and annually thereafter no later than January 31st of each calendar year;

3. contain:

- a. the name and address of the member;
- b. the position held by the member;
- c. all assets and liabilities, property and business interests, and sources of income of the member, the spouse of the member and the minor children of the member; and
- d. a sworn affidavit as to its accuracy.

B. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§1317. Affidavits Filed by Employees and Agents of the Gaming Division Pursuant to R.S. 27:63.B and R.S. 27:226.B

A. Affidavits filed pursuant to R.S. 27:63.B and R.S. 27:226.B shall:

1. be in writing and on a form provided by the board or a form which is substantially similar to the form provided by the board;

2. filed at the time of appointment of the employee or agent and annually thereafter no later than May 31st of each calendar year; and

3. contain the name and address of the employee or agent and a statement that neither he nor his spouse has an interest in an applicant licensee or permittee.

B. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

Chapter 15. Exemption Pursuant to Provisions of Section 1123(22) of the Code

§1501. Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§1502. Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1604. Registration and Reporting; Forms

A. - C. ...

D. repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1301 (October 1997), amended LR 30:

§1609. Contribution Limit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 26:1429 (July 2000), repealed LR 30:

§1610. Monthly Reporting by Political Committees

1. If a political committee, other than a principal or subsidiary campaign committee of a candidate, chooses to file campaign finance disclosure reports on a monthly basis, written notification must be provided to the supervisory committee no less than 45 days prior to the next campaign finance disclosure report required by R.S. 18:1491.6 and R.S. to be filed by the political committee.

2. Such notification must be in writing on a form provided by the supervisory committee or a form which is substantially similar to the form provided by the supervisory committee, and be signed by the chairman of the political committee.

3. Upon receipt of the written notification from the political committee by the supervisory committee, the political committee shall file reports by the tenth of each month if the political committee accepted a contribution or some other receipt, or made an expenditure or some other disbursement during the preceding month. If the political committee is required to file a monthly report, the political committee shall begin filing monthly reports no later than the next month after which notification is received by the supervisory committee.

4. If a political committee intends to cease filing reports on a monthly basis written notification must be provided to the supervisory committee prior to the due date of the next monthly report; thereafter, the political committee must file the next monthly report and then commence filing reports in accordance with R.S. 18:1491.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

Chapter 17. Random Drug Testing for Elected Officials

§1701. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1893 (October 1998), repealed LR 30:

§1703. Designated Representative; Duties and Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1893 (October 1998), repealed LR 30:

§1705. Random Selection of Elected Officials

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1707. Selection Process; Random Number Selector

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1709. Selection Process; Percentage

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1710. Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1711. Collection Agency; Duties and Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1713. Collection Agency; Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1715. NIDA-Certified and CAP-FUDT-Certified Laboratories

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1717. Second Separate Test

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1721. Good Cause for Failure to Report to Collection Site

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1723. Medical Review Officer; Duties and Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1725. Test Result Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

§1727. Violations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998), repealed LR 30:

Chapter 18. Electronic Filing

§1801. In General

A. ...

B. To file electronic reports, a filer must complete and submit the affidavit provided by the board to obtain a password for electronic filing. The affidavit should be completed and received by the board at least five business days prior to the reporting deadline. All filers whose affidavits are received at least five business days prior to a reporting deadline will be issued a user id and a password for the next reporting deadline.

C. Although a filer using the electronic filing software system has until midnight on the day of a filing deadline to electronically file a report, staff support is only available during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1896 (October 1998), amended LR 30:

§1803. Validation of Reports

A. - B. ...

C. Reports required to be filed under oath may be submitted electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:24 (January 1999), amended LR 30:

Chapter 19. Lobbyist Disclosure Act

§1902. Filing Fees

A. Lobbyist registration fees submitted pursuant to R.S. 24:53 shall be made by check or money order payable to the Board of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999), amended LR 30:

§1905. Personal Financial Disclosure Form

**Appendix A
 Personal Financial Disclosure Form
 for Governors and Gubernatorial Candidates
 Filed pursuant to LSA_R.S. 42:1124**

1. FULL NAME	2. SPOUSE'S FULL NAME
3. RESIDENCE ADDRESS	
4. SPOUSE'S OCCUPATION (IF ANY)	
5. SPOUSE'S PRINCIPAL BUSINESS ADDRESS	
6. This report covers calendar year _____	
7. Check if Amended Report _____	

Note: Where amounts are required herein, indicate such amounts by use of one of the following categories:

- I. less than \$5,000;
- II. \$5,000 to \$24,999;
- III. \$25,000 to \$49,999;
- IV. \$50,000 to \$99,999;
- V. \$100,000 to \$199,999;
- VI. \$200,000 or more.

Use as many pages of each section of the form as are required. Machine copies of the form's pages may be used. Complete all sections (if not applicable, so indicate). Please type or print.

8. Affidavit

I do hereby certify, after having been first duly sworn, that the information contained in this personal financial disclosure form is true and correct to the best of my knowledge, information, and belief.

 Person Filing Report

Sworn to and subscribed before me this _____ day of _____, 19____.

 Notary Public

Page _____ of _____

A. Positions

The name, address of, position in, and amount of interest in each business in which you or your spouse (either individually or collectively) were a director, officer, partner, member, or trustee during the calendar year. (Note: For purposes of this section "business" is defined as any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.)

1. Individual, Spouse, or Both	2. Full Name and Address of Business	3. Position	4. Amount
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			

B. Business Interests

The name, address, and amount of interest in each business with which your sole relationship during the calendar year was as an owner of an interest and in excess of 10 percent held by you or your spouse (either individually or collectively). (Note: For purposes of this section "business" is defined as any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.)

1. Individual, Spouse, or Both	2. Full Name and Address of Business	3. Position	4. Amount
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			

C. Income

The name, address, type, and amount of each source of income in excess of \$1,000 received by you or your spouse (either individually or collectively) during the calendar year. "Income" means any income from whatever source derived, including but not limited to the following types: compensation for services, including fees, salaries, commissions, and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from interest in an estate or trust. For income from compensation, give a very brief description of the services rendered. For income from mental health, medical health, or legal services, if the disclosure of the source of the income would reveal the identity of a patient or client, then either mental health, medical health, or legal services should be given as the source.

1. Individual, Spouse, or Both	2. Name and Address of Source of Income	3. Type	4. Amount	5. Description of Services
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both				

D. Real Estate Holdings

The address and a short description (i.e., size, use of land) of each parcel of real property having a fair market value in excess of \$2,000 in which you or your spouse (either individually or collectively) had an interest during the calendar year.

1. Individual, Spouse, or Both	2. Address of Real Property	3. Description
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		

E. Transactions

A brief description, the date, and amount of each purchase, sale, exchange, donation, or gift, other acquisition or disposition, in excess of \$1,000, by you or your spouse (either individually or collectively) during the calendar year in any real property, and of any stocks, bonds, commodities futures, or other forms of securities, including but not limited to, any option to acquire and/or dispose of any stocks, bonds, commodities futures, other forms of securities, negotiable instruments, movable or immovable property, or any other interest.

1. Individual, Spouse, or Both	2. Description	3. Position	4. Amount
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both			

F. Liabilities

The name, address, and amount of each liability in excess of \$10,000 owed to any creditor by you or your spouse (either individually or collectively) during the calendar year. (Note: Exclude any loan secured by a personal motor vehicle, household furniture, or appliance if such loan does not exceed the purchase price of the item that secures it.)

1. Individual, Spouse, or Both	2. Full Name and Address of Business	3. Amount
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		
<input type="checkbox"/> Individual <input type="checkbox"/> Spouse <input type="checkbox"/> Both		

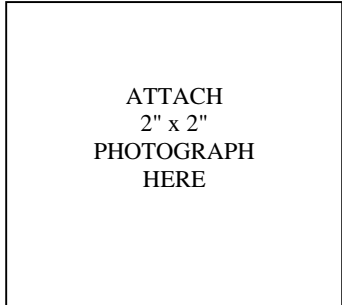
3. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, then who pays you? _____

4. Name _____
Address _____
Business or purpose _____
Does this person pay you? _____
If No, then who pays you? _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that no information required by the Lobbyist Disclosure Act [LSA-R.S. 24:50 et seq.] has been deliberately omitted.

Signature of Lobbyist



AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

If the answer to either question in Number 9 above is YES, please complete Schedule B and attach.

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; that all reportable expenditures have been included herein; and that no information required by the Lobbyist Disclosure Act [LSA-R.S. 24:50 et seq.] has been deliberately omitted.

Signature of Lobbyist

SCHEDULE A: EXPENDITURES FOR LEGISLATION

This schedule must be completed if you answered YES to either question 7 or 8 on the Lobbying Expenditure Report. If, during the period January 1 through June 30 or the period July 1 through December 31, you made either (a) an expenditure for any one legislator exceeding \$50 on any one occasion or (b) aggregate expenditures exceeding \$250 for any one legislator during a reporting period, then you must provide the aggregate total of expenditures made on that legislator in that reporting period. **NOTE: Report covering July-December is cumulative. You must include reportable expenditures from the first half of the year in Column #2.**

1. LEGISLATOR'S NAME	2. AMOUNT OF EXPENDITURES MADE ON A LEGISLATOR FOR WHOM YOU EITHER SPENT OVER \$50 ON ONE OCCASION OR MADE EXPENDITURES EXCEEDING \$250 BETWEEN JANUARY 1 AND JUNE 30.	3. AMOUNT OF EXPENDITURES MADE ON A LEGISLATOR FOR WHOM YOU EITHER SPENT OVER \$50 ON ONE OCCASION OR MADE EXPENDITURES EXCEEDING \$250 BETWEEN JULY 1 AND DECEMBER 31.	4. TOTAL OF COLUMNS 2 AND 3.

SCHEDULE B: EXPENDITURES FOR RECEPTIONS, ETC.

This schedule must be completed if you answered YES to either question 9 on the Lobbying Expenditure Report. The following information must be provided for all receptions, social gatherings, or other functions to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus, or any delegation thereof, was invited.

1. NAME(S) OF GROUP(S) INVITED	2. DATE OF RECEPTION	3. LOCATION OF RECEPTION	4. TOTAL AMOUNT OF EXPENDITURES FOR ATTENDING LEGISLATORS*

*** No amount expended on persons other than attending legislators is reportable.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§1909. Lobbying Supplemental Registration Form

LOBBYING SUPPLEMENTAL REGISTRATION FORM
To be used for changes to registrations and terminations.

Lobbyist's Registration Number

Instructions

- Print in ink or type.
- Complete form and return to the Board of Ethics, 2415 Quail Dr., 3rd Floor, Baton Rouge, LA 70808, (225) 763-8777 or (800) 842-6630. No fee is required.

This form must be submitted within 5 days of any changes in your registration form or to add employers or those you represent. It must be submitted within 10 days of any termination of employment or representations.

FOR OFFICE USE ONLY
Postmark Date: _____

1. NAME _____
Last First MI

2. BUSINESS PHONE _____
Area Code and Phone Number

3. BUSINESS ADDRESS _____
Street and No. City State Zip

MAILING ADDRESS _____
Street and No. City State Zip

4. EMPLOYER _____

5. EMPLOYER'S ADDRESS _____
Street and No. City State Zip

6. Have you ceased or terminated all lobbying activities requiring registration? Yes _____ No _____

7. LIST BELOW (a) Names of persons, groups, or organizations which you are adding or eliminating; (b) the address of each such person, group, or organization listed; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby; and (e) the date of termination if applicable.

1. Name _____

Address _____

Business or purpose _____

New Representation
Does this person pay you? _____
If No, who pays you? _____

Terminated Representation as of _____

2. Name _____
Address _____
Business or purpose _____
 New Representation
Does this person pay you? _____
If No, who pays you? _____
 Terminated Representation as of _____

3. Name _____
Address _____
Business or purpose _____
 New Representation
Does this person pay you? _____
If No, who pays you? _____
 Terminated Representation as of _____

CERTIFICATION OF ACCURACY

I hereby certify that the information contained herein is true and correct to the best of my knowledge, information, and belief; and that no information required by the Lobbyist Disclosure Act [LSA-R.S. 24:50 et seq.] has been deliberately omitted.

Signature of Lobbyist

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§1911. Disclosure Statement Pursuant to R.S. 39:1233.1

LSA-R.S. 39:1233.1 DISCLOSURE STATEMENT	
<p>The Louisiana Code of Governmental Ethics generally prohibits any member or chief executive officer of a local depositing authority from serving as an officer, director, or employee of a bank in which agency funds are deposited L.S.A.-R.S. 39:1233.1 creates a narrow exception allowing a local governing authority member or chief executive officer to serve in such a capacity, despite the agency's deposit of funds in the bank, if he (1) recuses himself from voting in favor of any such bank and does not otherwise participate in the depositing authority's consideration of any matter affecting actual or potential business with the bank, (2) discloses the reason for recusal and files these reasons, in writing, in the minutes or record of the agency, and (3) files this disclosure form with the Board of Ethics within 15 days of any such recusal. Any such disclosure statement shall be deemed filed when it is received in the office of the Board of Ethics or at the time it is postmarked by the United States Postal Service, if it is subsequently received in the office of the Board of Ethics, whichever is earlier. This exception may be used only by members of "local depositing authorities." Local depositing authorities are defined by law to include all parishes, municipalities, boards, commissions, sheriffs and tax collectors, judges, clerks of court, and any other public bodies or officers of any parish, municipality or township, but do not include the state, state commissions, state boards and other state agencies. Unless a written advisory opinion has been obtained from the Board of Ethics, members and chief executive officers of special agencies created by, representing OR comprised of more than one political subdivision are NOT included in this exception. Sole decision makers may NOT take advantage of this exception.</p>	
<p>NOTE: This exception is narrow—completion of this form will not cure any violation of the Ethics Code except those situations specifically addressed in LSA-R.S. 39:1233.1.</p>	
1. Name and address of official	2. Office held (Please include the office title and the political subdivision.)
3. Name and address of bank	4. Position(s) held at bank (If officer, state office held. If employee, give job title.)
5. Position with bank is _____ compensated _____ noncompensated. (Check one)	
6. Description of transaction from which you recused yourself from participating (for example, consideration of method of selecting bank(s) to be used, selection of a bank or banks, decision affecting deposits, decision to discontinue use of a bank, etc.) Include the date of each instance on which you recused yourself from voting or otherwise participating in any such transaction.	
7. _____ <div style="display: flex; justify-content: space-between; width: 100%;"> Signature of Official Date </div>	
Mail or hand deliver to: Ethics Administration Program, 2415 Quail Drive, Third Floor, Baton Rouge, Louisiana 70808. If you have any questions, please call (225) 763-8777 or (800) 842-6630.	

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

Chapter 20. Exemption Pursuant to the Provisions of Section 1123 (34)

§2001. Application

A. A member of a municipal or parish governing authority in a parish or municipality with a population of 25,000 or less (according to the most recently published decennial census), or a member of such elected official's immediate family or a legal entity in which he has a controlling interest may make an application which is under the supervision or jurisdiction of his agency for the approval of the subdivision or resubdivision of property, and for the zoning of such property or for a building permit and any inspections performed pursuant thereto, provided the elected official recuses himself from acting in his official governmental capacity in matters concerning such application, and provides the written notice as required in §2003 is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

§2003. Reporting Requirements

A. Written notices filed pursuant to R.S. 42: 1123(34) of the Code shall:

1. be filed with the board and with the elected official's governing authority no later than ten days prior to any hearing pertaining to such application or if no hearing is held at least ten days prior to final action on such application; and
2. be in writing, on a form provided by the board or a form which is substantially similar to the form provided by the board, and shall contain the following:
 - a. name, address, and the office held by the elected official;
 - b. name and address, and relation to elected official, if the applicant is a member of the elected official's immediate family;
 - c. name and business address of the legal entity, if applicable;
 - d. name and population of municipality or parish;
 - e. description of the application being made;
 - f. date of hearing or final action regarding such application;
 - g. statement that:

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111 **C** Louisiana School, District, and State
Accountability System
(LAC 28:LXXXIII.Chapters 7, 15, 17, and 31)

- i. the zoning of such subdivided property will not be less restrictive than the zoning of the original parcel;
- ii. no variance or special exemption from any planning or zoning regulation or requirement or any building code or permit will be requested or granted;
- iii. the property will be used for residential purposes only;
- iv. application for the subdivision, resubdivision, or zoning of no more than twelve lots per calendar year and the construction of no more than twelve residential units per calendar year by the elected official, his immediate family members and any legal entity in which they own a controlling interest has been submitted; and
- v. no public funds will be used to construct any infrastructure for the use or benefit of such property;
- h. signed certificate of accuracy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:

Interested persons may direct their comments to R. Gray Sexton, Louisiana Board of Ethics, 2415 Quail Drive, Third Floor, Baton Rouge, LA 70808, (225) 763-8777, until 4:45 p.m. on July 10, 2004.

R. Gray Sexton
Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ethics**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The estimated cost to implement the rules/amendments is \$2,720 in FY 03-04 and \$2,720 in FY 04-05, which accounts for the cost to publish the Notice of Intent and the Rule in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rules/amendments will have no anticipated 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)
The proposed rules/amendments will have no effect on the cost or economic benefits of affected persons.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rules/amendments will not have an effect on competition and employment.

Maris E. LeBlanc
Deputy General Counsel
0406#054

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111 **C** The Louisiana School, District, and State Accountability System* (LAC 28:LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes more closely align the State's Accountability System with the "No Child Left Behind Act of 2001" and allow staff to expedite the release of preliminary School Performance Scores as follows.

Recent guidelines from the U.S. Department of Education allow some additional flexibility when considering limited English proficient students, and consecutive years failing the adequate yearly progress test. Appealing only current data allows accountability decisions to be made before school begins each fall as required by the "No Child Left Behind Act of 2001."

**Title 28
EDUCATION**

Part LXXXIII. Bulletin 111 **C The Louisiana School,
District, and State Accountability System
Chapter 7. Subgroup Component**

**§703. Inclusion of Students in the Subgroup
Component**

A. - C.3. ...

a. Scores shall not be included in AMO or improvement in percent proficient calculations for LEP students who have not been enrolled in an English-speaking school for one full school year.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:

§709. Failing the Subgroup Component

A. - B. ...

C. Any school that has failed the subgroup component in the same subject for two consecutive years will enter school improvement 2 (e.g. special education in mathematics in year one and economically disadvantaged in math in year

two. The school has failed the subgroup component for two consecutive years and therefore, must enter SI 2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:

Chapter 15. School Improvement (formerly Corrective Actions)

§1503. Entry into School Improvement

A. - A.1.b. ...

2. Any school that fails the subgroup component in the same subject for two consecutive years is in school improvement 2.

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2745 (December 2003), amended LR 30:

§1505. Exit from School Improvement

A. - A.2. ...

3. it is in school improvement for failure to meet its required growth on the SPS component, and it meets its required growth for one year and is not academically unacceptable and has not failed the subgroup component in the same subject for two consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:

Chapter 17. Requirements for Schools in School Improvement (SI)

§1703. School Improvement 2 Requirements (SI 2)

A.1. ...

2. it fails the subgroup component in the same subject for two consecutive years; or

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

2. it passes the subgroup component in the same subject that caused it to enter SI 2 for the current year, but not two consecutive years; or

B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:

§1704. School Improvement 3 Requirements

A. - A.2. ...

3. it fails the subgroup component in the same subject that caused it to enter SI 2 for the current year; or

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

2. it passes the subgroup component in the same subject that caused it to enter SI 3 for the current year, but not two consecutive years; or

B.3. - D. ...

E. All Title I schools in SI 3, who have failed the subgroup component in the same subject that caused them to enter SI 2, shall offer supplemental educational services to their students as stated in Chapter 27.

E.1. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2746 (December 2003), amended LR 30:

§1705. School Improvement 4 Requirements

A. - B.2. ...

3. it fails the subgroup component in the same subject that caused it to enter SI 3 for the current year; or

B.4. - C.1. ...

2. it passes the subgroup component in the same subject that caused it to enter SI 4 for the current year, but not two consecutive years; or

C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:

§1706. School Improvement 5 Requirements

A. - B.2. ...

3. it fails the subgroup component in the same subject that caused it to enter SI 4 for the current year; or

B.4. - C.1. ...

2. it passes the subgroup component in the same subject that caused it to enter SI 5 for the current year, but not two consecutive years; or

C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:

§1707. School Improvement 6 Requirements

A. - B.2. ...

3. it fails the subgroup component in the same subject that caused it to enter SI 5 for the current year; or

B.4. - C.1. ...

2. it passes the subgroup component in the same subject that caused it to enter SI 6 for the current year, but not two consecutive years; or

C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2747 (December 2003), amended LR 30:

Chapter 31. Data Correction and Appeals/Waivers Procedure

§3101. Appeals/Waivers Process

A. ...

B. Districts may address data errors from the most recent spring test administration, and attendance and dropout data from the prior academic year that were not addressed during the data clean-up period by submitting a data correction request letter (signed by the district superintendent) by August 1st of each year. The LDE shall review data correction requests and make decisions regarding the requests by September 1st. The LDE shall notify LEAs of its decision and/or actions regarding the request by October 1st. All data corrections approved by LDE shall be completed for the fall final accountability results release each fall.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:

§3103. Definitions

Appeal A request for the calculation or recalculation of the School Performance Score (SPS), growth target, and/or subgroup component scores based on the most recent spring test administration, and attendance and dropout data from the prior academic year.

Waiver A temporary "withholding" of accountability decisions for no more than one accountability year. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in the state statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:

§3107. General Guidelines: Local Board of Education-Level Requests

A. - B. ...

C. Supporting documentation for appeal/waiver requests should clearly outline those data from the most recent spring tests administration, and attendance and dropout data from the prior academic year that are erroneous. Further, computations by the local boards of education should provide evidence that the school's SPS and/or subgroup component results are significantly affected by the data in question and that corrections impact rewards, or school improvement status. The local school system shall be responsible for supplying the LDE with information necessary for recalculating the school's SPS and/or subgroup component results per LDE's instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2752 (December 2003), amended LR 30:

Interested persons may submit comments until 4:30 p.m., August 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 111 Louisiana School, District, and State Accountability System**

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

There are no estimated implementation costs to state governmental units. The proposed changes delineate the inclusion of Limited English Proficient students in accountability, establish that schools must fail the same subject or the 3rd academic indicator 2 consecutive years to be identified as failing Subgroup AYP, and limits appeals/waiver requests to problems with the most recent year's data used for accountability.

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

There will be no 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 will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0406#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School
Administrators High School Diploma and Endorsements
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). This policy change removes the requirement that students complete a high school major (4 primary courses + 2 related courses, including a computer/technology course) to graduate from high school. It restores the previous requirements for a standard diploma of 15 required courses and 8 elective courses. Regarding the Academic Endorsement, the proposed policy replaces the requirement that students complete a high school major with the requirement that students complete an "academic area of

concentration" as an eligibility requirement. "Academic area of concentration" is defined as the TOPS curriculum plus one additional math, science, or social studies course. The optional articulated credit requirement for the Career/Tech Endorsement is changed from 3 Carnegie credits to 3 college hours to align with the requirement for the Academic Endorsement. The proposed policy establishes that the diploma endorsement policy shall be effective for incoming freshmen in 2003-2004 and thereafter.

The policy change also reflects the changes to the mathematics program of studies. These changes are also reflected in Policy 2.105.17. A separate Fiscal Impact Statement has been completed for that policy change.

This change to the graduation requirements will allow school districts more time to provide the courses necessary for students to complete an area of concentration and will not prevent students from receiving a diploma if they do not complete an area of concentration but meet all other requirements for graduation.

**Title 28
EDUCATION**

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

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

**2.099.02 High School Diploma and Endorsements
Standard Diploma**

The 23 units required for graduation shall include 15 required units and 8 elective units; the elective units can be earned at technical colleges as provided in Standard 2.103.35.

High School Area of Concentration

All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

1. To complete an academic area of concentration, students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award plus one additional Carnegie unit in mathematics, science, or social studies.

2. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course.

The computer/technology course shall be one of the following:

- Computer/Technology Literacy (1/2 credit)
- Computer Applications or Business Computer Applications (1 credit)
- Computer Architecture (1 credit)

- Computer Science I, II (1 credit each)
- Computer Systems and Networking I, II (1 credit each)
- Desktop Publishing (1/2 credit)
- Digital Graphics & Animation (1/2 credit)
- Multimedia Presentations (1 credit)
- Web Mastering or Web Design (1/2 credit)
- Independent Study in Technology Applications (1 credit)
- Word Processing (1 credit)
- Telecommunications (1/2 credit)
- Introduction to Business Computer Applications (1 credit)
- Technology Education Computer Applications (1 credit)
- Advanced Technical Drafting (1 credit)
- Computer Electronics I (1 credit)
- Computer Electronics II (1 credit)

Academic Endorsement

Graduating seniors in 2005 and thereafter who meet the requirements for a standard diploma, and satisfy the following performance indicators shall be eligible for an academic endorsement to the standard diploma:

1. Students shall complete the academic area of concentration.

2. Students shall pass all four components of the GEE 21 with a score of Basic or above, or one of the following combinations of scores with the English Language Arts score at Basic or above:

- One Approaching Basic, 1 Mastery or Advanced, Basic or above in the remaining two
- Two Approaching Basic, 2 Mastery or above

3. Students shall complete one of the following requirements:

- Senior Project
- One Carnegie unit in an AP course with a score of 3 or higher on the AP exam
- One Carnegie unit in an IB course with a score of 4 or higher on the IB exam
- Three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English Language Arts

4. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.

5. Students shall achieve an ACT Composite Score of 23.

Career/Technical Endorsement

Graduating seniors in 2005 and thereafter who meet the requirements for a standard diploma, and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the standard diploma:

1. Students shall meet the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award or the TOPS Tech Award.

2. Students shall complete the career area of concentration.

3. Students shall pass the English Language Arts, mathematics, science, and social studies components of the GEE 21 at the Approaching Basic level or above.

4. Students shall complete a minimum of 90 work hours of work-based learning experience (as defined in the SDE Diploma Endorsement Guidebook) and complete one of the following requirements:

- Industry-based certification from the list of industry-based certifications approved by BESE
- Three college hours in a Career/Technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waved from having to take such hours

Industry-based certification is a portable, recognized credential (tangible evidence) that an individual has successfully demonstrated skill competencies on a core set of content and performance standards in a specific set of work-related tasks, single occupational area, or a cluster of related occupational areas.

Articulated credit/dual enrollment is a program of study allowing high school students to earn credits toward a high school diploma and a postsecondary degree or certification simultaneously. Written agreements formalize programs of study, the transfer of academic and vocational credits among institutions, and the role of secondary and postsecondary instructors.

5. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award or the TOPS Tech Award.

6. Students shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award.

Minimum Requirements for High School Graduation

English 4 units
 Shall be English I, II, and III, in consecutive order; and English IV or Business English.

Mathematics 3 units
 (Effective for incoming freshmen 2005-2006 and beyond.)

All students must complete one of the following:

- Algebra I (1 unit) or
- Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or
- Integrated Mathematics I (1 unit)

The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics

(Effective for incoming freshmen 1997-98-2004-2005)

Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics

Science 3 units
 Shall be 1 unit of Biology I;
 1 unit of Physical Science or Integrated Science (but not both), or Chemistry I, Physics I, or Physics of Technology I;

1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience I, Agriscience II, or any other course not already taken from the Physical Science cluster, or a locally designed elective.

- If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as the required science course. If a student takes Chemistry I, Physics I, or Physics of Technology I to fulfill the Physical Science requirement, s/he may not then take Physical Science or Integrated Science as the third required science course but may take such courses as one of the eight allowed elective graduation requirements.
- Both Agriscience I and II must be completed for one unit of science credit.

All Advanced Placement Science Courses will be accepted for credit.

Social Studies 3 units
 Shall be American History, one-half unit of Civics, one-half unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization.

Health Education 1/2 unit
 Physical Education 1 1/2 units
 Shall be Physical Education I and Physical Education II, or Adaptive Physical Education for eligible special education students.

NOTE: The substitution of JROTC is permissible. A maximum of four units may be used toward graduation.

Electives 8 units
 Total 23 units

Refer to Standards 2.037.02 and 2.058.02 relative to appropriate student scheduling and counseling.

Family Impact Statement

1. Will the proposed Rule effect the stability of the family? No.
2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule effect the functioning of the family? No.
4. Will the proposed Rule effect family earnings and family budget? No.
5. Will the proposed Rule effect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed rule? Yes.

Interested persons may submit comments until 4:30 p.m., August 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
 Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741 Louisiana Handbook for School Administrators High School Diploma and Endorsements

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

There will not be any implementation costs. This policy change removes the requirement that students complete an area of concentration to receive a standard diploma.

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

There are no effects on revenue collections.

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

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
0406#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 Louisiana Handbook for School Administrators Mathematics (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 The Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). This policy change revises the mathematics program of studies. It requires all students to take either Algebra I, Algebra I-Pt.1 and Algebra I-Pt.2, or Integrated Math I. The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

The mathematics program of study was revised to ensure that all students complete Algebra I or the equivalent, to eliminate the possibility of students taking courses that repeat much of the same content (e.g. Algebra I and Integrated Math I), to reduce the number of courses, and to ensure that all students are completing a rigorous curriculum that meets the requirements of the Content Standards and Grade-level Expectations.

**Title 28
EDUCATION**

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

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 30:

* * *

Mathematics

2.105.17 Effective for 2005-2006 incoming freshmen and thereafter, three units of mathematics shall be required for graduation. All students must complete one of the following:

- Algebra I (1 unit) or
- Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units)
- or
- Integrated Mathematics I (1 unit)

The remaining unit(s) shall come from the following:

Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

(Effective for incoming freshmen 1997-98–2004-2005)

The three required courses shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

Students who score at the unsatisfactory achievement level on the mathematics component of Grade 8 LEAP 21 shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

The mathematics course offerings shall be as follows:

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra I-Part II	1
Algebra II	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1

Financial Mathematics may be taught by teachers certified in Business Education.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption,

repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit comments until 4:30 p.m., August 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746 Louisiana Handbook for School Administrators Mathematics**

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

There will not be any implementation costs. This policy change revises the mathematics program of studies required for graduation.

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

There are no effects on revenue collections.

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

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0406#033

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Certification Add-On (Endorsement) Policy for Teaching Levels and Teaching Areas Within Levels (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana*

Standards for State Certification of School Personnel, referenced in LAC 28:I.903(A). The proposed revision expands certification add-on (endorsement) options for teaching levels and for teaching areas within levels as follows: (a) Adds the requirement of the appropriate content area exam for individuals holding middle, secondary, mild/moderate, or an all-level K-12 certificate who wish to add Grades PK-3; (b) Expands options for demonstrating content mastery to include course work OR the Praxis exam for individuals holding middle, secondary, mild/moderate, or all-level K-12 certificates who wish to add Elementary Grades 1-5; (c) Streamlines the process by which an individual can obtain a secondary level add-on in a non-core academic area; and (d) Allows for individuals to obtain an all-level K-12 add-on in health and physical education in a streamlined fashion similar to the other all-level K-12 add-on certification areas, and clarifies the distinction between the two all-level music certifications (instrumental, vocal).

Changes to this policy expand options for teachers to add teaching area endorsements to existing certificates. This will ease school district compliance with certification regulations in staffing the schools and may provide greater employment opportunities for teachers who add endorsements to their certificates.

Title 28 EDUCATION

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

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 435, 541 (April, July, September, December 1975), amended LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:

* * *

Certification Add-On (Endorsement) Policy Teaching Levels and Teaching Areas Within Levels

The following requirements must be completed to add a certification level and/or a certification area within levels to an existing valid teaching certificate.

To add Early Childhood (Grades PK-3)

- Requirements for individual holding a valid elementary certificate (e.g., 1-4, 1-5, 1-6, or 1-8):

1. Achieve passing score for PRAXIS Early Childhood Education exam (#0020)

or

Accumulate 12 credit hours of combined Nursery School and Kindergarten coursework.

- Requirements for individual holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary school certificate (e.g., 6-12, 7-12, 9-12), special education mild/moderate certificate, or all-level K-12 certificate (art, dance, foreign language, health, PE, H&PE, music):

1. Achieve passing score for PRAXIS Elementary Education: Content Knowledge Exam (#0014)

2. Achieve passing score for PRAXIS Early Childhood Education Exam (#0020)
or
Accumulate 12 credit hours of combined Nursery School and Kindergarten coursework.
3. Accumulate 9 semester hours of reading coursework.

To add Elementary (Grades 1-5):

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, PK-3):
 1. Achieve passing score for PRAXIS Elementary Education: Content Knowledge (#0014).
 2. Achieve passing score for PRAXIS Principles of Learning and Teaching K-6.
 3. Accumulate 9 semester hours of reading, 12 semester hours of mathematics, 12 semester hours of science, and 12 semester hours of social studies coursework.
- Requirements for individual holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education mild/moderate certificate, or all-level K-12 certificate (art, dance, foreign language, health, PE, H&PE, music):
 1. Achieve passing score for PRAXIS Elementary Education: Content Knowledge (#0014)
or
Accumulate 12 semester hours of mathematics, 12 semester hours of science, 12 semester hours of English language arts, and 12 semester hours of social studies coursework.
 2. Achieve passing score for PRAXIS Principles of Learning and Teaching K-6.
 3. Accumulate 9 semester hours of reading coursework.

To add Middle School (Grades 4-8) Specialty Area English, Mathematics, Science, or Social Studies:

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), mild/moderate certificate, or an all-level K-12 certificate (art, dance, foreign language, health, PE, H&PE, music):
 1. Achieve passing score for PRAXIS Middle School: Specialty Area Exam in the specific content area
or
Accumulate 30 credit hours in the specialty content area.
 2. Achieve passing score for PRAXIS Principles of Learning and Teaching 5-9.
 3. Accumulate 6 semester hours of reading.

To add Secondary Specialty Core Content Area as defined in the No Child Left Behind Act of 2001 (English, Foreign Language, Math, Sciences, Social Studies, Speech):

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), or special education mild/moderate certificate:

1. Achieve passing score for PRAXIS secondary specialty area exam in the content area
or
Accumulate 30 credit hours in the specialty content area.
 2. Achieve passing score for PRAXIS Principles of Learning and Teaching 7-12.
- Requirements for individual holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an all-level K-12 certificate [art, dance, foreign language, health, H&PE, music]:
 1. Achieve passing score for PRAXIS secondary specialty area exam in the content area
or
Accumulate 30 credit hours in the specialty content area.

To add Secondary Specialty Non-NCLB Content Area (agriculture, business, computer science, family and consumer sciences, journalism, marketing, and technology education):

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), or special education mild/moderate certificate:
 1. Achieve passing score for PRAXIS secondary specialty area exam in the content area
or
Accumulate 21 credit hours in the specialty content area.
 2. Achieve passing score for PRAXIS Principles of Learning and Teaching 7-12.
- Requirements for individual holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an all-level K-12 certificate (art, dance, foreign language, health, H&PE, music):
 1. Achieve passing score for PRAXIS secondary specialty area exam in the content area
or
Accumulate 21 credit hours in the specialty content area.

To add Special Education Mild/Moderate:

- Requirements for individual holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), or an all-level K-12 certificate [art, dance, foreign language, health, PE, H&PE, music]:
 1. Complete 15 semester hours of special education coursework, as follows:
 - Methods/Materials for Mild/Moderate Exceptional Children (3 hrs.)
 - Assessment and Evaluation of Exceptional Learners (3 hrs.)
 - Behavioral Management of Mild/Moderate Exceptional Children (3 hrs.)
 - Vocational and Transition Services for Students with Disabilities (3 hrs.)
 - Practicum in Assessment and Evaluation of M/M Exceptional Learners (3 hrs.)

- Earn a passing score on the PRAXIS special education mild/moderate pedagogy exam(s) required in Louisiana.

To add an All-Level (K-12) Area (art, dance, foreign language, health & physical education, music):

• Requirements for individual holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), all level K-12 certificate, or special education mild/moderate certificate:

- Achieve passing score for PRAXIS specialty area exam in area of endorsement

or

Accumulate 30 semester hours in the specialty area.

NOTE: An individual already certified in one Music Education area (Instrumental Music or Vocal Music) may add the second music area with coursework, as follows:

To add Instrumental Music, 12 semester hours to include brass, percussion, string, and woodwind instruments;

To add Vocal Music, 12 semester hours to include piano and voice.

NOTES:

- For purposes of add-on endorsements, reference to a PRAXIS exam means the current applicable exam in policy with the current established passing scores.
- Add-on (endorsement) certifications not identified in this policy will continue to follow requirements currently in place in Bulletin 746.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

- Will the proposed Rule affect the stability of the family? No.
- Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
- Will the proposed Rule affect the functioning of the family? No.
- Will the proposed Rule affect family earnings and family budget? No.
- Will the proposed Rule affect the behavior and personal responsibility of children? No.
- Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746 Louisiana Standards for State Certification of School Personnel Certification Add-On (Endorsement) Policy for Teaching Levels and Teaching Areas Within Levels

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

The proposed revision expands certification add-on (endorsement) options for teaching levels and for teaching areas within levels as follows: (a) Adds requirement of the appropriate content area exam for individuals holding middle, secondary, mild/moderate, or an all-level K-12 certificate who wish to add Grades PK-3; (b) Expands options for demonstrating content mastery to include course work OR the Praxis exam for individuals holding middle, secondary, mild/moderate, or all-level K-12 certificates who wish to add Elementary Grades 1-5; (c) Streamlines the process by which an individual can obtain a secondary level add-on in a non-core academic area; and (d) Allows individuals to obtain an all-level K-12 add-on in health and physical education in a streamlined fashion similar to the other all-level K-12 add-on certification areas, and clarifies the distinction between the two all-level music certifications (instrumental, vocal). Adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) in dissemination costs.

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

This policy will have no effect on revenue collections.

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

There are no estimated costs. Individuals with additional certification areas on their certificates may compete more effectively for available jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes would offer increased employment opportunities for some certified teachers.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0406#034

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel General-Special Education Mild/Moderate Undergraduate Blended Program (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903(A). This policy amends the new undergraduate certification program structure for Special Education Mild to Moderate Disabilities, as follows: (1)

Delete PK-3 program option for Mild Moderate Disabilities, leaving options for Grades 1-5, 4-8, and 6-12 only, and thus a three-tiered rather than a four-tiered structure; (2) Delete narrative pages detailing licensure options and the Council for Exceptional Children [CEC] performance based standards and review procedures; and (3) Add footnotes stipulating that the Council for Exception Children [CEC] performance-based standards for accreditation and licensure must be met; that 50 percent of student teaching hours must include working with and actually teaching students with disabilities; that three of the flexible hours must be in the humanities to satisfy Board of Regents requirements; and that minimum credit hours have been listed in the structure, but addition of content hours may occur within flexible hours and needed further credit hours may be added to meet additional Board of Regents and/or institutional requirements.

**Title 28
EDUCATION**

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

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), LR 28:2505, 2508 (December 2002), LR 29:117, 119 (February 2003), LR 29:119, 121 (February 2003), LR 29:121, 123 (February 2003), LR 30:

**SPECIAL EDUCATION MILD/MODERATE UNDERGRADUATE BLENDED PROGRAM
FOR GRADES 1-5, GRADES 4-8, GRADES 6-12¹
Effective August 1, 2005**

Mild/Moderate Special Education Undergraduate Program Structure		Mild/Moderate Special Education Grades 1-5	Mild/Moderate Special Education Grades 4-8	Mild/Moderate Special Education Grades 6-12
General Education Coursework	English	12 hours	12 hours	6 hours
	Mathematics	12 hours	12 hours	6 hours
	Sciences	15 hours	15 hours	9 hours
	Social Studies	12 hours	12 hours	6 hours
	Arts	3 hours	3 hours	3 hours
FOCUS AREA SPECIAL EDUCATION AND CONTENT		Special Education, Reading/ Language Arts and Mathematics	Special Education and One Middle School Content Area	Special Education and One High School Content Area
		Special Education Focus Area: A total of 18 hours of special education coursework. ² Reading/Language Arts Focus Area: A total of 12 hours of content/methodology. Mathematics Focus Area: A total of 9 hours of content/methodology	Special Education Focus Area: A total of 18 hours of special education coursework. ² One Middle School Content Focus Area: Total of 19 hours in one of the following content areas: English, Mathematics, Science, or Social Studies. (Note: General Education coursework may be used to create the 19 hours.)	Special Education Focus Area: A total of 18 hours of special education coursework. ² One High School Content Focus Area: A total of 31 hours in one content area (Note: General Education coursework may be used to create the 31 hours.)
Knowledge of the Learner and the Learning Environment	Child Development/Psychology, Adolescent Psychology, Educational Psychology, The Learner with Special Needs, Classroom Organization and Management, and Multicultural Education.	15 hours	15 hours	15 hours
Methodology and Teaching	Reading		6 hours	3 hours
	Teaching Methodology and Strategies	6 hours (Science and Social Studies must be addressed.)	6 hours	6 hours
	Student teaching ³	9 hours	9 hours	9 hours
Flexible Hours for the University's Use⁴		1 hour	9-12 hours	12-21 hours
TOTAL HOURS⁵		124 hours	124 hours	124 hours

¹Students who do not possess basic technology skills should be provided coursework or opportunities to develop those skills early in their program.

²Council for Exceptional Children (CEC) performance-based standards for accreditation and licensure must be met.

³Students must spend a minimum of 270 clock hours in student teaching, with at least 180 of such hours spend in actual teaching. A substantial portion of the 180 hours of actual student teaching shall be on an all-day basis. Fifty percent (50%) of the student teaching must include working with and actual teaching of students with disabilities.

⁴Three of the flexible hours must be in the humanities. This must occur to meet General Education Requirements for the Board of Regents.

⁵In addition to the student teaching experience, students should be provided actual teaching experience (in addition to observations) in classroom settings during the sophomore, junior, and senior years within schools with varied socioeconomic and cultural characteristics. It is recommended that pre-service teachers be provided a minimum of 180 hours of direct teaching experience in field-based settings prior to student teaching.

Minimum credit hours have been listed. Programs may use available flexible hours to add more content hours to the various elements of the program. Institutions may add credit hours to meet additional Board of Regents and/or institutional requirements.

No final grade below a "C" will be accepted by the State Department of Education in any coursework within the undergraduate program, with the exception of general education requirements.

* * *

Interested persons may submit written comments until 4:30 p.m., August 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746 Louisiana Standards for State Certification of School Personnel General-Special Education Mild/Moderate Undergraduate Blended Program

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

This policy amends the new undergraduate certification program structure for Special Education Mild to Moderate Disabilities, as follows: (1) delete PK-3 program option for Mild Moderate Disabilities, leaving options for Grades 1-5, 4-8, and 6-12 only, and thus a three-tiered rather than a four-tiered structure; (2) Delete narrative pages detailing licensure options on the Council for Exceptional Children [CEC] performance based standards and review procedures; and (3) Add footnotes stipulating that the Council for Exceptional Children [CEC] performance-based standards for accreditation and licensure must be met; that 50 percent of student teaching hours must include working with and actually teaching students with disabilities; that three of the flexible hours must be in the humanities to satisfy Board of Regents requirement; and that minimum credit hours and needed further credit hours may be added to meet additional Board of Regents and/or institutional requirements. adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) in dissemination costs.

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

This policy will have no effect on revenue collections.

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

There are no estimated costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0406#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Reading Competencies Policy for Alternate Teacher Certification Programs (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This change in current Bulletin 746 policy allows an option for alternate teacher certification program candidates to either complete a specified number of semester hours in reading or pass a reading competency assessment as a demonstration of proficiency in the reading competencies adopted by the State Board of Elementary and Secondary Education.

These changes to current Bulletin 746 policy amend language in the reading competencies policy for alternate teacher certification programs to align this policy with statute that specifies coursework reading requirements for undergraduate teacher education programs.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§Section 903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 435, 541 (April, July, September, December 1975), amended LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:

* * *

Louisiana Alternate Certification Programs

Practitioner Teacher Program Alternative Path to Certification

State-approved private providers and Louisiana colleges or universities with an approved teacher education program may choose to offer a Practitioner Teacher Program. Practitioner Teacher Programs may offer certification in Grades 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education. The Practitioner Teacher Program is a streamlined certification path that combines intensive coursework and full-time teaching.

1. Admission to the Program. Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring. To be admitted, individuals should:

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

b. Have a 2.50 GPA on undergraduate work. Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider. However, in no case may the GPA be less than 2.20. (Note: State law requires that upon completion of the program, the teacher candidate has a 2.50 GPA for certification.)

c. Pass the PRAXIS Pre-Professional Skills Test (e.g., reading, writing, and mathematics). (Individuals who already possess a graduate degree will be exempted from this requirement.)

d. Pass the PRAXIS content specific examinations:

(1) Candidates for Grades 1-5 (regular and special education): pass the Elementary Education: Content Knowledge (0014) specialty examination;

(2) Candidates for Grades 4-8 (regular and special education): pass the middle school subject-specific licensing examination(s) for content area(s) to be certified;

(3) Candidates for Grades 6-12 (regular and special education): pass the secondary subject-specific examination(s) in the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

(4) Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the subject-specific examination for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

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

2. Teaching Preparation (Summer)

9 credit hours

(or equivalent 135 contact hours)

All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).

GRADES 1-5, 4-8, and 6-12 practitioner teachers will successfully complete courses (or equivalent contact hours)

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

MILD/MODERATE SPECIAL EDUCATION 1-12 practitioner teachers will successfully complete courses (or equivalent contact hours) that focus on special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.

ALL-LEVEL K-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child AND adolescent psychology, the diverse learner, classroom management and organization, assessment; instructional design, and instructional strategies across grade levels K-12 before starting their teaching internships.

3. Teaching Internship and First-Year Support

12 credit hours

(or equivalent 180 contact hours)

Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through an internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers provided by the Louisiana Teacher Assistance and Assessment Program (LaTAAP) and principals. NOTE: For all-level areas (art, dance, foreign language, health and physical education, and music), experiences should be provided across grades K-12.

4. Teaching Performance Review (End of First Year)

Program providers, principals, mentors, and practitioner teachers will form teams to review first-year teaching performance of practitioner teachers and determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrated proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the assessment part of the Louisiana Teacher Assistance and Assessment Program.)

If weaknesses are cited, teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15 to 135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, teams will determine whether practitioner teachers should participate in the new teacher assessment during the fall or whether the

practitioner teachers should receive additional mentor support and be assessed after the fall.

5. Prescriptive Plan Implementation

(Second Year) 1-9 credit hours
(15 to 135 contact hours)

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

6. PRAXIS Review (Second Year)

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

7. Certification Requirements

(Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met with these three years.)

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

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

B. Completed the Teaching Preparation and Teaching Internship segments of the program with an overall 2.50 or higher GPA.

C. Completed prescriptive plans (if weaknesses were demonstrated).

D. Passed the specialty examination (PRAXIS) for the area(s) of certification. (Note: This test was required for admission.)

(1) Grades 1-5 (regular and special education):
Elementary Education: Content Knowledge Examination #0014

(2) Grades 4-8 (regular and special education):
Middle school subject-specific licensing examination(s) for the content area(s) to be certified.

(3) Grades 6-12 (regular and special education):
Secondary subject-specific examination(s) in the content area(s) to be certified. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.

(4) All-Level K-12 areas (art, dance, foreign language, health and physical education, and music):
Subject-specific examination(s) for content area(s) to be certified. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.

E. Passed the pedagogy examination (PRAXIS)

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

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

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

d. All-Level K-12 Certification: Principles of Learning and Teaching 1-6, 5-9, or 7-12

e. Mild/Moderate Special Education 1-12:
Education of Exceptional Students: Core Content Knowledge (0353) and Education of Exceptional Students: Mild to Moderate Disabilities (0542)

F. All candidates who enter an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through either (1) completion of the same amount of semester hours in reading as required for undergraduate teacher preparation programs, or (2) a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

8. Ongoing Support (Second and Third Year)

Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.

9. Professional License (Practitioner License to Level 2)

Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching, they will be eligible for a Level 2 license.

**Undergraduate/Graduate Courses
and Graduate Programs**

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

**Masters Degree Program Alternative Path to
Certification**

A Louisiana college or university with an approved teacher education program may choose to offer an alternative certification program that leads to a master's degree. The college or university may choose to offer the masters degree program as either a Master of Education or a Master of Arts in Teaching. Masters Degree Programs may offer certification in Grades PK-3, 1-5, 4-8, 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education.

Admission To The Program

To be admitted, individuals should:

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

2. Have a 2.50 GPA, or higher, on undergraduate work.

3. Pass the Pre-Professional Skills Test (e.g. reading, writing, and mathematics) on the PRAXIS (Individuals who already possess a graduate degree will be exempted from this requirement.)

4. Pass the PRAXIS content-specific subject area examination:

a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

b. Candidates for Grades 1-5 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

c. Candidates for Grades 4-8 (regular and special education): pass the middle school subject-specific licensing examination(s) for the content area(s) to be certified;

d. Candidates for Grades 6-12 (regular and special education): pass the secondary subject-specific examination(s) for the content area(s) to be certified. If no examination has been adopted for Louisiana in the

certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

e. Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the subject-specific examination(s) for the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

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

Program Requirements

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

Grades PK-3, 1-5, 4-8, and 6-12: Child or adolescent development or psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies

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

All-Level (grades K-12): Child AND adolescent psychology, the diverse learner, classroom management/organization, assessment, instructional design and instructional strategies, across grade levels K-12

2. Methodology and Teaching 12-15 credit hours

Methods courses and field experiences. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

3. Student Teaching or Internship 6-9 credit hours

NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

TOTAL: 33-39 credit hours

Certification Requirements

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

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

2. Completed coursework (undergraduate and masters program) with an overall 2.50 or higher GPA.

3. Passed the specialty examination (PRAXIS) for the area of certification. (Note: This test was required for admission.)

a. Grades PK-3 (regular and special education): Elementary Education: Content Knowledge (#0014) specialty examination

b. Grades 1-5 (regular and special education): Elementary Education: Content Knowledge (#0014) specialty examination

c. Grades 4-8 (regular and special education): Middle school subject-specific licensing examination(s) for content area(s) to be certified;

d. Grades 6-12 (regular and special education): Secondary subject-specific examination(s) in the content area(s) to be certified. If no examination was adopted for Louisiana in the certification area, for admission purposes, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area.

e. All-Level K-12 Certification: Subject-specific examination(s) in the content area(s) to be certified. If no examination was adopted for Louisiana in the certification area, for admission purposes, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area.

4. Passed the pedagogy examination (PRAXIS)

a. Grades PK-3: Early Childhood Education (0020)

b. Grades 1-5: Principles of Learning and Teaching K-6

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

d. Grades 6-12: Principles of Learning and Teaching 7-12

e. All-Level K-12 Certification: Principles of Learning and Teaching K-6, 5-9, or 7-12

f. Mild/Moderate Special Education 1-12: Education of Exceptional Students: Core Content Knowledge (0353) and Education of Exceptional Students: Mild to Moderate Disabilities (0542)

5. All candidates who enter an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through either (1) completion of the same amount of semester hours in reading as required for undergraduate teacher preparation programs, or (2) a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

Non-Masters/Certification-Only Program Alternative Path to Certification

This program is designed to serve those candidates who may not elect participation in or be eligible for certification under either the Practitioner Teacher Alternate Certification Program or the Master's Degree Alternate Certification Program. The program may also be accessible in some areas of the state in which the other alternate certification programs are not available. Non-Master's/ Certification-Only Programs may offer certification in PK-3, 1-5, 4-8, and 6-12, All-Level K-12 (art, dance, foreign language, health and physical education, and music), or Mild-Moderate Special Education.

Admission To The Program

To be admitted, individuals should:

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

2. Have a 2.20 GPA, or higher, on undergraduate coursework. (An overall 2.50 GPA is required for certification; those candidates with a GPA lower than 2.50 may have to take additional courses in the program to achieve a 2.50 GPA);

3. Pass the PRAXIS Pre-Professional Skills Tests (PPST) (Individuals who already possess a graduate degree will be exempted from this requirement.); and

4. Pass the PRAXIS content-specific subject area examination:

a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

b. Candidates for Grades 1-5 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty examination;

c. Candidates for Grades 4-8 (regular and special education): pass the middle school subject-specific examination(s) in the content area(s) to be certified;

d. Candidates for Grades 6-12 (regular and special education): pass the secondary subject-specific examination(s) in the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

e. Candidates for All-Level K-12 areas of art, dance, foreign language, health and physical education, and music: pass the subject-specific examination(s) in the content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area. Provider must develop a process to assure that candidates demonstrate necessary performance skills in the all-level certification area.

Program Requirements

This program will provide the same rigor as other certification routes provided by aligning with such empirically-based standards as National Council for the Accreditation of Teacher Education (NCATE), Interstate New Teacher Assessment and Support Consortium (INTASC), Louisiana Components of Effective Teaching (LCET), and the Louisiana Content Standards. This program will also emphasize collaboration between the university and the school districts in order to share and exchange strategies, techniques, and methodologies; and integrate field-based experiences into the curriculum.

Program Structure

1. Knowledge of Learner and the Learning Environment*

12 hours

GRADES PK-3, 1-5, 4-8, and 6-12: Child or adolescent development/psychology, the diverse learner, classroom management/organization/environment, assessment, instructional design, and reading/instructional strategies that are content and level appropriate.

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

ALL-LEVEL K-12 AREAS: Child psychology AND adolescent psychology; the diverse learner; classroom management/organization/environment; assessment; instructional design, and reading/instructional strategies across grade levels K-12.

*All courses for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course.

2. Methodology and Teaching 6 hours

Methods courses to include case studies and field experiences. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), experiences should be provided across grades K-12.

3. Internship or Student Teaching 6 hours

Will include methodology seminars that are participant-oriented. NOTE: For all-level K-12 areas (Art, Dance, Foreign Language, Health and Physical Education, and Music), internship or student teaching experiences should be provided across grades K-12.

4. Prescriptive Plan 1-9 hours

The prescriptive plan can be pre-planned courses for individual programs or can be individualized courses for the candidate who demonstrates areas of need, not to exceed 9 semester hours.

TOTAL 24-33 hours

Certification Requirements

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

1. Passed the PPST components of the PRAXIS. (Note: This test was required for admission.) (Individuals who already possess a graduate degree will be exempted from this requirement).

2. Completed all coursework (including the certification program) with an overall 2.50 or higher GPA.

3. Passed the specialty examination (PRAXIS) for the area(s) of certification. (Note: This test was required for admission.)

a. Grades PK-3 (regular and special education): Elementary Education: Content Knowledge (#0014) specialty examination

b. Grades 1-5 (regular and special education): Elementary Education: Content Knowledge (#0014) specialty examination

c. Grades 4-8 (regular and special education): Middle school subject-specific licensing examination(s) in area(s) to be certified;

d. Grades 6-12 (regular and special education) and All-Level K-12 Certification: Subject-specific examination in content areas to be certified. If no examination was adopted for Louisiana in the certification area, candidates were required to present a minimum of 31 semester hours of coursework specific to the content area for admission to the program.

4. Passed the pedagogy examination (PRAXIS)

a. Grades PK-3: Early Childhood Education (0020)

b. Grades 1-5: Principles of Learning and Teaching K-6

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

d. Grades 6-12: Principles of Learning and Teaching 7-12

e. All-Level K-12 Certification: Principles of Learning and Teaching K-6, 5-9, or 7-12

f. Mild/Moderate Special Education 1-12: Education of Exceptional Students: Core Content Knowledge (0353) and Education of Exceptional Students: Mild to Moderate Disabilities (0542)

5. All candidates who enter an alternate certification program after May 1, 2004, will be required to demonstrate proficiency in the Reading Competencies as adopted by the State Board of Elementary and Secondary Education through either (1) completion of the same amount of semester hours in reading as required for undergraduate teacher preparation programs, or (2) a reading competency assessment, prior to receiving a Level 1 or higher professional teaching certificate.

Deadline Dates For Louisiana Alternate Programs
No students should be accepted into an old post-baccalaureate alternate certification program in the areas of PK-3, 1-5, 4-8, 6-12, and mild/moderate special education after Spring Semester 2003. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2006, to complete their programs.
No students should be accepted into an old post-baccalaureate alternate certification program in the all-level (K-12) areas of art, dance, foreign language, H&PE, and music after Spring Semester 2005. Candidates in these areas who are already in the old alternative certification programs would be allowed until August 31, 2008, to complete their programs.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 746 Louisiana Standards for State Certification of School Personnel Reading Competencies Policy for Alternate Teacher Certification Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This change in current Bulletin 746 policy allows an option for alternate teacher certification program candidates to either

complete a specified number of semester hours in reading or pass a reading competency assessment as a demonstration of proficiency in the reading competencies adopted by the State Board of Elementary and Secondary Education. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0406#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746 Louisiana Standards for State Certification of School Personnel Suspension, Revocation, and Reinstatement of Certificates Policy; Denial of Certificates for Criminal Offenses Policy (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746 Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903(A). This proposed revision amends language to current Bulletin 746 policy for the suspension, revocation, and reinstatement of teaching certificates as well as for the denial of teaching certificates for criminal offenses provides for the following: (1) a period of three years must lapse from time of criminal offense until time of application for a teaching certificate; (2) convictions set aside, expunged, or pardoned (per Louisiana first offender pardon laws) will be treated as convictions for purposes of suspension and/or revocation; (3) gubernatorial pardons will be honored; (4) the board may deny a request for reinstatement based on applicant's dishonesty in failing to disclose a prior criminal conviction; (5) applicant must contact the board and request a hearing; and (6) if the board denies reinstatement, the applicant must wait one year prior to re-application.

Title 28 EDUCATION

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

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 541 (April, July, September, December 1975), amended LR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:

* * *

Suspension, Revocation, and Reinstatement of Certificates for Criminal Offenses

I. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) (see Attachment 1) or any felony offense whatsoever. A person convicted of an offense as defined herein may apply for a certificate after three years have passed from date of entry of final conviction pursuant to the procedures and rules set forth in Section V.

II. For the purposes of this policy:

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

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

The term "teacher" shall include any person holding any permanent, ancillary, or temporary teaching certificate.

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

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

The term "Department" refers to the Louisiana Department of Education.

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

III. Convictions that are set aside pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, expunged, or which are pardoned subject to Louisiana first offender pardon laws nonetheless, shall be treated as convictions for the purposes of suspension and/or revocation.

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

A. Department staff shall attempt to contact the teacher to inform him/her that the department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

B. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

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

D. If the department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official board action.

E. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that the certificate will be revoked unless the teacher can provide documentation that he/she was not convicted of the crime. The teacher shall provide copies of any documentation that verifies his/her identity and refutes the existence of a criminal conviction.

If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, such action shall be communicated to the board through documentation provided by the applicant. The board may receive such information and order immediate reinstatement of the teacher's certificate.

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

V. Procedures and Rules for Applications for Reinstatement:

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

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

C. An applicant may apply to the board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions:

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal history background check from state police that is clean and clear.

2. There has been successful completion of all conditions/requirements of parole and/or probation. The applicant must provide relevant-documentation.

D. The applicant must:

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for reinstatement of the certificate.

2. Provide each item identified above in Section C and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials and/or from other community leaders.

E. The board will consider the request for reinstatement and documentation provided. The board is not required to conduct a reinstatement hearing and may summarily deny a request for reinstatement.

F. If the board or its designees decide to conduct a reinstatement hearing, board staff shall notify the applicant

of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit. The written documentation provided prior to the hearing will also be considered.

G. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate. The board further reserves the right to deny a request for reinstatement based on the applicant's dishonesty in failing to disclose a prior criminal conviction.

H. If the board denies reinstatement, the applicant must wait one year prior to re-application.

I. The committee of the board shall make a recommendation to the full board regarding whether the applicant's teaching certificate should be reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the board's action.

Attachment 1

The following crimes are reported under R.S.15:587.1:

R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude (Federal Criminal Code provisions are in Title 18 of U.S.C.A.). Specifically:

- *R.S. 14:30 First degree murder
- *R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- *R.S. 14:41 Rape
- *R.S. 14:42 Aggravated rape
- *R.S. 14:42.1 Forcible rape
- *R.S. 14:43 Simple rape
- *R.S. 14:43.1 Sexual battery
- *R.S. 14:43.2 Aggravated sexual battery
- *R.S. 14:43.3 Oral sexual battery
- *R.S. 14:43.4 Aggravated oral sexual battery
- *R.S. 14:43.5 Intentional exposure to the AIDS virus
- *R.S. 14:44 Aggravated kidnapping
- *R.S. 14:44.1 Second degree kidnapping
- *R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- *R.S. 14:78 Incest
- *R.S. 14:79.1 Criminal abandonment

- *R.S. 14:80 Carnal knowledge of a juvenile
- *R.S. 14:81 Indecent behavior with a juvenile
- *R.S. 14:81.1 Pornography involving juveniles
- *R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- *R.S. 14:82.1 Prostitution; Persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; sexual content prohibited
- R.S. 14:84 Pandering
- R.S. 14:85 Letting premises for prostitution
- R.S. 14:85.1 Letting premises for obscenity
- *R.S. 14:86 Enticing persons into prostitution
- *R.S. 14:89 Crime against nature
- *R.S. 14:89.1 Aggravated crime against nature
- R.S. 14:92 Contributing to the delinquency of juveniles
- *R.S. 14:93 Cruelty to juveniles
- *R.S. 14:93.2.1 Child desertion
- R.S. 14:93.3 Cruelty to the infirm
- R.S. 14:106 Obscenity
- R.S. 14:282 Operation of places of prostitution prohibited
- *R.S. 14:286 Sale of minor children
- R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
- R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; Distribution
- R.S. 40:968(A) Prohibited acts; Schedule III; penalties; Manufacture; Distribution
- R.S. 40:969(A) Prohibited acts; Schedule IV; penalties; Manufacture; Distribution
- R.S. 40:970(A) Prohibited acts; Schedule V; penalties; Manufacture; Distribution

*Reinstatement will never be considered for crimes marked with an asterisk.

Denial of Certificates for Criminal Offenses

I. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) (see Attachment 1) or any felony offense whatsoever. A person convicted of an offense as defined herein may apply for a certificate after three years have passed from date of entry of final conviction pursuant to the procedures and rules set forth in Section V.

II. For the purposes of this policy:

The term "offense" or "crime" shall include those listed in R.S. 15:587.1(C) and any felony offense whatsoever.

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

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

The term "convicted" or "conviction" shall include any proceedings in which the accused pleads guilty or no contest

and those proceedings that are tried and result in a judgment of guilty.

The term "Department" refers to the Louisiana Department of Education.

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

III. Convictions that are set aside pursuant to Articles 893 or 894 of the Louisiana Code of Criminal Procedures, expunged, or which are pardoned subject to Louisiana first offender pardon laws nonetheless, shall be treated as convictions for the purpose of denial.

IV. The applicant shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied. If the conviction upon which the certificate has been denied is reversed, such action should be communicated to the department through documentation provided by the applicant. The applicant shall provide copies of any documents that verify his/her identity and refute the existence of a criminal conviction.

V. Procedures for Issuance of Certificate to a Person Whose Final Conviction Was Entered More Than Three Years Prior to Application:

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

B. An applicant may apply to the board for issuance of his/her teaching certificate after three years have passed since conviction of an offense as defined herein under the following conditions:

1. There have been no other arrests or convictions. The applicant must provide a current FBI criminal background check from the state police that is clean and clear.

2. There has been successful completion of all conditions and/or requirements of parole and/or probation. The applicant must provide relevant documentation.

C. The applicant must:

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for issuance of a certificate.

2. Provide each item identified above in Section B, and further documentation evidencing rehabilitation. It is recommended that the applicant provide letters of support from past/present employers, school board employees and officials, faculty and administrative staff from the college education department, law enforcement officials and/or from other community leaders.

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

E. If the board or its designees decide to conduct an issuance hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented/accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information

considered will be limited to evidence of rehabilitation. The conviction itself will be given full faith and credit.

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

G. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for a teaching certificate. The board further reserves the right to deny issuance based on the applicant's dishonesty in failing to disclose a prior criminal conviction.

Attachment 1

The following crimes are reported under R.S.15:587.1:

R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses; Those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the Federal Criminal Code having analogous elements of criminal and moral turpitude (Federal Criminal Code provisions are in Title 18 of U.S.C.A.). Specifically:

- *R.S. 14:30 First degree murder
- *R.S. 14:30.1 Second degree murder
- R.S. 14:31 Manslaughter
- *R.S. 14:41 Rape
- *R.S. 14:42 Aggravated rape
- *R.S. 14:42.1 Forcible rape
- *R.S. 14:43 Simple rape
- *R.S. 14:43.1 Sexual battery
- *R.S. 14:43.2 Aggravated sexual battery
- *R.S. 14:43.3 Oral sexual battery
- *R.S. 14:43.4 Aggravated oral sexual battery
- *R.S. 14:43.5 Intentional exposure to the AIDS virus
- *R.S. 14:44 Aggravated kidnapping
- *R.S. 14:44.1 Second degree kidnapping
- *R.S. 14:45 Simple kidnapping
- R.S. 14:74 Criminal neglect of family
- *R.S. 14:78 Incest
- *R.S. 14:79.1 Criminal abandonment
- *R.S. 14:80 Carnal knowledge of a juvenile
- *R.S. 14:81 Indecent behavior with a juvenile
- *R.S. 14:81.1 Pornography involving juveniles
- *R.S. 14:81.2 Molestation of a juvenile
- R.S. 14:82 Prostitution
- *R.S. 14:82.1 Prostitution; Persons under seventeen; additional offenses
- R.S. 14:83 Soliciting for prostitutes
- R.S. 14:83.1 Inciting prostitution
- R.S. 14:83.2 Promoting prostitution
- R.S. 14:83.3 Prostitution by massage
- R.S. 14:83.4 Massage; Sexual content prohibit
- R.S. 14:84 Pandering

- R.S. 14:85 Letting premises for prostitution
 - R.S. 14:85.1 Letting premises for obscenity
 - *R.S. 14:86 Enticing persons into prostitution
 - *R.S. 14:89 Crime against nature
 - *R.S. 14:89.1 Aggravated crime against nature
 - R.S. 14:92 Contributing to the delinquency of juveniles
 - *R.S. 14:93 Cruelty to juveniles
 - *R.S. 14:93.2.1 Child desertion
 - R.S. 14:93.3 Cruelty to the infirm
 - R.S. 14:106 Obscenity
 - R.S. 14:282 Operation of places of prostitution prohibited
 - *R.S. 14:286 Sale of minor children
 - R.S. 40:966(A) Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
 - R.S. 40:967(A) Prohibited acts; Schedule II, penalties; Manufacture; Distribution
 - R.S. 40:968(A) Prohibited acts; Schedule III; penalties; Manufacture; Distribution
 - R.S. 40:969(A) Prohibited acts; Schedule IV; penalties; Manufacture; Distribution
 - R.S. 40:970(A) Prohibited acts; Schedule V; penalties; Manufacture; Distribution
- *Reinstatement will never be considered for crimes marked with an asterisk.

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Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**
**RULE TITLE: Bulletin 746 Louisiana Standards for
State Certification of School Personnel Suspension,
Revocation, and Reinstatement of Certificates Policy;
Denial of Certificates for Criminal Offenses Policy**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Amended language to current Bulletin 746 policy for the suspension, revocation, and reinstatement of teaching certificates as well as for the denial of teaching certificates for criminal offenses provides for the following: (1) a period of three years must lapse from time of criminal offense until time of application for a teaching certificate; (2) convictions set aside, expunged, or pardoned (per Louisiana first offender pardon laws) will be treated as convictions for purposes of suspension and/or revocation; (3) gubernatorial pardons will be honored; (4) the Board may deny a request for reinstatement based on applicant's dishonesty in failing to disclose a prior criminal conviction; (5) applicant must contact the Board and request a hearing; and (6) if the Board denies reinstatement, the applicant must wait one year prior to re-application. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This policy will have no effect on competition and employment.

Marlyn J. Langley Deputy Superintendent Management and Finance 0406#036	H. Gordon Monk Staff Director Legislative Fiscal Office
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NOTICE OF INTENT

Board of Elementary and Secondary Education

Guidelines for Personnel Evaluation
(LAC 28:CHIII.Chapters 1-7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1525 Guidelines for Personnel Evaluation*, referenced in R.S. 17:3883(A)(5),(6),and(7), and (B)(2), 3903(A) and 3904(A)(1), and R.S. 17:3883(B)(5) and 3905, promulgated by the Board of Elementary and Secondary Education in LR5:168 (July 1979). This is the first time that *Bulletin 1525* appears in its codified form. The State Board of Elementary

and Secondary Education (SBESE) at its January meeting approved revisions to the Louisiana Components of Effective Teaching (LCET) that appears as Section 703 of *Bulletin 1525 Guidelines for Personnel Evaluation*. The LCET are the assessment criteria for the first and second year teachers participating in the Louisiana Teacher Assistance and Assessment Program as well as all experienced teachers participating in local personnel evaluation programs. Revisions to the LCET were necessitated by the May 2001 Governor's Blue Ribbon Commission Teacher Quality Recommendations Year Two Report.

**Title 28
EDUCATION**

**Part CIII. Bulletin 1525 Guidelines for Personnel
Evaluation**

Chapter 1. Overview

§101. Guidelines of the Program

A. As required by R.S. 17:391.5, R.S. 17:24.3 (Act 621 and Act 9) of the 1977 Louisiana Legislature; and R.S. 17:391.10 (Act 605) of 1980, all local educational agencies (LEAs) in Louisiana developed accountability plans to fulfill the requirements as set forth by the laws. Specifically, Act 621 of 1977 established school accountability programs for all certified and other professional personnel. Act 9 of 1977 established a statewide system of evaluation for teachers and principals. Act 605 of 1980 gave the Louisiana Department of Education (LDE) the authority to monitor the LEAs' personnel evaluation programs. In passing these acts, it was the intent of the legislature to establish within each LEA a uniform system for the evaluation of certified and other professional personnel.

B. Act 506, R.S. 17:391.5, as enacted and amended during the 1992 Regular Session of the Louisiana Legislature, revised and reenacted previous LEA accountability legislation. It included provisions to strengthen and make more uniform the local teacher evaluation practices within the public schools of Louisiana.

C. During the spring of 1992, the State Board of Elementary and Secondary Education (SBESE) authorized the convening of a Local Teacher Evaluation Program Panel (Panel II) to develop guidelines for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. Superintendents, principals, and teachers were represented on this panel. Panel II operated under the assumption that local teacher evaluation programs would be standardized if they were grounded in the same statement of philosophy and purposes, if they used common criteria to evaluate teachers, and if they included uniform procedures and guidelines.

D. The guidelines to strengthen local teacher evaluation programs including the Louisiana Components of Effective Teaching were entitled "*Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs*" (Appendix A) and were approved by the SBESE in September 1992. These guidelines are integrated into the content of this document. Appendix A, along with the requirements of the local accountability legislation, formed the basis for the local evaluation programs.

E. The SBESE also authorized the convening of the Louisiana Components of Effective Teaching (LCET) Panel (Panel I) during the spring of 1992. The charge of Panel I

was to determine and to define the components of effective teaching for Louisiana's teachers. The components were to reflect what actually takes place in the classroom of an effective teacher. This thirty-five member panel was composed of a majority of teachers. The resulting *Louisiana Components of Effective Teaching* (Appendix B), which is a descriptive framework of effective teacher behavior, is intended to be a uniform element that serves as evaluation criteria in the local teacher evaluation programs.

F. In 1994, Act I of the Third Extraordinary session of the 1994 Louisiana Legislature was passed. Act I amended and reenacted several statutes related to Local Personnel Evaluation. In April 2000, Act 38 of the Extraordinary Session of the 2000 Louisiana Legislature was passed. Act 38 amended, enacted, and repealed portions of the legislation regarding the local personnel evaluation process. While local school districts are expected to maintain the elements of the local personnel evaluation programs currently in place and set forth in this document, Act 38 eliminated the LDE's required monitoring of the local implementation. Monitoring of local personnel evaluation programs is to occur as requested by the SBESE.

G. *Bulletin 1525* reflects the most recent local personnel evaluation legislation as well as the State-approved guidelines for its implementation. The intent of the *Bulletin 1525* is to present a framework or template for local school systems to use in the development or review of their personnel evaluation programs. These programs must fulfill the requirements of the enacted legislation, establish a uniform system of evaluation, and denote the philosophy and unique characteristics of the local school system.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§103. Philosophy of Personnel Evaluation

A. It is clear that public schools must provide a high quality education that prepares our youth for the demands of the 21st century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this charge, the SBESE has established uniform guidelines for personnel evaluation.

B. Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving the instruction of and the learning environment for all students.

C. Supplementing many of the traditional concepts of personnel evaluation, the LDE affirms and supports the belief that evaluation is a humanistic process directed toward the growth and development of all professional personnel who determine the educational programs in the state. This vast human potential will ultimately determine the direction the educational programs will follow.

D. Therefore, it is crucial that every effort possible be expended toward the identification and retention of the most competent and qualified personnel.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§105. Purposes of Personnel Evaluation

A. The purposes for which personnel evaluation will be used in Louisiana are as follows:

1. to assure the public that the educational system provides the best opportunities for all children to learn;
2. to assure the public that the most qualified personnel are employed in every position and that effective teaching continues in the classroom;
3. to foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators;
4. to provide support for the professional development of new teachers during their first year of teaching;
5. to provide procedures that are necessary to fulfill the objectives of retaining competent professional employees, to embrace sound educational principles, and to ensure the strengthening of the formal learning environment;
6. to provide procedures for self-evaluation, personal reflection, and peer collaboration;
7. to promote among all school personnel positive interpersonal relationships that will continually increase professional competencies.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§107. Implementation of Personnel Evaluation Programs

A. Activities to include in the annual implementation cycle of Local Personnel Evaluation Programs are presented below.

1. The LEA's steering committee reviews and refines plans annually for implementing its local personnel evaluation program during the school year.
2. Local school districts may elect to submit their personnel evaluation plans and/or revisions to the LDE prior to the beginning of the next school year. The LDE receives and reviews, per request, local personnel evaluation plans and/or revisions according to the guidelines presented in *Bulletin 1525*.
3. Each LEA's steering committee implements its refined personnel evaluation program with LEA Board approval and meets annually to monitor its implementation.
4. Each LEA provides ongoing staff development for teachers and administrators.
5. Each LEA annually reports the summary results of personnel evaluation to the LDE by July 15.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§109. Framework for LEA Personnel Evaluation Programs

A. Each local school board has the responsibility of providing a program for the evaluation of certified and other professional personnel employed within the system. Programs should be appropriate and tailored to the particular needs of the school district. Each school board shall have the responsibility to institute programs that address the

particular needs of the school district it represents and the guidelines developed by the LDE pursuant to the laws.

B. Certain requirements relative to the design and development of local personnel evaluation programs have been set forth in an effort to facilitate the construction and implementation process. Organizing and numbering the personnel evaluation program plan in a manner consistent with the proposed format will be helpful to the LEA in determining that all elements of evaluation have been included. A numerical outline will also assist all parties in the review of the plan should such a review be requested or mandated by the SBESE. The remainder of this document presents information relative to the criteria for each of the following sections or elements that should be included in the LEA personnel evaluation program plan.

C. The list below identifies those sections that are considered essential to an effective personnel evaluation program.

Section 1.0	Focus on Educational Improvement
Section 2.0	Staff Involvement in the Personnel Evaluation Program
Section 3.0	Philosophy and Purposes of Personnel Evaluation
Section 4.0	LEA Personnel Evaluation Glossary
Section 5.0	Impact of Personnel Evaluation
Section 6.0	Evaluation Process Description
Section 6.1	Evaluation Criteria
Section 6.1A	Instructional Personnel
Section 6.1B	Non-Instructional Certified and Other Professional Personnel
Section 6.2	Accountability Relationships Register
Section 6.3	Programs Instruments Register
Section 6.4	Observation Process
Section 6.5	Developing the Professional Growth Plan
Section 6.6	Personnel Self-Evaluation
Section 6.7	The Evaluation Period
Section 6.8	Intensive Assistance Programs
Section 6.9	Induction of New Teachers
Section 6.10	Procedures for Resolving Conflict—Due Process
Section 7.0	Staff Development for Personnel Involved in Evaluation
Section 8.0	Process Instruments
Section 9.0	Job Descriptions
Section 10.0	Employment Requirements
Section 11.0	Evaluation Exemption
Section 12.0	Statement of Assurance

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§111. Definitions

A. In order that consistency in terminology be maintained on a statewide basis, the LDE has established a list of terms and the definitions of each. Careful consideration of each should be given during the development of the LEA personnel evaluation programs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA plan for personnel evaluation. The definitions below must be adopted by all LEAs.

Accountability Shared responsibility for actions relating to the education of children.

Administrator Any person whose employment requires professional certification issued under the rules of the board in *Bulletin 746*, or who is employed in a professional capacity other than a teacher.

Assessment The process by which the Louisiana Department of Education determines whether a new teacher who is seeking to retain or to acquire a regular teaching certificate can sufficiently demonstrate the Louisiana Components of Effective Teaching to qualify for the teaching credential being sought.

Assistance Level The number of times assistance has been prescribed.

Certified School Personnel Those persons whose positions require LDE certification.

Criteria Demonstrable levels of performance upon which a judgment or decision may be based.

Due Process Fair and impartial treatment as guaranteed under the law, including, but not limited to, the 1st, 5th, and 14th Amendments to the Constitution of the United States; Section 1983 of the Civil Rights Act of 1871; Title VII of the Civil Rights Act of 1964; and Title IX of the Educational Amendment of 1972, relative to substantive and procedural requirements.

Duties Those actions normally required of a position as assigned and/or described in the position description that are necessary to enable the class, school, or school district to accomplish its objectives.

Educational Accountability The respective shared responsibilities and duties of the following groups: local school boards, administrators, principals, teachers, and other personnel; the LDE; parents and students; and other governing authorities as specified by the constitution and laws of the state.

Evaluatee One who is evaluated.

Evaluation The process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

Evaluation Period The period of time during each school year during which the evaluation program will be conducted.

Evaluator One who evaluates.

Goal A statement of broad direction or intent which is general and timeless and which is not concerned with a particular achievement within a specified time period.

Instructional Personnel Those LEA personnel who provide classroom instruction (e.g., classroom teacher, special education teacher, special projects teacher).

Intensive Assistance Plan The plan that is implemented when experienced personnel do not meet the local school system's standards of performance through the personnel evaluation process. This plan specifies what the evaluatee needs to do to strengthen his/her performance, what assistance/support is provided by the local system, the timelines and procedures for monitoring the progress, and the action that will be taken if improvement is not demonstrated.

Job Description A statement of the position title, qualifications, supervisor, supervisory responsibilities, duties, job tasks, and standard performance criteria that specify the level of job skill required. (The *Louisiana Components of Effective Teaching* must be included for instructional personnel, and the *Standards for Principals*

must be included for building-level administrators.) Space must be provided for signature and date.

LEA Local educational agency, parish/city school board, local school system.

LEA Steering Committee A local school district committee representing instructional, certified, and other professional personnel to review the current personnel evaluation program.

LDE Louisiana Department of Education.

Multi-Opportunity More than one opportunity.

New Teacher Any full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting; one who is not an administrator and who is employed for the first time in a public school in this state after August 1, 1994; one who holds a regular teaching certificate, which when issued was valid for three years; or one who is authorized under law or board regulation to teach temporarily while seeking a regular teaching certificate.

Non-Instructional Certified and Other Professional School Personnel Those LEA personnel who do not provide classroom instruction.

Objective A devised accomplishment that can be verified within a given time, under specifiable conditions, and by evidence of achievement.

Observation The process of gathering facts, noting occurrences, and documenting evidence of performance.

Other Professional School Personnel All school employees whose positions do not require a teaching certificate but do require a college degree and/or employees without a college degree who assume major management functions by directing, administering, or managing significant departments or divisions within the LEA.

Performance Criteria General and specific standards by which personnel may be evaluated and on which judgments and decision making may be based.

Philosophy A composite statement of the relationship between the individual and society based upon beliefs, concepts, and attitudes from which the goals and purposes of the district's mission are derived.

Professional Growth Plan A written plan formulated by the satisfactorily-performing evaluatee to enhance his/her skills and performance. The plan includes specific goal(s), objective(s), action plans, timelines, and evaluation criteria.

Public Schools Public elementary and secondary schools governed by parish or city school boards and under the supervision of the State Board of Elementary and Secondary Education (SBESE).

School Board Parish or city school board governing public elementary and secondary schools.

School District The area of each parish or municipality under the jurisdiction of a local school board.

School Personnel Teachers, librarians, counselors, administrators, and other professional personnel of the public schools of the state, including members of the professional staff of the LDE.

Self-Evaluation The process of making considered judgments of one's own performance concerning professional accomplishments and competencies as a certified employee or other professional person based upon personal knowledge of the area of performance involved, the

characteristics of the given situation, and the specific standards for performance pre-established for the position; to be submitted by the evaluatee to the appropriate evaluator for use in the compilation of the individual's evaluation report.

Single Official Personnel File Single personnel file maintained in the LEA central office. At minimum, the contents of the single official personnel file must include 1) documentation for the annual review or update of job descriptions and self-evaluations, 2) copies of completed observations and evaluations, and 3) completed professional growth plans or evidence to support the initiation and annual review of long term growth plans.

Staff Development Process designed for groups of LEA personnel with similarities guided by school/district goals and plans. It should encourage collective growth in a common direction and lead to an enhanced repertoire of skills/concepts.

Standard That which is set up and established by an authority or by mutual acceptance as a basis for the measure of quantity, value, or quality.

Standard of Performance An authoritative or mutually established level of accomplishment.

Teacher Any full-time employee of a local board who is engaged to provide instruction directly and regularly to students in any elementary, secondary, or special education school setting including a librarian, an assessment teacher, a speech therapist, and a counselor; one who is not an administrator; and who has successfully completed the Teacher Assistance and Assessment Program or who is not required to participate in the Teacher Assistance and Assessment Program.

Triennial Occurring every third year.

Uniform Evaluation System A system of evaluation that applies the same procedures in a consistent manner to all employees of each type or class of certified employees, as well as other professional school personnel.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Chapter 3. Template for Personnel Evaluation Plans

§301. Focus on Educational Improvement

A. The first Section of the local personnel evaluation plan should present an overview of the district's philosophy and educational goals. The LEA personnel evaluation program should be well-grounded in the local school district's educational philosophy and goals. A clear message is provided as to how LEA personnel evaluation will be used to facilitate more effectively the attainment of short and long term goals for educational improvement at the district and school building levels. The overview of the district's philosophy should describe not only the LEA's philosophy and educational goals but also their relationship to the LDE's philosophy and purpose of personnel evaluation. The district's philosophy should also include the relationship of the personnel evaluation program to goals for educational improvement at the district and school building level.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§303. Staff Involvement in the Personnel Evaluation Program

A. The LEA will form a balanced personnel evaluation steering committee that is representative of administrators, instructional, and support services personnel who are selected by the groups they represent. In Section 2.0 of the LEA personnel evaluation plan, the LEA describes the composition and work of the LEA steering committee. This standing committee is responsible for assessing the strengths and weaknesses of the LEA's personnel evaluation program in light of the guidelines set forth in *Bulletin 1525*. The steering committee oversees the planning and implementation of any revisions necessary to strengthen the personnel evaluation process. This committee annually evaluates the extent to which the purposes of the local personnel evaluation program are being achieved, and presents any revision of the plan to the LEA Board for its approval.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§305. Philosophy and Purposes of Personnel Evaluation

A. Key elements of Section 3.0 of the LEA personnel evaluation plan include a clear description of the philosophy and the purposes for which personnel evaluation is used in the local school district. The philosophy that is presented should be supported by contemporary research and grounded in the belief that all students can learn, that good teaching increases the opportunities for students' learning, and that a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for effective teaching.

B. One purpose of the LEA personnel evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the most qualified personnel are employed in every position, and that effective teaching continues in the classroom. Additional purposes to include and describe in Section 3.0 are the improvement of the teaching-learning process, the encouragement of creativity and innovation in planning, and the implementation of teaching strategies. Teaching strategies should foster parental involvement, integrate technology into instruction, develop student assessment practices, and employ school improvement practices that are consistent with contemporary research on effective classroom processes.

C. All of the purposes of the LEA personnel evaluation program should promote the professional growth and development of staff, as well as the support of new teachers.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§307. LEA Personnel Evaluation Glossary

A. When developing Section 4.0 of the LEA personnel evaluation plan, the LEA should include a complete listing of all evaluation terms used in the school district. Definitions

of each term should be provided to assist with program consistency and standardization. A minimal list of terms and definitions to include in the LEA Personnel Evaluation Glossary is provided in Section 111 of this document. The LEA may include other terms and definitions as necessary.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§309. Impact of Personnel Evaluation

A. Section 5.0 of the LEA personnel evaluation plan contains a description of the methods the LEA will use to document the impact of the LEA personnel evaluation process on improving teaching and learning at the school building and district levels. This section includes a plan for annually documenting, celebrating, and sharing the accomplishments of certified and other professional personnel with the school community. The impact of personnel evaluation on the teaching and learning process at the school building and district level may be documented through the inclusion of newsletters, brochures, newspaper articles, and meeting agendas.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§311. Evaluation Process Description

A. Section 6.0 contains a description of the LEA's evaluation process. The various procedures involved in the evaluation of personnel must reflect the guidelines presented within this Section. All procedures should be written clearly so that all evaluation procedures are readily discernible to all of the individuals involved.

B. It is important to note that Section 6.0 of *Bulletin 1525* incorporates the work of Panel II (Appendix A) as it applies to classroom teachers. The evaluation process for principals must comply with the *Standards for School Principals in Louisiana, 1998* (Appendix C). Furthermore, the LEA's description of the evaluation process should integrate and apply the content that is applicable and appropriate for all certified and other professional personnel. The guidelines to use in developing the description of the evaluation process for all certified and professional personnel follow.

1. The evaluator's assessment of performance shall be based on the criteria specified in the written job description, including the *Louisiana Components of Effective Teaching* for instructional personnel and the *Standards for School Principals in Louisiana* for building-level administrators.

2. The evaluator's assessment of the progress the evaluatee has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator shall be documented.

3. The evaluatee's self-evaluation, as well as progress toward achieving those objectives included in his/her professional growth plan shall be included in evaluation.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§313. Evaluation Criteria

A. In Section 6.1 the LEA defines the criteria used in the evaluation of all certified and other professional personnel. Evaluation criteria for all certified and other professional personnel must be defined clearly in writing in the job description. When designing evaluation instruments, the LEA must include a description of the standards for satisfactory performance for all personnel.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§315. Evaluation of Instructional Personnel

A. Section 6.1A outlines the evaluation criteria that the LEA will use when evaluating instructional personnel. It is important that instructional personnel know that they are evaluated on the basis of the criteria defined in their respective job descriptions including the *Louisiana Components of Effective Teaching* (Appendix B) and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all the criteria in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching. The evaluation criteria must conform to the following guidelines.

1. The evaluation criteria for all instructional personnel shall be stated clearly in writing in the job description.

2. The *Louisiana Components of Effective Teaching* shall be included in the job descriptions of instructional personnel.

3. The evaluation criteria shall provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§317. Evaluation of Non-Instructional Certified and Other Professional Personnel

A. In this Section, the plan describes the design of appropriate instrumentation that is used in the evaluation of non-instructional certified and other professional personnel. The design of the instrument(s) must provide for the evaluation of standard criteria (the job description for which non-instructional personnel are held responsible) and the specific Professional Growth Plan designed by the evaluatee and the evaluator. The design of the instrument(s) must conform to the guidelines listed below.

1. The criteria included in the job description shall be evaluated; a description of the standards for satisfactory performance shall be indicated.

2. The evaluation criteria for all building-level administrators shall include the *Standards for School Principals in Louisiana* (Appendix C).

3. The criteria for the evaluation of Professional Growth Plans shall be specified.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§319. Accountability Relationships Register

A. Section 6.2 of the LEA personnel evaluation program plan contains an Accountability Relationships Register. The register clearly defines the LEA's accountability relationships for all certified and other professional personnel. It is important that the LEA describe the process by which all accountability relationships are communicated annually so that all certified and other personnel know who is accountable to whom for the purposes of personnel evaluation. An example of an Accountability Relationships Register follows.

B. Accountability Relationships Register

Evaluatee	Evaluator
Classroom Teachers	Principals
Principals	Supervisors
Supervisors	Superintendent
Note: The Register must contain a list of all categories of evaluatees in the school district. Titles of evaluatees should match those presented on the job descriptions.	Note: The Register must contain a list of the evaluators for each evaluatee in the district. Titles of evaluators should match those presented on the job descriptions.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§321. Program Instruments Register

A. Section 6.3 of the LEA personnel evaluation program plan contains a register or listing of all evaluation program instruments. A numerical coding system may be used to identify all of the various evaluation forms. It is extremely helpful to standardize the location and size of the coding that is selected. A sample of a Program Instruments Register is provided below.

B. Program Instruments Register

Instruments	Codes
Professional Growth Plan Form(s)	PGP 1
Personnel Observation Form(s)	POF 1
Personnel Evaluation Form(s)	PEF 1
Self-Evaluation Form(s)	SEF 1
Intensive Assistance Form(s)	IAF 1

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§323. Observation Process

A. The observation procedures for all certified and other professional personnel employed in the district are included in Section 6.4. A detailed narrative of the procedures to be employed is to be included in this subsection. Guidelines

that must be addressed and incorporated in the LEA observation procedures are listed below.

1. The LEA must specify who will conduct the observation(s). The evaluator must conduct at least one of the required number of observation(s).

2. The LEA must specify how often observations will occur. A minimum of one observation every year for personnel with 0-3 years experience, and one observation every 3 years for personnel with 4+ years experience is required. (Teachers participating in the Louisiana Teacher Assistance and Assessment Program may substitute elements of evaluation according to the LEA plan.)

3. The evaluator of each teacher or administrator shall conduct a preobservation conference during which the teacher or administrator shall provide the evaluator with relevant information.

4. The LEA must notify the evaluatee in advance when observation(s) will occur. All types of observations used must be defined in the LEA's plan.

5. The LEA must specify how the post-observation conference will be conducted.

6. The LEA must specify how copies of the completed observation forms will be disseminated and filed.

7. The LEA must specify how intensive assistance, if necessary, will be initiated following the observation procedures.

B. Instructional Personnel. In addition to the guidelines listed above, the following observation procedures are required for instructional personnel. Classroom observation is a critical aspect of the teacher evaluation process. Guidelines that must be considered and included in the LEA plan when evaluators conduct classroom observations follow.

1. Periodic classroom observations shall be used to evaluate teaching.

2. A pre-observation conference shall be held to review the teacher's lesson plan; the review may include information about the use of technology, student assessment practices, and school improvement efforts.

3. Observations shall be of sufficient duration to see the lesson begin, develop, and culminate.

4. A post-observation conference shall be held to discuss and analyze the lesson as well as to prepare an observation report.

5. The primary purpose of the classroom observation shall not be to rate the teacher, but rather, to reach consensus on not only commendations, but also recommendations to strengthen or enhance teaching.

6. Follow-up observations shall be conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.

7. Classroom visits may be conducted to monitor progress toward achievement of professional growth plan objectives and to provide support or assistance.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§325. Developing the Professional Growth Plan

A. The process that is used to develop and evaluate the Professional Growth Plan (PGP) is specified in Section 6.5.

Periodic evaluation conferences are conducted to discuss and analyze job performance for the purpose of developing longer term PGPs to strengthen or enhance the job performance of all certified and other professional personnel. These PGPs must be developed at the beginning of the evaluation period and be based on a descriptive analysis of job performance rather than on only the results of a checklist or a rating scale. Appropriate timelines must be determined in regard to these procedures. Usually such plans include two to three objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. For successful, experienced personnel, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the evaluatee's progress, as well as observable evaluation criteria that the evaluatee and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria should show clearly how achievement of the objective will impact the quality of the job performance.

B. The LEA process for developing and reviewing professional growth plans must conform to the guidelines listed below.

1. All longer term (one, two, or three year) PGPs must be reviewed and updated annually.

2. The PGP shall be developed at the beginning of the evaluation period. Appropriate timelines must be determined in regard to these procedures and such timelines must be given in the narrative of this subsection. The LEA must develop forms for the PGP.

3. PGPs shall be based on objectives developed collaboratively by the evaluatee and evaluator. These plans must be reviewed and updated annually. (Note: Successful teachers or other professional personnel shall not be mandated to participate in any one specific growth activity.)

4. A plan of action and evaluation criteria shall be specified for each objective. During the annual review, documentation must be presented to support completion of the professional growth plan activities.

5. For successful, experienced personnel, objectives shall be used to explore new, untried, innovative ideas or projects.

6. The evaluator(s) and evaluatee(s) must sign and date each completed PGP form after it has been developed and again after it has been reviewed. All forms must be signed and dated prior to dissemination and filing.

7. It is recommended that the evaluator and the evaluatee maintain a copy of all completed forms. A copy of the PGP must be filed in the single official file at the central office.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§327. Personnel Self-Evaluation

A. In this section, the LEA delineates its personnel self-evaluation process. The LEA must encourage all certified and other professional personnel to assume significant responsibility for the evaluation of their performances. Ample opportunities should be provided throughout the personnel evaluation process for personal reflection, self-

evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports that certified and other professional personnel submit as part of the personnel evaluation process. Training should be provided for all certified and other professional personnel in techniques for reflection and self-evaluation. For instructional personnel, additional staff development opportunities should be provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

B. In developing Section 6.6, the LEA plan for self-evaluation must address the following components.

1. A plan for ensuring that certified and other professional personnel are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration should be included.

2. Self-evaluation must be included as part of the overall annual evaluation process for all certified and professional personnel.

3. The plan should specify how the self-evaluation will be documented and how copies will be disseminated and filed. Documentation that self-evaluations have been completed should be placed in the evaluatee's single official file.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§329. The Evaluation Period

A. The evaluation of staff may vary depending on their experience and proficiency. The evaluation process for new teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for successful, experienced certified and other professional personnel tends to focus on professional growth and school improvement. New teachers and those new to the school district or new to a position will be evaluated each year through observations for the first three years in that position. (See Section 341, Evaluation Exemption Provisions.) More experienced certified and other professional personnel will be evaluated on the basis of observations at least once every three years. Successful, experienced certified and other professional personnel may be evaluated on a multi-year cycle that encourages staff to pursue longer-term professional growth and school improvement initiatives. An evaluation cycle may be implemented as follows.

1. Year One. Certified and other professional personnel are evaluated formally based on observations of the criteria listed on job descriptions, professional growth plans, and self-evaluations.

2. Year Two-Three. Certified and other professional personnel are evaluated on the basis of progress toward those objectives in their professional growth plan and self-evaluations. It is imperative that all certified and other professional personnel clearly understand the procedures and timelines that will be used to evaluate their performances.

B. The LEA must incorporate the guidelines listed below in the description of its evaluation process and time period.

1. The process must specify the number of evaluators per evaluatee.

2. The process must include how the evaluatee will be informed of the criteria of expected performance.

3. Provision for the annual written evaluation of all certified and other professional personnel must be included in the process.

4. The evaluation process should be tailored to the levels of experience and proficiency of the certified and other professional personnel.

5. Successful, certified and other professional personnel who are evaluated on a multi-year cycle should be encouraged to pursue more meaningful, longer-term professional growth and school improvement initiatives.

6. The plan must specify the procedures to be used in conducting post-evaluation conferences.

7. The plan must include a process for the dissemination and filing of completed evaluation forms. One copy shall be maintained in the evaluatee's single official file at the central office.

C. The LDE recommends that personnel who are determined, through the evaluation process, to be in need of intensive assistance and/or reinforcement, be evaluated until such performance(s) is/are corrected or dismissal is recommended. Procedural due process is mandatory in the personnel evaluation programs, and a breach in this matter will be considered serious.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§331. Intensive Assistance Programs

A. This program must be designed for use by all evaluators when it becomes necessary to prepare an Intensive Assistance Program for an evaluatee who has been determined to be in need of certain assistance. (*The Intensive Assistance Program does not apply to teachers in the Louisiana Teacher Assistance and Assessment Program.*)

B. If it is determined through the evaluation process that an evaluatee does not satisfactorily meet the local school district's standards of performance, then that evaluatee is placed in an intensive assistance program. When the evaluatee is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the evaluatee. This plan specifies:

1. what the evaluatee must do to strengthen his/her performance, what objective(s) must be accomplished, and what level(s) of performance is/are expected;

2. what assistance/support shall be provided by the school district;

3. a timeline (not to exceed two years) for achieving the objectives and the procedures for monitoring the evaluatee's progress including observations and conferences; and

4. the action that will be taken if improvement is not demonstrated. Evaluatees must continue to be evaluated until the need for intensive assistance no longer exists.

C. LEAs must delineate the procedures to be followed if the evaluatee fails to improve within the timelines of the intensive assistance program. R.S. 17:3902 mandates that, if an evaluatee completes the intensive assistance program and

still performs unsatisfactorily on a formal evaluation, the local board shall initiate termination proceedings within six months following such unsatisfactory performance.

D. In this section of the LEA evaluation program description, the LEA delineates its process for intensive assistance. The LEA intensive assistance process must conform to the following guidelines.

1. An intensive assistance program shall be provided for evaluatees who do not meet the local school district's standards of satisfactory performance.

2. Any evaluatee placed in an intensive assistance program shall be informed in writing of the reason(s) for this placement.

3. An intensive assistance plan shall be developed for any evaluatee placed in such a program.

4. The local school district shall document the professional development support that is necessary to enable the certified and other professional personnel to meet the objectives of his/her plan.

5. The local school district shall take appropriate action in accordance with legislative, SBESE, and local school board mandates if satisfactory improvement is not demonstrated.

6. The intensive assistance plan must be developed collaboratively by the evaluator and the evaluatee and must contain specific information:

a. what the evaluatee needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;

b. an explanation of the assistance/support/resource to be provided by the school district;

c. the evaluatee's and evaluator(s)' names and position titles;

d. a space for indicating the date that the assistance program shall begin;

e. the date when the assistance program shall be completed;

f. the evaluator's and evaluatee's signatures and date lines (Signatures and dates must be affixed at the time the assistance is prescribed and again after follow-up comments are completed.);

g. the timeline for achieving the objective and procedures for monitoring the evaluatee's progress (not to exceed two years);

h. an explanation of the provisions for multiple opportunities for the evaluatee to improve (The intensive assistance programs must be designed in such a manner as to provide the evaluatees with more than one opportunity to improve.);

i. the action that will be taken if improvement is not demonstrated.

7. The intensive assistance form must be designed in a manner that would provide for the designation of the level of assistance and a description of performance.

8. Completed intensive assistance plans and all supporting documents, such as observations, correspondence, and any other information pertinent to the intensive assistance process, must be filed in the evaluatee's single official file at the central office.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§333. Induction of New Teachers

A. In this section, the LEA describes its process for coordinating the induction of new teachers into the school system. Mentor support should be provided through the Louisiana Teacher Assistance and Assessment Program for the induction and professional growth of new teachers. A concerted effort should be made to insure that new teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the LEA personnel evaluation is coordinated with the State's assistance and assessment program designed for any new teacher with a provisional or temporary teaching certificate.

B. The LEA's induction process must consider that mentor support is provided for the induction of new teachers, that the *Louisiana Components of Effective Teaching* is a focus for the evaluation of new teachers, and that all assistance made available through the LEA personnel evaluation process is coordinated with the State's assistance and assessment program for new teachers.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§335. Procedures for Resolving Conflict Due Process

A. This section of the LEA personnel evaluation program must include the procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. All due process mandates in R.S. 17:3883(7), R.S. 17:3884, and R.S. 17:3902 must be included in the evaluation process.

B. The LEA must address the following components of due process.

1. The evaluator shall provide the evaluatee with a copy of the evaluation results within 15 working days after the completion of the evaluation. (The LDE strongly recommends that this same procedure be employed with regard to observation reports.)

2. A post-evaluation conference must be held following the evaluation and prior to the end of the school year in order that the results of the evaluation can be discussed. (This discussion should concern the strengths and weaknesses of the evaluatee.)

3. The evaluation program shall include procedures for resolving conflict in a fair, efficient, effective, and professional manner.

4. The evaluatee may file his/her own written response to the evaluation. (A self-evaluation form may not serve as an evaluatee's written response.)

5. The evaluatee may file a written response to the evaluation that will become a permanent attachment to the evaluatee's single official personnel file. The response may be a signed statement clarifying or rebutting the issue in question. (The LDE recommends that a timeline for the written response be given.)

6. When evaluatees are not performing satisfactorily, they must be informed in writing.

7. The evaluatee has the right to receive proof, by documentation, of any item contained in the evaluation that the evaluatee believes to be inaccurate, invalid, or misrepresented. If documentation does not exist, the item in question must be amended or removed from the evaluation.

8. The evaluatee must be provided with ample assistance to improve performance.

9. The evaluatee may request that an evaluation be conducted by another source. (The LDE recommends that the LEA name the source from which another evaluator may be selected.)

10. The confidentiality of evaluation results must be maintained as prescribed by law. (The LDE strongly recommends that copies of all evaluation documents be maintained in the files of both the evaluator and evaluatee; however, these documents must be maintained in the evaluatee's single official file.) The school board in each school district must take official action in regard to naming the individuals who shall be authorized to enter the official personnel files. The positions of these individuals must be included.

11. Personnel evaluation grievance procedures must be established to follow the proper lines of authority.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§337. Staff Development for Personnel Involved in Evaluation

A. In this Section of the LEA personnel evaluation program description, the LEA delineates its plan for staff development. The school district provides training on a continuing basis for all staff involved in the evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, and classroom teachers). District staff development training is supported by the LDE. When developing the LEA staff development plan, it is recommended that the training concentrate on fostering the elements listed below:

1. a positive, constructive attitude toward teacher evaluation;

2. a knowledge of State laws and LEA policies governing the teacher evaluation process and associated due process procedures;

3. an understanding of the Louisiana components of effective teaching;

4. an understanding of the Standards for School Principals in Louisiana; and

5. an understanding of the LEA's personnel evaluation program, including the philosophy and purposes, criteria, and procedures.

B. The LEA's plan may include a description of additional training of evaluators. Evaluator training should focus on developing the skills needed to diagnose, strengthen, and/or enhance teaching effectively. It is recommended that the following skill areas be included in the plan and description of the LEA training for evaluators:

1. data collection skills necessary to document a teacher's performance accurately;

2. data analysis skills necessary to make accurate judgments about a teacher's performance;
3. conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance;
4. skills in developing and facilitating meaningful professional growth plans that strengthen or enhance teaching effectiveness; and
5. skills in writing effective evaluation reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§339. Process Instruments

A. This Section contains a copy of each instrument that is currently used in the LEA's evaluation process. (Note: Included instruments should be listed in the Program Instrument Register in Section 6.3.) Suggestions that should be included in the development of the required evaluation instruments are included in the chart on the following page.

Personnel Category	Position or Title
Administration	1. Superintendent
	2. Assistant Superintendent
	3. Director
	4. Supervisor
	5. Coordinator
	6. Principal
	7. Assistant Principal
	8. Any employee whose position does not require certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning
	9. Any employee whose position requires certification, but whose title is not given in this list
	10. Any employee who holds a major management position, but who is not required to have a college degree or certification
Instructional Personnel	1. Teachers of Regular and Special Education students
	2. Special Projects Teachers
Support Services	1. Guidance Counselors
	2. Librarians
	3. Therapists
	4. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning
	5. Any employee whose position requires certification, but whose title is not given in this list
	6. Any employee who holds a major management position, but who is not required to have a college degree or certification

Instrument	Description
Professional Growth Plan Form	<ul style="list-style-type: none"> • Developed for all certified and other professional personnel • Includes space for objectives, as well as a plan of action and evaluation criteria for each objective • Includes signature and date lines to document the initiation/development of the plan and the annual review/update <p>Note: Multi-year PGP forms must include space for the annual review dates and signature.</p>
Observation Form	<ul style="list-style-type: none"> • Developed to complement the evaluation form <p>Note: For instructional personnel, it is not acceptable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description.</p>
Evaluation Form	<ul style="list-style-type: none"> • Designed for use in the evaluation process <p>Note: A checklist or rating scale is not acceptable for the evaluation of instructional personnel; rather, space must be provided for a narrative description of the evaluator's commendations and recommendations for the evaluatee.</p>
Self-Evaluation Form	Developed for all personnel to use in assessing their own performances
Intensive Assistance Form	<ul style="list-style-type: none"> • Developed for use in the evaluation process • Provides space for evaluators to delineate what the evaluatee needs to do to strengthen his/her performance • Describes the assistance/support provided by the school district • Specifies the timelines and procedures for evaluating the evaluatee's progress

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§341. Job Descriptions

A. The LEA Personnel Evaluation Plan must contain a copy of the job descriptions currently in use in the LEA. The local board shall establish a job description for every category of teacher and administrator pursuant to its evaluation plan. The LEA must also provide copies of job descriptions to all certified and professional personnel prior to employment. The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed.

B. The local board has the responsibility of developing job descriptions for the various positions in the LEA in accordance with its evaluation program. The following components must be included in each job description developed by the LEA:

1. position title;
2. position qualifications must be at least the minimum requirements as stated in *LDE Bulletin 746: Louisiana Standards for State Certification of School Personnel* (The qualifications must be established for the position, rather than for the evaluatee.);
3. title of the person to whom the evaluatee reports;
4. title of the person whom the evaluator supervises;
5. performance responsibilities of the evaluatee (Refer to * below.);
6. a space for the evaluatee's signature and date (Note: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.); and
7. all certified and other personnel shall be provided with their job descriptions prior to the beginning of their employment in the school system in their position and each time their job description is revised.

*Job descriptions for instructional personnel must include the *Louisiana Components of Effective Teaching*; job descriptions for building-level administrators must include the *Standards for School Principals in Louisiana* as part of the performance responsibilities.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§343. Employment Requirements

A. Section 10.0 of the personnel evaluation plan should describe the LEA's policy for providing evaluation results to any school board wishing to hire a person evaluated by the LEA. In the development of this policy, the LEA must adhere to the legislation governing employment requirements. R.S. 17:3884(D) requires that any local board wishing to hire a person who has been evaluated pursuant to Act I of 1994 and Act 38 of 2000, whether that person is already employed by that school system or not, shall request such person's assessment and/or evaluation results as part of the application process. The board to which application is being made shall inform the applicant that, as part of the mandated process, the applicant's assessment and/or evaluation results shall be requested from the previous employer. The applicant shall be given the opportunity to apply, review the information received, and provide any response or information the applicant deems appropriate.

B. The LEA must adhere to the following guidelines when developing Section 10.0.

1. The school board shall request the assessment and/or evaluation results of any person it wishes to hire.

2. The school board shall provide other school boards with assessment and/or evaluation results of persons that the other school boards wish to hire.

3. The evaluatee shall be given the opportunity to review those assessment and/or evaluation results and provide any response or information that the evaluatee deems appropriate.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§345. Evaluation Exemption

A. In this section, the LEA describes its procedures for including/exempting from Local Evaluation those persons assessed under the statewide assistance and assessment program during the year(s) in which they are assessed. Key points to consider in the development of the LEA evaluation exemption policy follow.

1. Teachers participating in the Louisiana Teacher Assistance and Assessment Program may be exempt from all or part of the local evaluation accountability required by law during the year(s) that they are assessed.

2. An exemption from local personnel accountability shall not interfere with the right and duty of the appropriate LEA personnel to observe and evaluate the teachers in the performance of their duties.

3. LEAs shall maintain the right to make employment decisions.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§347. Statement of Assurance

A. This Section of the plan includes a statement signed by the superintendent of schools and by the president of the

school board assuring that the LEA personnel evaluation program has been revised and approved by the school board that governs the affairs of the LEA. The statement of assurance includes a statement that the LEA personnel evaluation program shall be implemented as written. The original Statement of Assurance must be signed and dated by the LEA Superintendent of Schools and by the President of the LEA School Board; the LDE requests that the LEA submit the statement of assurance prior to the opening of each school year.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Chapter 5. Reporting and Monitoring

§501. Annual Summary Reporting Format

A. Each LEA will submit an annual personnel evaluation report to the Louisiana Department of Education. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the Louisiana Department of Education, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEAs on forms provided by the LDE include, but are not limited to, the following items:

1. the types of degrees obtained from accredited institutions and the number of certified personnel holding each type of degree;

2. the years of experience of teachers, administrators, central office staff (years in position);

3. the number of teachers teaching in each area of certification, as well as the number of administrators who are certified for their specific tasks;

4. the total number of teachers employed in the system, including T-certified personnel and personnel given an emergency permit, an internship, or SBESE waiver;

5. the total number of administrators, by categories (principals, assistant principals, certified central office personnel), employed in the system;

6. the number of certified and other professional personnel evaluated by categories (teachers, principals, etc.) under previous systems as opposed to the number evaluated under the current evaluation programs based on written, documented evaluations from the preceding year;

7. the number of certified and other professional personnel, by categories, who were evaluated as performing satisfactorily;

8. the number of certified and other professional personnel, by categories, who were evaluated as performing unsatisfactorily;

9. the number of certified and other professional personnel, by categories, who resigned because of less than satisfactory evaluations or for other reasons related to job performance;

10. the number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (Include the reasons for termination.);

11. the number of evaluations, by categories, used to evaluate certified and other professional personnel during

the reporting period (Distinguish between the number of evaluations performed for personnel in position 0-3 years as opposed to personnel in position 4 or more years.);

12. the number of certified personnel, by categories, who improved (from unsatisfactory to satisfactory) as a result of the evaluation process (Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.);

13. the number of formal grievances filed because of unsatisfactory performance ratings or disagreement with evaluation results;

14. the number of formal hearings held because of unsatisfactory performance or disagreement with evaluation results;

15. the number of court cases held because of unsatisfactory job performance (the number reinstated and basic reasons for reinstatement of personnel); and

16. the number of evaluatees who received intensive assistance.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§503. Technical Assistance Program

A. The LDE strives to provide assistance relative to particular problems that LEAs might encounter in the implementation of their personnel evaluation program. Upon the request of a school district, the LDE will provide professional advice and assistance in all matters concerned with personnel evaluation. This assistance and advice may be provided through contacts with local systems by LDE personnel or by contacts with the LDE by the LEA's personnel evaluation authorities.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§505. Monitoring LEA Personnel Evaluation Programs

A. The Legislative mandate through R.S. 17:3883 (B)(5) requires the LDE to monitor programs of educational accountability when requested by the SBESE as deemed necessary. To fulfill the requirements of the legislation as it relates to the component of LEA personnel evaluation, the LDE is mandated to develop and implement guidelines when the monitoring of an LEA program is requested by the State Board of Elementary and Secondary Education.

B. To assist in the operation of LEA personnel evaluation programs as formulated by the LEAs and submitted to the LDE, the LDE established the methodology to be used when monitoring is requested. The process that the LDE will use is described in the narrative below.

C. Purpose. The purpose of personnel evaluation monitoring is to determine whether the LEAs evaluation has been implemented, to what extent it has been implemented, and whether it complies with the provisions of the shared accountability legislation. The monitoring is designed to attest to the assurance that the policies and procedures are in actuality the processes being implemented within the LEA. Monitoring will specifically observe the process to ascertain

the extent to which the LEA is, or is not, following through on the process designated in their plan. The LDE has established the following goals and objectives for the monitoring of LEA personnel evaluation.

1. Goals:

a. to verify the implementation of R.S. 17:3883(B)(2) and R.S. 17:3883(B)(5);

b. to determine whether such programs have been implemented; and

c. to determine to what extent they have been implemented.

2. Objectives:

a. to implement R.S. 17:3883(B)(2) and R.S. 17:3883(B), as requested;

b. to collect and compile data;

c. to document and analyze the implementation of the personnel evaluation plan;

d. to disseminate data to proper authorities at the conclusion of monitoring;

e. to maintain appropriate records/files of the monitoring process; and

f. to review and revise the monitoring guidelines as needed or requested by the SBESE.

D. Procedures. Written notification will be provided to the LEAs prior to monitoring. The LDE team will function as a unit to monitor the LEA personnel evaluation program. Data will be collected, local personnel evaluation plans and evaluation records will be reviewed, and interviews may be completed as means of documentation. After monitoring has been completed, the LDE Team will submit a report to the appropriate authorities, which will include, but not necessarily be limited to, the State Superintendent of Education, the State Board of Elementary and Secondary Education, and the Superintendent of the LEA.

E. The LDE Team shall perform the following tasks when monitoring is deemed necessary:

1. notify the LEA superintendent and contact person and secure necessary preliminary documentation (e.g. the local personnel evaluation plan);

2. prepare a pre-monitoring report;

3. inform the superintendent or designee and other appropriate personnel of the monitoring method and timelines to be observed when monitoring is being conducted;

4. visit the LEA; collect data; compile the data by one or more of the means listed below:

a. a pre-monitoring conference (LDE Team);

b. a review of the pre-monitoring report with the contact person and/or other appropriate personnel; and

c. a determination by the LDE Team of the compliance or failure to comply through on-site visits, completion of interviews, and/or viewing records;

5. review the LEA's personnel evaluation program; check the areas of the LEA's personnel evaluation programs including the following elements:

a. the method of dissemination for the personnel evaluation program plans;

b. the method of documenting the achievement of the purposes of the LEA personnel evaluation program;

c. the accuracy of the evaluators/observers listed in Section 6.2 - Accountability Relationships;

d. the assurance that all certified and other professional personnel are included in the evaluation process;

e. the development of professional growth plans by all of the evaluatees;

f. the implementation of stated observation procedures;

g. the implementation of stated evaluation procedures;

h. the verification of the evaluatees' knowledge of evaluation criteria;

i. the verification of the dissemination of job descriptions; and

j. the verification of necessary intensive assistance schedules;

6. conduct a post-monitoring conference; conduct a "close-out" session with the LEA Superintendent, contact person, and/or appropriate personnel;

7. inform the LEA in writing of compliance, the areas of noncompliance, and of recommendations;

8. provide assistance to the LEA in developing a plan of action to strengthen any noncompliance areas of the LEA's plan;

9. plan for and conduct follow-up monitoring as necessary to determine implementation status of the plan of action;

10. notify the SBESE of the LEA's compliance status; and

11. make recommendations to the SBESE.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Chapter 7. Appendices

§701. Appendix A

Panel II Report

Introduction

Teaching is thinking,

- thinking about what students need to know and be able to do,
- thinking about what the teacher can do to foster such learning,
- thinking about how successful the teacher has been in achieving the desired learning outcomes, and
- thinking about how the teacher should teach that lesson next time.

Teacher evaluation focuses on what students know and are able to do and what the teacher can do to strengthen or enhance the level of learning in the classroom. Teacher evaluation is meaningful, in that it deals with aspects of instruction that make sense to both the teacher and evaluator. Teacher evaluation is productive and results in recommendations that improve the quality of the teaching-learning process. This conception of teacher evaluation guided the panel as it pursued its charge.

The panel's conception of teacher evaluation is consistent with the definition of evaluation found within *Bulletin 1525: Personnel Evaluation Accountability, A Guide for Implementation*, page 7, #10:

Evaluation is the process of making considered judgments concerning the professional accomplishments and competencies of a certified employee, as well as other professional personnel, based on a broad knowledge of the area of performance involved, the characteristics of the situation of the individual being evaluated, and the specific standards of performance pre-established for the position.

Distinctions between Assessment and Evaluation

The panel realized that it was important to make some distinctions between assessment and evaluation. The purpose of the state assessment program is to determine whether a teacher can teach effectively, whereas the local evaluation program determines whether a teacher does teach effectively. The Louisiana Department of Education (LDE) is responsible for the state assessment program while the local school districts are responsible for the local teacher evaluation programs. *The Louisiana Components of Effective Teaching* is utilized as performance criteria in both programs. Panel II's responsibility was to establish guidelines for strengthening and standardizing local teacher evaluation. A standardized performance-based instrument for state assessment, the Louisiana Teacher Appraisal Instrument, will be developed by Panel IV.

The Panel's Charge

The panel was charged to make recommendations for strengthening and standardizing the teacher evaluation programs employed by school districts across the state. The panel operated under the assumption that local teacher evaluation programs would be standardized if they were a) grounded in the same statement of philosophy and purposes, b) used common criteria to evaluate teachers, and c) included procedures that complied with uniform guidelines for teacher evaluation programs. Furthermore, the panel believed that teacher evaluation programs would be strengthened, if such philosophy and purposes, criteria, and guidelines reflected the best current thinking and research about effective teacher evaluation practices. Thus, panel members considered the current literature on teacher evaluation and then developed a statement of philosophy and purposes for teacher evaluation in Louisiana, as well as uniform guidelines for local teacher evaluation programs across the state. These guidelines include reference to common criteria that would be used to evaluate teachers, the *Louisiana Components of Effective Teaching*. The *Louisiana Components of Effective Teaching* were developed by another panel.

In addition to developing a common set of state guidelines for teacher evaluation programs, the panel developed criteria for each guideline that can be used to determine whether a local school district's teacher evaluation program complies with that guideline. The panel recommends that these

guidelines be used by the Louisiana Department of Education to strengthen and to standardize teacher evaluation programs at the local school district level according to the following timeline:

- 1992-93 **C** All school districts will review their current teacher evaluation programs in light of the new state guidelines and will develop plans to strengthen their programs if necessary.
- 1993-94 **C** All school districts will implement the new practices needed to strengthen their teaching evaluation programs.
- 1994-95 **C** All school districts will continue to implement their new teacher evaluation practices and make refinements if necessary.

As local school districts proceed to review and to strengthen their current teacher evaluation programs, the panel recommends that the Louisiana Department of Education provide them with resources that can assist them in this process. Such resources could include information about teacher evaluation staff development opportunities available at the state and regional levels, examples of some more effective teacher evaluation practices being implemented in Louisiana school districts, and readings such as *A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools*¹, among others.

The statement of philosophy and purposes of teacher evaluation, as well as the guidelines for teacher evaluation programs developed by this panel are presented in the subsequent sections of this report. It is important to note that the panel viewed teacher evaluation in the generic sense, a process for the evaluation of all certified professional staff (i.e., classroom teachers, special services staff, and building, as well as district level administrators).

Philosophy and Purposes of Teacher Evaluation

As we move through the decade of the nineties, it is clear that public schools must provide a high quality education that prepares our youth for the demands of the 21st century. In order to meet these challenges, educators must focus on providing the best educational opportunities for all children. Recognizing this, the State Board of Elementary and Secondary Education has established uniform guidelines for personnel evaluation.

Personnel evaluation is directed toward the continued enhancement of learning through a process of encouraging professional growth for all educators by establishing a system of professional accountability. It is an ongoing, shared process aimed at improving instruction and the learning environment for all students.

The purposes for which teacher evaluation will be used in Louisiana are as follows:

1. To assure the public that
 - the educational system is providing the best opportunities for all children to learn,
 - the best qualified personnel are employed in every position, and
 - effective teaching continues in the classroom;
2. To foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators; and

3. To provide support for the professional development of new teachers during their period of internship.

Guidelines for Teacher Evaluation Programs

Guidelines for local school district teacher evaluation programs in Louisiana are presented in the subsequent sections of this report. Compliance criteria are provided for each guideline.

- **Yes** **C** Indicates that the school district meets the criterion.
- **No** **C** Indicates that the school district does not meet the criterion.
- **Partial** **C** Indicates that the school district has a plan for meeting the criterion.

A school district's teacher evaluation program is approved with respect to a particular guideline if it meets all criteria for that guideline. The program receives conditional approval if it meets some criteria and has a plan for meeting all the others. Disapproval results when the school district does not meet all the criteria for a particular guideline and has no plan to rectify this situation.

1. Focus on Educational Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used more effectively to facilitate the attainment of short and long term goals for educational improvement at the district and school building levels.

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation.	Y	N	P
Teacher evaluation is related to goals for educational improvement at the district level.	Y	N	P
Teacher evaluation is related to goals for educational improvement at the school building level.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

2. Staff Involvement in the Teacher Evaluation Program

A teacher evaluation steering committee is formed at the local school district level. Representative of administrators and classroom teachers, the committee is selected by each of these groups. This standing committee is responsible for assessing the strengths and weaknesses of the school district's teacher evaluation program in light of the Louisiana Guidelines for Teacher Evaluation Programs. Furthermore, it will oversee the planning and implementation of any revisions necessary to strengthen the teacher evaluation process. Periodically, at least every three years, this

committee will evaluate the extent to which the purposes of the local teacher evaluation program are being achieved.

Compliance criteria:

A representative teacher evaluation steering committee has been formed to review the current local teacher evaluation program in light of new state guidelines.	Y	N	P
This committee has balanced representation of both teachers and administrators.	Y	N	P
The committee has developed a plan for strengthening the current teacher evaluation process where necessary.	Y	N	P
The committee has developed a plan for evaluating whether the purposes of the teacher evaluation program are being achieved.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

3. Philosophy and Purposes of Teacher Evaluation

The philosophy and purposes for which teacher evaluation is used in the local school district are stated clearly in writing. This philosophy is grounded in the beliefs that all students can learn; good teaching increases the chances of students learning; and a collegial, collaborative relationship between a teacher and evaluator creates the appropriate climate for good teaching.

A purpose of the teacher evaluation program is to assure the public that the educational system is providing the best opportunities for all children to learn, that the best qualified personnel are employed in every position, and that effective teaching continues in the classroom.

Another purpose of the teacher evaluation program is the improvement of the teaching/learning process. This purpose includes the encouragement of creativity and innovation in the planning and implementation of teaching strategies that are consistent with the contemporary research on effective classroom processes. Teacher evaluation includes promoting the professional growth and development of staff, as well as providing support for new teachers during their period of internship.

In summary, teacher evaluation is pursued with the spirit that it is a process for making good teachers better, rather than one that is directed toward finding fault with teaching.

Compliance criteria:

The philosophy and purposes of the local teacher evaluation program are stated clearly in writing.	Y	N	P
The philosophy and purposes of the local teacher evaluation program have been explained to and discussed with teachers.	Y	N	P
The purposes provide the public assurances that only effective teachers continue to be employed by the school district.	Y	N	P

The purposes reflect sound principles of effective teaching and learning that are supported by contemporary research.	Y	N	P
The purposes support the improvement of the teaching-learning process, as well as the continued professional growth and development of instructional personnel.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

4. Accountability Relationships

Accountability relationships are defined clearly in writing. These relationships are communicated effectively so all professional staff know who is accountable to whom for the purposes of teacher evaluation.

Compliance criteria:

Accountability relationships are defined clearly in writing.	Y	N	P
Teachers are informed each year as to who is responsible for their evaluation.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

5. Evaluation Criteria

The evaluation criteria for each professional staff position (i.e., teachers, principals, librarians, etc.) are stated clearly in writing in the job description. Classroom teachers are evaluated on the basis of job descriptions that include the *Louisiana Components of Effective Teaching* and any other appropriate criteria identified by the local school district. The *Louisiana Components of Effective Teaching* is a broad, general description of good teaching. Because teacher evaluation results in an in-depth analysis of teaching, it is usually not advisable to use only a rating scale or checklist to rate a successful, experienced teacher on all of the criteria included in the job description. Instead, these criteria should be used as a frame of reference for a descriptive review and analysis of teaching that focuses the evaluation process on strengthening and/or enhancing a few critical aspects of teaching.

Compliance criteria:

The evaluation criteria for each professional staff position are stated clearly in writing in the job description.	Y	N	P
The Louisiana Components of Effective Teaching are included in the job descriptions of instructional personnel.	Y	N	P
The evaluation criteria provide a frame of reference for a descriptive review and analysis of teaching rather than only a rating scale or checklist of teaching effectiveness.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

6. The Classroom Observation Process

Classroom observation is a critical aspect of the teacher evaluation process. The evaluator conducts observations that are of sufficient duration to see the lesson begin, develop,

and culminate. A pre-observation conference is conducted to review the teacher's lesson plan. A post-observation conference is arranged to discuss and analyze the lesson, as well as to prepare an observation report. The primary purpose of this report is not to rate the teacher on a scale or checklist, but rather, to reach consensus on commendations, as well as recommendations for strengthening or enhancing teaching. Follow-up classroom visits and observations are conducted to determine what impact these recommendations have had on improving the quality of the teaching-learning process in the teacher's classroom.

Compliance criteria:

Teaching is evaluated through periodic classroom Observations.	Y	N	P
Observations are of sufficient duration to see the lesson begin, develop, and culminate.	Y	N	P
The primary purpose of the classroom observation is not to rate the teacher, but rather, to reach consensus on commendations, as well as to make recommendations to strengthen or enhance teaching.	Y	N	P
Follow-up classroom visits and observations are conducted to reinforce positive practice and to determine how recommendations have impacted the quality of the teaching-learning process.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

7. Developing the Professional Growth Plan

Periodic evaluation conferences are conducted to discuss and to analyze teaching for the purpose of developing longer term (1-2 year) professional growth plans to strengthen or enhance the teaching-learning process in the classroom. These professional growth plans are based on a descriptive analysis of teaching rather than on only the results of a checklist or rating scale. Usually such plans include two to three objectives developed collaboratively by the teacher and evaluator. For successful, experienced teachers, these objectives may extend beyond the professional responsibilities included in the job description and may be used to explore new, untried, innovative ideas or projects. Each objective includes a plan of action to guide the teacher's progress, as well as observable evaluation criteria that the teacher and evaluator can use to determine the extent to which each objective has been achieved. The evaluation criteria show clearly how achievement of the objective will impact the quality of the teaching-learning process in the classroom.

Compliance criteria:

Teachers develop longer-term professional growth plans to strengthen or enhance the teaching-learning process.	Y	N	P
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Professional growth plans are based on objectives developed collaboratively by the teacher and evaluator.	Y	N	P
A plan of action and evaluation criteria are specified for each objective.	Y	N	P
For successful, experienced teachers, objectives are used to explore new, untried, innovative ideas or projects.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

8. Teacher Self-Evaluation

Teachers are encouraged to assume significant responsibility for the evaluation of their performance. Ample opportunities are provided throughout the teacher evaluation process for personal reflection, self-evaluation, and peer collaboration. The products of such efforts are shared in self-evaluation reports which teachers submit as part of the teacher evaluation process. Training is provided for all teachers in techniques for reflection and self-evaluation. Additional staff development opportunities are provided for those teachers who wish to work as peer coaches or in other peer support and assistance roles (i.e., mentors, peer support persons in intensive assistance programs for experienced teachers). Participation in such peer support roles is voluntary. Teachers serving as peer coaches or providing other peer support and assistance are not evaluators as defined in these guidelines.

Compliance criteria:

Training is provided for teachers in techniques for personal reflection, self-evaluation, and peer collaboration.	Y	N	P
Teachers are provided opportunities throughout the evaluation process for personal reflection, self-evaluation, and peer collaboration.	Y	N	P
Teachers include a self-evaluation as part of the overall evaluation of their teaching.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

9. The Evaluation Period

All professional staff are evaluated in writing each year. How professional staff are evaluated may vary depending on their experience and proficiency in the classroom. The evaluation process for intern teachers tends to focus on strengthening proficiency in the classroom, while the evaluation process for tenured, experienced teachers tends to focus on professional growth and school improvement. Beginning teachers and those new to the school district will be evaluated each year through classroom observations for their first three years of employment. More experienced teachers will be evaluated on the basis of classroom observations at least once every three years. Successful, tenured teachers may be evaluated on a multi-year cycle that encourages staff to pursue longer term professional growth and school improvement initiatives: for example, a three-year cycle may be implemented as follows:

- Year 1 - Teacher is evaluated formally on the basis of classroom observation
- Years 2-3 - Teacher is evaluated on the basis of progress toward those objectives included in his/her professional growth plan. Periodic classroom visits and/or observations may be conducted as necessary at the discretion of the evaluator or at the request of the teacher.

It is imperative that professional staff clearly understand the procedures and timelines that will be used to evaluate their performance.

Compliance criteria:

All professional staff are evaluated in writing each year.	Y	N	P
The evaluation process is tailored to the levels of experience and classroom proficiency of the teacher.	Y	N	P
Successful, tenured teachers are evaluated on a multi-year cycle that encourages staff to pursue more meaningful, longer term professional growth and school improvement initiatives.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

10. Information Included in the Teacher Evaluation Process

The evaluation of teaching is based on one or a combination of the following:

- Evaluator's assessment of teaching based on the criteria specified in the teacher's written job description, including the *Louisiana Components of Effective Teaching*,
- Evaluator's assessment of the progress the teacher has made toward achieving those objectives included in the professional growth plan that was developed collaboratively with the evaluator, and
- Teacher's self-evaluation of teaching as well as progress toward achieving those objectives included in his/her professional growth plan.

Compliance criteria:

Evaluator's assessment of teaching is based on the job description, including the <i>Louisiana Components of Effective Teaching</i> .	Y	N	P
Evaluator's assessment of teaching is based on progress toward the objectives included in the teacher's professional growth plan.	Y	N	P
Evaluation includes the teacher's self-evaluation of teaching, as well as his/her progress toward objectives included in the professional growth plan.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

11. Coordination with the Induction of Intern Teachers

Mentor support is provided through the teacher evaluation process for the induction and professional growth of intern teachers. A concerted effort is made to insure that intern teachers are socialized in a professional manner and that they experience success in the classroom. Assistance made available through the local teacher evaluation process is coordinated with the state support and assessment program for any beginning teacher with a Provisional or Temporary Teaching Certificate.

Compliance criteria:

Mentor support is provided for the induction of intern teachers.	Y	N	P
The <i>Louisiana Components of Effective Teaching</i> is a focus for the evaluation of beginning teachers.	Y	N	P
Assistance made available through the local teacher evaluation process is coordinated with the state support and assessment program for beginning teachers.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

12. Intensive Assistance for Experienced Teachers

If it is determined through the teacher evaluation process that an experienced teacher does not satisfactorily meet the local school district's standards of performance, then that teacher is placed in an intensive assistance program. When the teacher is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the teacher.

The plan specifies

- what the teacher needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;
- what assistance/support is provided by the school district;
- a timeline for achieving the objectives and the procedures for monitoring the teacher's progress including classroom observations and conferences; and
- the action that will be taken if improvement is not demonstrated.

Experienced teachers can assume that they are performing satisfactorily unless they have been placed in an intensive assistance program.

Compliance criteria:

An intensive assistance program is provided for teachers who do not meet the local district's standards of satisfactory performance.	Y	N	P
Any teacher placed in an intensive assistance program is informed in writing of the reason(s) for this placement.	Y	N	P
An intensive assistance plan is developed for any teacher placed in such a program.	Y	N	P

The local school district provides the professional development support necessary to enable the teacher to meet the objectives of this plan. Y N P

The local school district takes appropriate action in accordance with legislative, SBESE and local school board mandates if satisfactory improvement is not demonstrated. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

13. Procedures for Resolving Conflict

The teacher evaluation program includes procedures for resolving disagreement or conflict in a fair, efficient, effective, and professional manner. A teacher must sign any evaluation report placed in his/her personnel file. Signature indicates only that the teacher has received a copy of the report. If the teacher does not agree with any aspect of a report, he/she meets with the evaluator to resolve the disagreement. If the disagreement cannot be resolved, the teacher will attach a signed statement clarifying or rebutting that aspect of the report. Also the teacher may initiate any grievance procedures that apply.

Compliance criteria:

The evaluation program includes procedures for resolving conflict in a fair, efficient, effective, and professional manner. Y N P

If the conflict cannot be resolved, the teacher is encouraged to submit a signed statement clarifying or rebutting the issue in question. Y N P

Grievance procedures are clearly specified for situations where conflict cannot be resolved. Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

14. Staff Development for Teacher Evaluation

The school district provides training on a continuing basis for all staff involved in the teacher evaluation process (i.e., district level administrators and supervisors, principals and assistant principals, classroom teachers). This training is supported by the LDE and coordinated through the Regional Service Centers (RSCs). Initial training focuses on developing the following:

- a. a positive, constructive attitude toward teacher evaluation;
- b. a knowledge of state laws and local school district policies governing the teacher evaluation process and associated due process procedures;
- c. an understanding of the Louisiana Components of Effective Teaching; and
- d. an understanding of the local school district's teacher evaluation program, including the philosophy and purposes, criteria, and procedures.

Further training focuses on developing those skills needed to diagnose and to strengthen or enhance teaching

effectively. The skills addressed in such training are as follows:

- a. data collection skills necessary to document a teacher's performance accurately;
- b. data analysis skills necessary to make accurate judgments about a teacher's performance;
- c. conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance;
- d. skills in developing and facilitating meaningful professional growth plans, plans that strengthen or enhance teaching effectiveness; and
- e. skills in writing effective evaluation reports, reports that document how evaluation has impacted the quality of the teaching-learning process in the classroom.

Training undertaken by administrators to implement the teacher evaluation process effectively is counted toward the accumulation of Louisiana Administrative Leadership Academy points.

Compliance criteria:

The local school district provides initial training that focuses on developing the following:

- a. a positive constructive attitude toward teacher evaluation Y N P
- b. a knowledge of the laws/policies governing teacher evaluation associated due process procedures Y N P
- c. an understanding of the Louisiana Components of Effective Teaching Y N P
- d. an understanding of the school district's teacher evaluation program Y N P

The local school district provides further training in the following skill areas:

- a. data collection skills necessary to document teaching accurately Y N P
- b. data analysis skills needed to make accurate judgments about teaching Y N P
- c. conferencing skills needed to provide clear, constructive feedback Y N P
- d. skills in developing meaningful professional growth plans Y N P
- e. skills in writing effective teacher evaluation reports Y N P

Overall assessment: () Approval () Conditional approval () Disapproval

15. Impact of the Teacher Evaluation Process

The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed by the staff each spring. The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community.

Compliance criteria:

The impact of the teacher evaluation process on improving teaching and learning at the school building and district levels is documented and discussed each spring.	Y	N	P
The accomplishments of teachers and administrators in this regard are celebrated and shared with the school community.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

Implementation and Staff Development Plan

Earlier in this report, this panel recommended that the guidelines just presented be used by the LDE to strengthen and standardize local teacher evaluation programs over a three-year period. An implementation and staff development plan is provided below to guide this process.

September/October 1992

The LDE and the Regional Service Center (RSC) staff, as well as superintendents and personnel evaluation contact persons, are oriented to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedure for using these guidelines to strengthen and standardize teacher evaluation programs at the local school district level.

Teachers and administrators are provided a copy of the Louisiana Guidelines for Teacher Evaluation Programs and are informed how these guidelines will be used to strengthen and standardize local teacher evaluation programs.

October 1992

The local education agencies (LEAs) form an eight to twelve member teacher evaluation steering committee. The superintendent (or his/her designee) and the personnel evaluation contact person will serve on this committee. Two other members of this committee, a teacher and a building administrator, will be selected to serve as the LEA's teacher evaluation resource persons. These two resource persons, the superintendent (or his/her designee) and the personnel evaluation contact person will comprise the LEA's Core Team for teacher evaluation. This Core Team will be trained by the LDE through the RSCs to serve as a teacher evaluation staff development resource to the local school district and its steering committee. Also, the two resource persons on this team will assist the LDE in its review of the teacher evaluation programs of other school districts in the service region.

October/November 1992

The LDE conducts regional workshops to orient the LEA Core Teams to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedures for reviewing current teacher evaluation programs in light of these guidelines.

December 1992

The Core Team orients the LEA's teacher evaluation steering committee to a) the Louisiana Guidelines for Teacher Evaluation Programs and b) the procedures for reviewing its current teacher evaluation program in light of these new guidelines. Then this steering committee develops

and implements a plan to review and revise its teacher evaluation program. The revision plan includes:

- a list of the modifications/changes needed,
- a process and timeline for making these modifications/changes
- a procedure for sharing the work of the committee with other teachers and administrators in the school district for their reaction and feedback.

January 1993

The local steering committee completes its review of the LEA's teacher evaluation program and submits a Teacher Evaluation Self-Assessment Report to the LDE by February 1, 1993. This is a self-assessment to the extent to which the LEA believes it complies with each of the Louisiana Guidelines for Teacher Evaluation Programs. The steering committee shares the essence of this Self-Assessment Report with other teachers and administrators in the school district.

February/March 1993

The LDE conducts regional workshops to orient the LEA teacher evaluation resource persons to its process for reviewing the Teacher Evaluation Self-Assessment Reports submitted by the local teacher evaluation steering committees. The LDE proceeds with its review of the Teacher Evaluation Self-Assessment Reports. The Self-Assessment Report submitted by each local teacher evaluation steering committee is examined by a three member State Review Team comprised of an LDE staff member and a teacher and an administrator resource person from another school district. The State Review Team examines the steering committee's Self-Assessment Report to determine the extent to which the LEA's teacher evaluation program complies with the Louisiana Guidelines for Teacher Evaluation Programs. The results of this review are summarized in a Teacher Evaluation Status Report that is shared later with the LEA.

March 1993

The LDE completes its review of the Teacher Evaluation Self-Assessment Reports and shares the Teacher Evaluation Status Reports with the LEAs. Then the local teacher evaluation steering committee reviews its LEA's Status Report. Once the steering committee completes this review, it can meet with the LDE staff if it wishes to discuss any aspects of the Status Report or pose any questions it has about discrepancies between the Status Report and the LEA's Self-Assessment Report.

March-May 1993

The local steering committee follows its plan for making changes/modifications in its teacher evaluation program. This process includes trying out any new techniques or approaches to teacher evaluation with a small sample of teachers to determine whether they would have the impact desired. Also during this period, the LDE conducts a five-day training program for Core Team members through the RSCs. The purpose of this program is to help teachers and administrators to develop the appropriate understanding of critical teacher evaluation skills to be able to go back to their school districts to train their colleagues in these skills. Topics addressed in this program would include analyzing teaching using the *Louisiana Components of Effective Teaching*, classroom observation, conferencing, writing

effective evaluation reports, developing professional growth plans, and facilitating self-evaluation.

June 1993

The local steering committee completes its plan for implementing the local teacher evaluation program during the 1993-94 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1993 as part of its yearly Personnel Evaluation Report.

July-August 1993

The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1993-94 school year.

September 1993-May 1994

The local steering committee implements its revised teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

November 1993 and March 1994

The State Review Teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The Review Team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

June 1994

The local Steering committee reviews what it has accomplished during the 1993-94 school year and refines its plan for implementing the local teacher evaluation program during the 1994-95 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1994 as part of its yearly Personnel Evaluation Report.

July-August 1994

The local steering committee conducts appropriate workshops with teachers and evaluators to prepare them for the implementation of the teacher evaluation program during the 1994-95 school year.

September 1994-May 1995

The local steering committee implements its refined teacher evaluation program and meets monthly to monitor its implementation. Implementation is supported by an ongoing staff development program for teachers and administrators.

November 1994 and March 1995

The State Review Teams conduct fall and spring site visits. During these visits the local steering committee meets with its Review Team to provide an update on the progress it has made in implementing and strengthening its teacher evaluation program. Also, the steering committee indicates what staff development resources it would like to see provided through the RSC to support the further implementation of its teacher evaluation program. The Review Team prepares a Site Visit Report to document the outcomes of each visit and shares this report with the LDE and RSC staff.

June 1995

The local steering committee reviews what it has accomplished during the 1994-95 school year and refines its plan for implementing the local teacher evaluation program during the 1995-96 school year. Then the committee a) orients its teachers and administrators to this plan and b) submits this plan to the LDE by June 15, 1995 as part of its yearly Personnel Evaluation Report.

Building a Capacity for Staff Development

The Implementation and Staff Development Plan just presented requires that the LDE build a capacity for staff development through its LEAs and RSCs.

In building such a capacity, it is important that training be provided by personnel that are both knowledgeable in techniques of teacher evaluation, as well as in the process of effective staff development. In summary, there is a need to identify or develop a cadre of good people to conduct the training necessary to strengthen local teacher evaluation practices.

While some out-of-state consultants could be used, it is important to develop a local, Louisiana capacity for staff development in teacher evaluation. This capacity could be accomplished by meeting with the deans in schools of education to learn what staff development resources could be provided through higher education. In addition, superintendents could be polled to obtain their recommendations of people in their districts who are doing some good things in teacher evaluation that could be called on to do training. Depending on what resources are identified through contacts with deans and superintendents, a decision would need to be made as to whether there is a need to develop further staff development resources for teacher evaluation through a trainer of trainers program for select LEA or RSC personnel.

In addition to identifying staff development resources, it is important to determine where the training will take place. Certainly, much of the training will be conducted at the RSCs and in the LEAs. Also, consideration should be given to whether some professional development centers might be established for training in teacher evaluation. These centers would be schools where good teacher evaluation is being practiced. Teachers and administrators would go to these schools to strengthen their evaluation skills through direct involvement in the teacher evaluation process under the supervision of knowledgeable practitioners.

In concluding, this panel believes it is critical that the LDE build an adequate capacity for staff development in teacher evaluation to support its initiative to strengthen local teacher evaluation practices. Also, the LDE must develop a long range plan that clearly conveys to the LEAs those staff development resources that will be available to support local efforts to strengthen teacher evaluation programs over the next three years.

Developing a Process for the Review and Approval of Local Teacher Evaluation Programs

The focus of the first year of this plan to strengthen and standardize local teacher evaluation programs is on the review and approval of such programs. This panel recommends that an efficient and effective process be developed by the LDE for the local review, as well as State approval of teacher evaluation programs in light of the

Louisiana Guidelines for Teacher Evaluation Programs. More specifically, the panel recommends that a *Teacher Evaluation Self-Assessment Report* such as the one presented in Exhibit 1 be developed to facilitate the local review of teacher evaluation programs. This *Report* would be completed first by individual steering committee members. Next their individual ratings for each guideline would be discussed and consensus would be reached as a committee. Then the LEA would submit to the LDE a *Teacher Evaluation Self-Assessment Report* that represents the consensus opinion of its teacher evaluation steering committee.

As noted earlier, the *Teacher Evaluation Self-Assessment Report* submitted by an LEA would be examined by a three-member state review team comprised of an LDE staff member and two teacher evaluation resource persons, a teacher and an administrator from another school district. This team would share the results of its review with the LEA using a *Teacher Evaluation Status Report* such as the one presented in Exhibit 2. The review team's assessment of an LEA's teacher evaluation program with respect to the Louisiana Guidelines for Teacher Evaluation Programs would consist of a consensus rating, as well as comments regarding the program's strengths and aspects that might be improved. If the review team does not approve the LEA's teacher evaluation program with respect to a particular guideline, it must justify this decision clearly in writing.

Once the LEA receives its *Teacher Evaluation Status Report*, it has 30 working days to respond to the LDE, if either it does not agree with the team's assessment or it wishes to submit a plan to comply with any guidelines for which its teacher evaluation program was not approved. In situations in which an LEA submits such a plan, the state review team for that school district would be reconvened to review this plan and to submit a revised *Teacher Evaluation Status Report*. Also, the state review team may be reconvened to deal with those situations in which the LDE does not agree with the team's assessment.

Exhibit 1

Teacher Evaluation Self-Assessment Report

This *Report* has been developed to help your local school districts to assess the status of its teacher evaluation program in light of the new Louisiana Guidelines for Teacher Evaluation Programs. You are being asked to complete this *Report* as a member of your school district's teacher evaluation steering committee. Later your steering committee will meet to a) discuss the responses of committee members and b) reach consensus as to the status of your school district's teacher evaluation program with respect to each guideline.

The Louisiana Guidelines for Teacher Evaluation Programs are listed in the subsequent section of this *Report*. Following each guideline are criteria for determining whether a school district complies with that guideline. Please review each of the criteria and circle the appropriate response. Circle . . .

Y for Yes, if you believe your school district meets the criterion;

N for No, if you believe your school district does not meet the criterion; or

P for Partial, if you believe your school district has a plan for meeting the criterion.

If you circle **Y**, please indicate where evidence can be found to support your rating. For example, you may simply refer to a section of your teacher evaluation plan, see pages 7-8 of District Plan. If you circle **P**, either attach your school district's plan for meeting that criterion or indicate in the evidence section where it can be found (Example: see page 12 of our School Improvement Plan for 1992-93).

After you have rated each of the criteria for a particular guideline, provide an overall assessment of whether you believe your school district's teacher evaluation program should be approved with respect to that guideline. Check . . .

Approval, if your school district meets all the criteria for that guideline;

Conditional Approval, if your school district has met some of the criteria and has a plan for meeting the others; or

Disapproval, if your school district does not meet all of the criteria for that guideline and has no plan to rectify the situation.

After you have assessed the status of your school district's teacher evaluation program with respect to a particular guideline, please make a note in the Comments section of any issues or questions you want to address with your teacher evaluation steering committee when you meet later to discuss your ratings.

Your cooperation and assistance in carefully completing this *Report* are appreciated. Thank you!

1. Focus on Education Improvement

The teacher evaluation program is well grounded in the local school district's educational philosophy and goals. An overview of the district's philosophy and priority educational goals is provided and related to the philosophy and purposes of teacher evaluation. A clear message is provided as to how teacher evaluation will be used to facilitate the attainment of short and long term goals for educational improvement at the district and school building levels more effectively.

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation. Evidence: _____	Y	N	P
Teacher evaluation is related to goals for educational improvement at the district level. Evidence: _____	Y	N	P
Teacher evaluation is related to goals for educational improvement at the school building level. Evidence: _____	Y	N	P

Overall assessment: () *Approval* () *Conditional approval* () *Disapproval*

Comments:

(. . . The remaining guidelines will be presented in this same format on the subsequent pages of the *Report* . . .)

Exhibit 2
Teacher Evaluation Status Report
Overall Summary

District: _____ Review Team: _____
 Date: _____

1. Focus on Educational Improvement

Overall assessment: () Approval () Conditional approval () Disapproval

2. Staff Involvement in the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

3. Philosophy and Purposes of Teacher Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

4. Accountability Relationships

Overall assessment: () Approval () Conditional approval () Disapproval

5. Evaluation Criteria

Overall assessment: () Approval () Conditional approval () Disapproval

6. The Classroom Observation Process

Overall assessment: () Approval () Conditional approval () Disapproval

7. Developing the Professional Growth Plan

Overall assessment: () Approval () Conditional approval () Disapproval

8. Teacher Self-Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

9. The Evaluation Period

Overall assessment: () Approval () Conditional approval () Disapproval

10. Information Included in the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

11. Coordination with the Induction of Intern Teachers

Overall assessment: () Approval () Conditional approval () Disapproval

12. Intensive Assistance for Experienced Teachers

Overall assessment: () Approval () Conditional approval () Disapproval

13. Procedures for Resolving Conflict

Overall assessment: () Approval () Conditional approval () Disapproval

14. Staff Development for Teacher Evaluation

Overall assessment: () Approval () Conditional approval () Disapproval

15. Impact of the Teacher Evaluation Process

Overall assessment: () Approval () Conditional approval () Disapproval

General Comments:

Name: _____ Title: _____
 Signed: _____

Teacher Evaluation Status Report
Analysis by Guideline

1. Focus on Educational Improvement

Compliance criteria:

District's philosophy and priority educational goals are related to the philosophy and purposes of teacher evaluation.	Y	N	P
Teacher evaluation is related to goals for educational improvement at the district level.	Y	N	P
Teacher evaluation is related to goals for educational improvement at the school building level.	Y	N	P

Overall assessment: () Approval () Conditional approval () Disapproval

Comments:

(. . .The remaining guidelines will be presented in this same format on the subsequent pages of the *Report* . . .)

Focusing Beyond the Classroom Teacher

As local school districts review their teacher evaluation programs, it is essential that the evaluation process is strengthened for all professional staff, not just for classroom teachers. Just as the LDE took leadership in the development of the *Louisiana Components of Effective Teaching* and appropriate procedures for the evaluation of classroom teachers, this panel recommends that the LDE take leadership in developing state criteria and appropriate procedures for the evaluation of their professional staff such as principals, special area teachers, and guidance counselors. Until this issue is addressed by the LDE for school principals, the panel encourages the LEAs to consider the purposes, criteria, and procedures which follow when reviewing their process for evaluating school principals.

Purposes of Principal Evaluation

The purposes of evaluation state why the principal is being evaluated. The basic reasons for which a principal is evaluated are as follows:

- *School Improvement* to promote the improvement of school programs and the enhancement of student learning,
- *Professional Growth and Development* to foster the professional growth and development of new and continuing principals,
- *Selection* to select the best qualified persons for principalships, and
- *Accountability* to ensure that only effective principals continue in that role in the school district.

School districts tend to place more emphasis on those purposes dealing with school improvement and professional growth, and less emphasis on those dealing with accountability. This approach is most appropriate, since the goal is to select highly qualified principals who focus their attention on school improvement needs, and to strengthen the performance of these administrators using an evaluation process which fosters professional growth and development. In settings where this approach is taken, less attention needs to be paid to the traditional accountability purpose of evaluation.

Proficiencies of the Effective Principal

The Proficiencies of the Effective Principal² presented on the next page are criteria that can be applied when evaluating a school principal. The term *proficiencies* is used here rather than *competencies*, since *competency* merely suggests adequacy, while *proficiency* connotes a high degree of knowledge or skill. The principal behaviors included in these proficiencies are very similar to those identified through a recent study conducted by the Louisiana Administrative Leadership Academy.

Leadership

Defining Direction. . .

1. Exercises vision in defining the school mission and goals
2. Effectively and clearly communicates goals within and without the community

3. Sets high expectations and standards for attainment of school goals
4. Identifies and analyzes relevant information before making decisions or committing resources
5. Provides incentive to excel for both teachers and student
6. Communicates clearly and persuasively
7. Serves as a role model

Instructional Development. . .

8. Monitors student achievement
9. Collects, analyzes and interprets student and school data to identify areas for instructional and program development
10. Uses knowledge of research in curriculum and instruction to initiate school improvement
11. Evaluates professional and support staff constructively
12. Coaches teachers to enhance their instructional effectiveness
13. Engages in a program of ongoing professional development

Human Relations

Consideration. . .

14. Gives specific and frequent feedback
15. Maintains positive school climate through the use of humor
16. Recognizes and praises the accomplishments of students, teachers and staff

Collaboration. . .

17. Fosters teamwork and collegiality
18. Elicits participation in decision making
19. Facilitates group processes and resolves conflict
20. Encourages participatory leadership on the part of the staff
21. Listens to others

Management

School Program Management. . .

22. Plans and prepares an appropriate budget and manages funds effectively
23. Seeks and allocates appropriate resources (materials, money, time) to support curriculum
24. Implements school programs within the confines of district goals and policies
25. Schedules curricular and co-curricular activities efficiently and effectively
26. Understands and applies knowledge of organizations and community politics in generating support for the school
27. Fosters community support for the school and its programs

The Rules and Regulations. . .

28. Identifies norms, guidelines and procedures for school operation
29. Develops clear school rules
30. Develops effective discipline and attendance policies
31. Accepts responsibility for in-school behavior of students, teachers and staff

General Operations. . .

32. Monitors the overall operation of the school
33. Ensures that the physical plant is kept in good order
34. Protects instructional time

35. Maintains a visible presence in the school

Procedures for Principal Evaluation

The most commonly accepted process for evaluating principals is the performance objectives approach. This approach is outlined below.

A Step-by-Step Evaluation Procedure for Principals³

I. Determine Needs

1. The principal reviews:
 - a. position description
 - b. administrative skills
 - c. current district and/or building goals
2. The supervisor (evaluator) reviews:
 - a. the above four items
 - b. current performance in relation to the requirements of the job

II. Formulate Work Plan for the Year

1. Principal identifies needs for the coming year based on perceptions of past and current performance.
2. Supervisor reflects on the principal's needs based on past and current performance.
3. Both confer to decide whether the evaluation objective should be a development plan to upgrade existing competencies and/or an improvement plan to correct specific deficiencies.
4. Both discuss necessary activities to achieve the goals of jointly agreed-upon plan.

III. Complete and Implement Work Plan

1. Principal puts work plan in writing, gets approval of supervisor and carries out plan's activities.
2. Supervisor reviews and reacts to principal's work plan and monitors progress in carrying it out.
3. Both parties meet to conduct progress reviews in December and make modifications in plan if needed.
4. Principal completes implementation of work plan.

IV. Assess Results

1. Principal completes self-evaluation form and transmits it to supervisor.
2. Supervisor receives evaluation from principal, completes evaluation of principal's performance and notifies principal of date and place of evaluation conference.

V. Discuss Results

1. Principal and supervisor meet and review principal's evaluation and supervisor's evaluation.
2. They sign final forms.
3. They plan for next evaluation cycle.

Concluding Remarks

This panel has made a number of recommendations directed toward strengthening and standardizing local school districts' teacher evaluation programs. While these recommendations will change teacher evaluation practices in most school districts, simply change was not the primary goal of the panel. Throughout its efforts, the primary intent of the panel was to improve the quality of teaching and learning continually in our schools' classrooms. This improvement was the goal of the Children First Act that led to the reform of teacher evaluation practices in Louisiana. This goal should be the foremost in the minds of teacher evaluation steering committees as they revise or refine their teacher evaluation practices. The true test of whether a teacher evaluation process is effective is evidence that the process has a demonstrable impact on what happens to children in our schools. We are confident that teachers and

administrators will perceive our recommendations as an opportunity to implement teacher evaluation practices that improve or enhance the quality of education for children in Louisiana.

¹ Iwanicki, E.F. (1992) *A Handbook for Teacher Evaluation and Professional Growth in More Productive Schools*. Storrs, CT: The Connecticut Institute for Personnel Evaluation, Department of Educational Leadership, The University of Connecticut.

² Iwanicki, E.F. & Shibles, M. (1990). *A Guide to the Process of Evaluating School Principals*. P.O. Box 220, East Lyme, CT: The Connecticut Principals' Academy, p. 7.

³ McCurdy, J. (1983). *The Role of the Principal in Effective Schools: Problems & Solutions* (an AASA Critical Issues Report). Arlington, VA: American Association of School Administrators, p. 89.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§703. Appendix B

Louisiana Components of Effective Teaching

Domain I. Planning

Planning is an important aspect of the teaching/learning process. An important part of the Assessment is the new teacher portfolio. Planning is assessed as part of Entry A - The Teacher Work Sample.

Component A. The teacher plans effectively for instruction.

Attributes:

1. Specifies learner outcomes in clear, concise objectives

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

2. Includes activity/activities that develop objectives

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

3. Identifies and plans for individual differences

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

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

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

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

Evaluation may be formal or informal.

6. Develops an Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP) as needed for the lesson*

The Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP) will meet state guidelines.

* For special education teachers only.

Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior. Management is assessed in the Classroom Observation.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

1. Organizes available space, materials, and/or equipment to facilitate learning

2. Promotes a positive learning climate

Component B. The teacher maximizes the amount of time available for instruction.

Attributes:

1. Manages routines and transitions in a timely manner

2. Manages and/or adjusts allotted time for activities planned

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

1. Establishes expectations for learner behavior

2. Uses monitoring techniques to facilitate learning

This may include reinforcing positive behavior, redirecting disruptive behavior, as well as other methods.

Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best suited to determine effective instruction for his/her classroom. Domain III is measured in both the new teacher portfolio and the classroom observation.

Component A. The teacher delivers instruction effectively.

Attributes:

1. Uses technique(s) which develop(s) lesson objective(s)

Technique(s) may include teacher-directed activity/activities or student-centered activity/activities.

2. Sequences lesson to promote learning

Sequencing means that the teacher initiates, develops, and closes the lesson with continuity.

3. Uses available teaching material(s) to achieve lesson objective(s)

4. Adjusts lesson when appropriate

5. The teacher integrates technology into instruction.

Component B. The teacher presents appropriate content.

Attributes:

1. Presents content at a developmentally appropriate level

The teacher is knowledgeable of the content and relates it to the abilities and interests of the students.

2. Presents accurate subject matter

3. Relates relevant examples, unexpected situations, or current events to the content

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

1. Accommodates individual differences

The teacher recognizes that students perform at different levels and provides opportunities for them to become involved. There are many ways of accommodating individual differences among children. Some of these are not always evidenced in observations, but in the planning. It may be necessary for the observer to ask the teacher for clarification of this in the Informal Conference.

2. Demonstrates ability to communicate effectively with students
3. Stimulates and encourages higher-order thinking at the appropriate developmental levels
4. Encourages student participation

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

Attributes:

1. Consistently monitors ongoing performance of students
2. Uses appropriate and effective assessment techniques

Assessing student performance may include formal and/or informal assessment procedures as well as formative and summative. Feedback may be verbal or non-verbal.

3. Provides timely feedback to students
4. Produces evidence of student academic growth under his/her instruction

Domain IV. Professional Development

Professional development is assessed as entry B in the New Teacher Portfolio. The Professional Growth Plan will provide the data to measure the new teacher's professional development activities.

Component A. The experienced teacher plans for professional self-development.

These recommended activities are not limited to, but may include, being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; reading professional literature; conducting research; evaluating programs; and participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

Note: Component A specifications apply only to experienced teachers (those who have met certification requirements).

Component B. The new teacher plans for professional self-development.

The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V as agreed upon with his/her mentor and principal (during first semester of assistance period) and the members of the assessment team (during the assessment semester).

Attributes:

1. Identifies areas of instruction that need strengthening and develops with mentor and/or principal a plan for improvement and works to complete the plan
2. Seeks ideas and strategies from resources (i.e., books, professional journals, websites, etc.) or colleagues that will improve teaching and learning and employs them

Note: Component B specifications apply only to new teachers (those who are in their first two years of teaching in the public school system of Louisiana, and have not yet met all requirements for full certification).

Domain V. School Improvement

Domain V is included in the new teacher portfolio.

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

Attributes:

1. Participates in grade level and subject area curriculum planning and evaluation
2. Serves on task force(s) and/or committees
3. Implements school improvement plan at the classroom level

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

Attributes:

1. Provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning
2. Encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom
3. Seeks community involvement in instructional program

Louisiana Components of Effective Teaching for Special Education-II

Field and Pilot tests of the Louisiana Teacher Assessment Program revealed that some of the Component, Attribute, and performance specifications developed by Panel I needed to be rewritten to fit the instruction of certain groups of special education students (i.e., students classified as severe and profound). While the conceptualizations of teacher knowledge and skills embodied in the original Components list capture the essence of effective instruction, their description and the conditions under which they occur are quite different in certain special education settings.

Domain I. Planning

Planning is an important aspect of the teaching/learning process. An important part of the Assessment is the new teacher portfolio. Planning is assessed as part of Entry A C The Teacher Work Sample.

Component A. The teacher plans effectively for instruction.

Attributes:

1. Specifies learner outcomes in clear, concise objectives
2. Includes activity/environments that develop objectives
4. Identifies materials/ equipment/ resources/ adaptations, other than standard classroom materials, as needed for lesson/activity
5. States method(s) of evaluation to measure learner outcomes
6. Develops/implements an Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP), when appropriate

Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior. Management is assessed in the Classroom Observation.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

1. Organizes available space, materials, and/or equipment to facilitate learning
2. Promotes a positive learning climate
3. Promotes a healthy, safe environment

Component B. The teacher maximizes the amount of time available for instruction.

Attributes:

1. Manages routines and transitions in a timely manner
2. Manages and/or adjusts allotted time for activities and provision of auxiliary services

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

1. Establishes expectations for learner behavior
2. Uses monitoring techniques to facilitate learning

Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best suited to determine effective instruction for his/her classroom. Domain III is measured in both the new teacher portfolio and the classroom observation.

Component A. The teacher delivers instruction effectively.

Attributes:

1. Uses technique(s) which develop(s) lesson/activity objective(s)
2. Sequences lesson/activity to promote student learning/development
3. Uses available teaching material(s), equipment, and environment to achieve lesson/activity objective(s)
4. Adjusts lesson/activity when appropriate
5. The teacher integrates technology into instruction.

Component B. The teacher presents appropriate content.

Attributes:

1. Presents functional content appropriate to the learners' capacities
2. Presents relevant subject matter/curriculum content in appropriate settings
3. Illustrates applications of content through examples, unexpected situations, and other means

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

1. Accommodates individual differences
2. Demonstrates ability to communicate effectively with students
3. Stimulates and encourages independent performance and optimal levels of thinking
4. Promotes student participation

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

Attributes:

1. Consistently monitors ongoing performance of students
2. Uses assessment techniques effectively
3. Provides timely feedback to students, caregivers, parents, and appropriate professional personnel regarding student progress

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

Domain IV. Professional Development

Professional development is assessed as entry B in the New Teacher Portfolio. The Professional Growth Plan will provide the data to measure the new teacher's professional development activities.

Component A. The experienced teacher plans for professional self-development.

These recommended activities are not limited to, but may include, being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; reading professional literature; conducting research; evaluating programs; and participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

Note: Component A specifications apply only to experienced teachers (those who have met certification requirements).

Component B. The new teacher plans for professional self-development.

The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V as agreed upon with his/her mentor and principal (during first semester of assistance period) and the members of the assessment team (during the assessment semester).

Attributes:

1. Identifies areas of instruction that need strengthening and develops with mentor and/or principal a plan for improvement and works to complete the plan
2. Seeks ideas and strategies from resources (i.e., books, professional journals, websites, etc.) or colleagues that will improve teaching and learning and employs them

Note: Component B specifications apply only to new teachers (those who are in their first two years of teaching in the public school system of Louisiana, and have not yet met all requirements for full certification).

Domain V. School Improvement

Domain V is included in the new teacher portfolio.

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

Attributes:

1. Participates in grade level and subject area curriculum planning and evaluation
2. Serves on task force(s) and/or committees
3. Implements school improvement plan at the classroom level

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

Attributes:

1. Provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning
2. Encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom

3. Seeks community involvement in instructional program

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

§705. Appendix C

Standards for School Principals in Louisiana

Standard #1 - Vision:

The principal engages the school community in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Standard #2 - Teaching and Learning:

The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Standard #3 - School Management:

The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Standard #4 - School Improvement:

The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Standard #5 – SchoolCommunity Relations:

The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Standard #6 - Professional Development:

The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Standard #7 - Professional Ethics:

The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Elaborated Standard: Vision

Vision: The principal engages the school community¹ in developing and maintaining a student-centered vision for education which forms the basis for school goals and guides the preparation of students as effective, lifelong learners in a pluralistic society.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- a "preferred" future² regarding the success of all students;
- group process strategies for melding the diverse values and expectations of the school community into a shared understanding of desired student outcomes;
- theories of child and human development, the teaching-learning process, and models of and processes for on-going school improvement; and
- relevant research findings and strategies for using data to develop and maintain the school vision.

Dispositions

The principal believes in, values, and commits to:

- the centrality of students to the school vision and goals;
- involving the school community in establishing the school vision and goals;
- respecting the existing school and community cultures while working for changes that improve outcomes for all students;
- stewardship of the school vision, and sponsorship of school goals; and
- enabling students to think critically about complex issues.

Performances

The principal demonstrates the ability to:

- work collaboratively with the school community to develop and maintain a shared school vision;
- bring the school vision to life by using it to guide decision making about students and the instructional programs;
- maintain faculty focus on developing learning experiences that will enable students to prosper in subsequent grades and as adults;
- maintain open communication with the school community and effectively convey high expectations for student learning to the community;
- provide opportunities and support for collaboration, the exchange of ideas, experimentation with innovative teaching strategies, and ongoing school improvement;
- monitor, assess, and revise the school vision and goals as needed; and
- foster the integration of students into mainstream society while valuing diversity.

Elaborated Standard: Teaching and Learning

Teaching and Learning: The principal uses a knowledge of teaching and learning in working collaboratively with the faculty and staff to implement effective and innovative teaching practices which engage students in meaningful and challenging learning experiences.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- research and theories related to teaching, learning, curriculum development and integration, and motivation;
- methods for effectively communicating high standards and high expectations for student achievement;
- strategies for creating an empowering environment that supports innovative teaching and powerful learning³;
- supervisory and observational techniques that promote effective teaching and learning in a growth oriented environment;
- authentic, psychometrically sound⁴, methods for assessing student learning; and
- emerging technologies and their use in enhancing student learning.

Dispositions

The principal believes in, values, and commits to:

- all children's learning at high levels;
- excellence and life-long learning;
- collaborative development of teaching strategies and curricular modifications that ground student learning in real-world situations and promote critical thinking; and
- developing a caring environment that nurtures teaching and learning.

Performances

The principal demonstrates the ability to:

- recognize, model, and promote effective teaching strategies that enable students to apply what they learn to real world experiences;
- encourage and support both the use of innovative, research-based teaching strategies to engage students actively in solving complex problems and methods of student assessment which will enhance learning for all students;
- conduct frequent classroom visits and periodic observations, provide constructive feedback to faculty and staff, and suggest models of effective teaching techniques when needed;
- foster a caring, growth-oriented environment for faculty and students, one in which high expectations and high standards for student achievement are emphasized; and
- promote collaboration and team building among faculty.

Elaborated Standard: School Management

School Management: The principal promotes the success of all students by ensuring management of the organization, operations, and resources for a safe and orderly learning environment.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- organizational theory and principles of organizational development;
- human resources management and development, including related/support/ancillary services;
- local, state, and federal laws, policies, regulations, and procedures;
- sound fiscal procedures and practices;
- time management to maximize the effectiveness of the organization; and
- current technologies that support management functions.

Dispositions

The principal believes in, values, and commits to:

- building a safe, orderly environment;
- upholding local, state, and federal laws, policies, regulations, and procedures, including being fiscally responsible and ensuring quality support services;
- upholding high standards in the day-to-day operations of the school and using current technology;
- making management decisions to enhance learning and teaching; and
- involving members of the school community in shared decision-making processes.

Performances

The principal demonstrates the ability to:

- maintain a safe, secure, clean, and aesthetically pleasing physical school plant;
- establish and/or implement laws, policies, regulations, and procedures that promote effective school operations;
- maintain a positive school environment where good student discipline is the norm;
- manage fiscal resources responsibly, efficiently, and effectively and monitor whether others do so as well;
- manage human resources responsibly by selecting and inducting new personnel appropriately, assigning and evaluating all staff effectively, and taking other appropriate steps to build an effective school staff;
- monitor support services such as transportation, food, health, and extended care responsibly;
- provide and coordinate appropriate co-curricular and extra-curricular activities;
- use shared decision making effectively in the management of the school;
- manage time and delegate appropriate administrative tasks to maximize attainment of the school goals;
- use available technology effectively to manage school operations; and
- monitor and evaluate school operations and use feedback appropriately to enhance effectiveness.

Elaborated Standard: School Improvement

School Improvement: The principal works with the school community to review data from multiple sources to establish challenging standards, monitor progress, and foster the continuous growth of all students.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- methods by which information from various sources can be used to establish challenging standards for self, faculty, students, and the school;
- strategies for monitoring progress toward reaching the standards established;
- professional literature related to teaching, learning, curriculum, organizational and staff development, and change processes;
- the school culture, community expectations, and the strengths and weaknesses of self, faculty, students, and community; and
- methods of data collection, analysis, interpretation, and program evaluation.

Dispositions

The principal believes in, values, and commits to:

- empowering others by engaging in collaborative problem solving and decision making, building capacity through staff development, and encouraging divergent perspectives from the school community;
- working toward consensus and compromise among members of the school community, guided by the school vision and goals;
- examining one's own assumptions, practices, and beliefs in the light of new knowledge;

- accepting limitations and mistakes from self and others while maintaining commitment to the standards established;
- encouraging faculty experimentation in order to maximize opportunities for all students to learn; and
- promoting a school culture that values and promotes individual and collaborative reflection and learning.

Performances

The principal demonstrates the ability to:

- provide ongoing opportunities for staff to reflect on their roles and practices in light of student standards and school goals;
- grow professionally by engaging in professional development activities and making such activities available to others;
- facilitate school-based research and use these and other research findings to plan school improvement initiatives, pace the implementation of these changes, and evaluate their impact on teaching and learning;
- foster the genuine continuous involvement and commitment of the school community in promoting the progress of all students toward attaining high standards; and
- enhance school effectiveness by appropriately integrating the processes of teacher selection/evaluation and professional development with school improvement.

Elaborated Standard: Professional Development

Professional Development: The principal works collaboratively with the school faculty and staff to plan and implement professional development activities that promote both individual and organizational growth and lead to improved teaching and learning.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- theories related to motivation, adult learning, and staff development;
- sound pedagogical practices and emerging technologies;
- current trends in terms of social, political and cultural influences on education;
- research, measurement, and assessment strategies;
- organizational learning for school cultures, goal setting, change processes, and group dynamics; and
- resource management.

Dispositions

The principal believes in, values, and commits to:

- life long learning for self and others;
- ongoing change processes;
- faculty expertise and collaborative work strategies; and
- fostering creativity and establishing high expectations in self and others.

Performances

The principal demonstrates the ability to:

- communicate a focused vision for both school and individual professional growth;
- use research and data from multiple sources to design and implement professional development activities;

- secure the necessary resources for meaningful professional growth, including the time for planning and the use of emerging technologies;
- provide opportunities for individual and collaborative professional development;
- provide incentives for learning and growth and encourage participation in professional development activities at the national, state, and parish levels; and
- assess the overall impact of professional development activities on the improvement of teaching and student learning.

Elaborated Standard: School-Community Relations

School-Community Relations: The principal uses an understanding of the culture of the community to create and sustain mutually supportive school-community relations.

Knowledge and Skills

The principal has knowledge, skills, and understanding of:

- the composition of the school community including relevant demographic statistics and trends, competing issues and values, and available resources;
- successful strategies for establishing positive school-community relations and fostering parental and community participation;
- techniques for promoting the positive aspects of the school and communicating with the media effectively; and
- effective interpersonal communication skills.

Dispositions

The principal believes in, values, and commits to:

- establishing a partnership with the school community for mutually supportive relationships;
- promoting the school as an integral part of the community;
- diversity as a strength; and
- promoting the positive aspects of the school, celebrating successes, acknowledging the school's shortcomings, and involving the community in overcoming problems within the school.

Performances

The principal demonstrates the ability to:

- be visible and involved in the community and treat members of the school community equitably;
- involve the school in the community while keeping the school community informed;
- use school-community resources to enhance the quality of school programs, including those resources available through business and industry;
- recognize and celebrate school successes publicly; and
- communicate effectively both interpersonally and through the media.

Elaborated Standard: Professional Ethics

Professional Ethics: The principal demonstrates honesty, integrity, and fairness to guide school programs in an ethical manner.

Knowledge and Skills:

The principal has knowledge, skills, and understanding of:

- various perspectives on ethics;

- his/her own principled convictions about what is best for students and the ethical implications of those convictions;
- relevant laws, policies, regulations, and procedures and the relationship of these to protecting the rights of individuals; and
- ethical means for improving school programs.

Dispositions

The Principal believes in, values, and commits to:

- being accurate in providing information while respecting the rights of others;
- caring for the feelings of others;
- principled action in upholding the substance of laws, policies, regulations, and procedures; and
- using the influence of the principalship constructively and productively in the service of all students.

Performances

The principal demonstrates the ability to:

- model ethical behavior at both the school and community levels;
- communicate to others expectations of ethical behavior;
- respect the rights and dignity of others;
- provide accurate information without distortion or violating the rights of others;
- develop a caring school environment in collaboration with the faculty and staff;
- apply laws, policies, regulations, and procedures fairly, consistently, wisely, and compassionately;
- minimize bias in self and others and accept responsibility for his/her own decisions and actions; and
- address unethical behavior in self and others.

¹ School community – individuals who have interests in or are affected by events at the school, including administrators, faculty, staff, students, parents, and external community members, such as those associated with business, civic, and service organizations, etc.

² Preferred future – an understanding and conviction to teachers and students that opportunities available to students are not limited.

³ Powerful learning – learning that occurs when students are proactive in developing skills through intrinsically challenging activities that build both cognitive and affective skills, and that require both group work and individual effort (adapted from Levin, H. (1996). Accelerated Schools: The background (pp.3-23). In C. Finnan, E.P. St. John, J. McCarthy, and S.P. Slovacek (Eds.). Accelerated schools in action: Lessons from the field. Thousand Oaks, CA: Corwin)

⁴ Psychometrically sound – data that are valid and reliable; refers to data from tests and other forms of assessment.

⁵ School community – individuals who have interests in or are affected by events at the school including administrators, faculty, staff, students, parents, and external community members, such as those associated with business, civic, and service organizations, etc.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted,

amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed rule affect the stability of the family? No.

2. Will the proposed rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed rule affect the functioning of the family? No.

4. Will the proposed rule affect family earnings and family budget? No.

5. Will the proposed rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed rule? No.

Interested persons may submit comments until 4:30 p.m., August 9, 2004, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Guidelines for Personnel Evaluation

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

These changes to the current Bulletin 1525 policy incorporates the revised Louisiana Component of Effective Teaching into Appendice B. The adoption of this policy will cost the Department of Education approximately \$500 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0406#032

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Health/Safety and Generally Licensed Updates
(LAC 33:XV.322, 328, 442, 544, 2004, and 2014)(RP035*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been

initiated to amend the Radiation Protection regulations, LAC 33:XV.322, 328, 442, 544, 2004, and 2014 (Log #RP035*).

This proposed Rule is identical to federal regulations found in 10 CFR 20.1703(f); 31.2; 31.5(c)(12)-(15); 32.51(a)(4)-(5); 32.51.a(a)-(b); 32.52; 39.35(b); 39.41; and 39.53(b), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. 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 defines minimum respiratory protection for limited intake respirators, written requirements prior to performing well logging, wipe test methods, minimum design and performance criteria for sources, and provides numerous updates for certain generally licensed industrial devices containing byproduct material. These changes will allow the department to remain consistent with NRC regulations. Recent updates of the federal regulations and corrections to existing department regulations necessitate this rulemaking action. The basis and rationale for this Rule are to mirror the federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material

Subchapter C. General licenses

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

A. Certain Devices and Equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment that have been manufactured, tested, and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission for use pursuant to 10 CFR 31.3. Attention is directed particularly to the provisions of 10 CFR 20 concerning labeling of containers. This general license is subject to the provisions of LAC 33:XV.104-109, 304.A.2, 331, 340, 350, and Chapters 4, 10, and 15 of these regulations.

1. Static Elimination Devices. This includes devices designed for use as static eliminators that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of polonium-210 per device.

2. Ion-generating Tubes. This includes devices designed for ionization of air that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries of polonium-210 per device or a total of not more than 50 millicuries of hydrogen-3 (tritium) per device.

B. - D.3.f. ...

g. except as provided in LAC 33:XV.322.D.3.h, transfer or dispose of the device containing radioactive

material only by export as provided in 10 CFR Part 110 or by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and within 30 days after transfer of a device to a specific licensee shall furnish to the Office of Environmental Services, Permits Division, a report containing identification of the device by manufacturer's name and model number, and the name and address of the person receiving the device. No report is required if the device is transferred to the specific licensee in order to obtain a replacement device;

h. - i. ...

j. Reserved.

k. appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with the appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;

l. register, in accordance with the provisions in this Subparagraph, devices containing at least 370 MBq (10 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, or 37 MBq (1 mCi) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described in this Subparagraph, represents a separate general licensee and requires a separate registration and fee:

i. annual registration with the Office of Environmental Services, Permits Division, shall include payment of the fee required by LAC 33:XV.2505. Registration must be done by verifying, correcting, and/or adding to the information provided in a request for registration received from the department. The registration information must be submitted to the department within 30 days of the date of the request for registration or as otherwise indicated in the request;

ii. in registering devices, the general licensee shall furnish the following information, as indicated on the label, and any other information specifically requested by the department:

(a) the name and mailing address of the general licensee;

(b) information about each device:

(i) the manufacturer (or initial transferor);

(ii) the model number;

(iii) the serial number; and

(iv) the radioisotope and activity;

(c) the name, title, and telephone number of the responsible person designated as a representative of the general licensee and identified by the transferee to have knowledge of and authority to take actions to ensure day-to-day compliance with the appropriate regulations and requirements without relieving the general licensee of any of his or her responsibility in this regard;

(d) the address or location at which the devices are used and/or stored. For portable devices, list the address of the primary place of storage;

(e). certification by the responsible representative of the general licensee that the information concerning the devices has been verified through a physical inventory and checking of label information; and

(f). certification by the responsible representative of the general licensee that he or she is aware of the requirements of the general license;

iii. persons generally licensed by an agreement state with respect to devices meeting the criteria in this Subparagraph are not subject to registration requirements if the devices are used in areas subject to department jurisdiction for a period less than 180 days in any calendar year. The department will not request registration information from such licensees;

m. report changes to the mailing address for the location of use (including change in the name of the general licensee) to the Office of Environmental Compliance, Permits Division, within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage;

n. not hold devices that are not in use for longer than two years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by this Subsection need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

D.4. - J.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:

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

A. - D.1.c.iii.(b). ...

d. each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words "Caution—Radioactive Material," the radiation symbol described in LAC 33:XV.450, and the name of the manufacturer or initial distributor;

e. each device meeting the criteria of LAC 33:XV.322.D.3.1 bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing, if separable, or to the device if the source housing is not separable, that includes the words "Caution—Radioactive Material" and, if practicable, the radiation symbol described in LAC 33:XV.450.

2. - 2.j. ...

3. In the event the applicant desires that the general licensee under LAC 33:XV.322.D, or under equivalent regulations of the U.S. Nuclear Regulatory Commission or of any other agreement state or licensing state, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, he or she shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a calendar quarter dose in excess of 10 percent of the limits specified in LAC 33:XV.410.A.

a. If a device containing byproduct material is to be transferred for use under the general license referred to in this Subsection, each person who is licensed under this Subsection shall provide the information specified in this Subparagraph to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

i. a copy of the general license;

ii. copies of the appropriate records and of LAC 33:XV.485 and 486;

iii. a list of the services that can only be performed by a specific licensee;

iv. information on acceptable disposal options including estimated costs of disposal; and

v. an indication that the U.S. Nuclear Regulatory Commission's policy is to issue high civil penalties for improper disposal.

b. If byproduct material is to be transferred in a device for use under an equivalent general license of an agreement state, each person who is licensed under this Subsection shall provide the information specified in this Subparagraph to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

i. copies of this Subsection and of LAC 33:XV.485 and 486, and the appropriate records. If a copy of the U.S. Nuclear Regulatory Commission's regulations is provided to a prospective general licensee in lieu of the department's regulations, it shall be accompanied by a note explaining that use of the device is regulated by the department; if certain paragraphs of the regulations do not apply to the particular device, those paragraphs may be omitted;

ii. a list of the services that can only be performed by a specific licensee;

iii. information on acceptable disposal options including estimated costs of disposal; and

iv. the name or title, address, and telephone number of the contact at the agreement state regulatory agency from whom additional information may be obtained.

c. An alternative approach to informing customers may be proposed by the licensee for approval by the department.

d. Each device that is transferred after February 19, 2002, must meet the labeling requirements in Subparagraphs D.1.c-e of this Section.

e. If a notification of bankruptcy has been made under LAC 33:XV.331.E-F or the license is to be terminated, each person licensed under this Subsection shall provide, upon request, to the department and to any appropriate agreement state, records of final disposition, which must be maintained for a period of three years following the date of the recorded event.

4. Each person licensed under this Subsection to distribute devices to persons generally licensed shall do the following.

a. Furnish a copy of the general license contained in LAC 33:XV.322.D to each person to whom he or she directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license contained in LAC 33:XV.322.D. In the case where the transferee receives radioactive material in a device pursuant to a general license contained in the U.S. Nuclear Regulatory Commission's or agreement state's regulations equivalent to LAC 33:XV.322, furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's, agreement state's, or licensing state's regulations equivalent to LAC 33:XV.322.D, or alternatively, furnish a copy of the general license contained in LAC 33:XV.322.D to each person to whom he or she directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission, the agreement state, or the licensing state. If a copy of the general license in LAC 33:XV.322.D is furnished to such person, it shall be accompanied by a note explaining that the use of the device is regulated by the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state under requirements substantially the same as those in LAC 33:XV.322.D.

b. Report all transfers of devices to persons for use under the general license in LAC 33:XV.322.D.1 and all receipts of devices from persons licensed under LAC 33:XV.322.D.1 to the Office of Environmental Compliance, Surveillance Division. The report must be submitted on a quarterly basis on a RAD-41 Form or in a clear and legible report containing all of the data required by the form.

i. The required information for transfers to general licensees includes:

(a). the identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternate address for the general licensee shall be submitted along with information on the actual location of use;

(b). the name, title, and telephone number of the person identified by the general licensee as having knowledge of and authority to take required actions to

ensure compliance with the appropriate regulations and requirements;

(c). the date of transfer;

(d). the type, model number, and serial number of the device transferred; and

(e). the quantity and type of byproduct material contained in the device.

ii. If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate persons.

iii. For devices received from a LAC 33:XV.322.D.1 general licensee, the report must include:

(a). the identity of the general licensee by name and address;

(b). the type, model number, and serial number of the device received;

(c). the date of receipt; and

(d). in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

iv. If the licensee makes changes to a device possessed by a LAC 33:XV.322.D.1 general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

v. The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

vi. The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

vii. If no transfers have been made to or from persons generally licensed under LAC 33:XV.322.D.1 during the reporting period, the report must so indicate.

c. Report all transfers of devices to persons for use under a general license in an agreement state's regulations that are equivalent to LAC 33:XV.322.D.1 and all receipts of devices from general licensees in the agreement state's jurisdiction to the responsible agreement state agency. The report must be submitted on a RAD-41 Form or in a clear and legible report containing all of the data required by the form.

i. The required information for transfers to general licensees includes:

(a). the identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternate address for the general licensee shall be submitted along with information on the actual location of use;

(b). the name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(c). the date of transfer;

(d). the type, model number, and serial number of the device transferred; and

(e). the quantity and type of byproduct material contained in the device.

ii. If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate persons.

iii. For devices received from a general licensee, the report must include:

(a). the identity of the general licensee by name and address;

(b). the type, model number, and serial number of the device received;

(c). the date of receipt; and

(d). in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

iv. If the licensee makes changes to a device possessed by a general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

v. The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

vi. The report must clearly identify the specific licensee submitting the report and must include the license number of the specific licensee.

vii. If no transfers have been made to or from a particular agreement state during the reporting period, this information shall be reported to the responsible agreement state agency upon request of the agency.

d. Maintain all information concerning transfers and receipts of devices that supports the reports required by this Paragraph. This information and the reports must be maintained for a period of three years following the date of the recorded event.

e. Report to the Office of Environmental Services, Permits Division, all transfers of such devices to persons for use under the general license in LAC 33:XV.322.D. Such reports must be maintained for a period of three years following the date of the recorded event and shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the department and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under LAC 33:XV.322.D during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days thereafter.

f. For all transfers out of Louisiana, the distributor shall make reports prescribed in this Paragraph as follows.

i. Report to the U.S. Nuclear Regulatory Commission all transfers of such devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR 31.5.

ii. Report to the responsible state agency all transfers of devices manufactured and distributed in accordance with this Subsection for use under a general license in that state's regulations equivalent to LAC 33:XV.322.D.

iii. Such reports shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. The report shall be submitted within 30 days after the end of each calendar quarter in which such device is transferred to the person generally licensed.

iv. If no transfers have been made to the U.S. Nuclear Regulatory Commission's licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission.

v. If no transfers have been made to persons generally licensed within a particular state during the reporting period, this information shall be reported to the responsible state agency upon request of the agency.

g. Keep records showing the name, address, and the point of contact for each general licensee to whom he or she directly or through an intermediate person transfers radioactive material in devices for use pursuant to the general license provided in LAC 33:XV.322.D, or equivalent regulations of the U.S. Nuclear Regulatory Commission or any other agreement state or licensing state. The records must show the date of each transfer, the isotope and the quantity of radioactive material in each device transferred, the identity of any intermediate person, and compliance with the reporting requirements of this Paragraph.

E. - M.4.g. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:

Chapter 4. Standards for Protection Against Radiation

Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas

§442. Use of Individual Respiratory Protection Equipment

A. - A.3.g. ...

4. the licensee or registrant shall issue and comply with a written policy statement on respirator usage covering:

a. - c. ...

d. the availability of sufficient standby rescue persons to assist all respirator users and to provide effective emergency rescue if needed; and

A.4.e. - 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 19:1421 (November 1993), LR 22:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 29:1469 (August 2003), LR 30:

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter A. Equipment Control

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

A. ...

B. Each sealed source shall be tested for leakage at intervals not to exceed six months. In the absence of a certificate from a transferor that a test has been made within the six-month period prior to the transfer, the sealed source shall not be put into use until tested.

C. - 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 by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1233 (August 2001), LR 29:1469 (August 2003), LR 30:

Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies

§2004. Prohibition

A. - A.1. ...

2. in the event a decision is made to abandon the sealed source downhole, the requirements of LAC 33:XV.2051 and any other requirements of any state agency having applicable regulations shall be met.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

§2014. Leak Testing of Sealed Sources

A. ...

B. Method of Testing. Tests for leakage shall be performed only by persons specifically authorized to perform such tests by the Office of Environmental Services, Permits Division, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. The wipe of a sealed

source must be performed using a leak test kit or method approved by the department, the U.S. Nuclear Regulatory Commission, or an agreement state. The test sample shall be taken from the surface of the source, source holder, or from the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. The test sample shall be analyzed for radioactive contamination by a person approved by the department, the U.S. Nuclear Regulatory Commission, or an agreement state to perform the analysis. The analysis shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of radioactive material on the test sample.

C. - E.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:1471 (August 2003), LR 30:

A public hearing will be held on July 26, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 North Fifth Street, Baton Rouge, LA 70802. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP035*. Such comments must be received no later than July 26, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP035*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

Wilbert F. Jordan, Jr.
Assistant Secretary

0406#025

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Public Notice Requirements
(LAC 33:VII.513, 517, and 10513)(SW038)

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 Solid Waste regulations, LAC 33:VII.513, 517, and 10513 (Log #SW038).

This revision changes the place of publication of various public notices required by the Solid Waste regulations. Changing the required place of publication of public notices from the official parish journal to a major local newspaper of general circulation will make the Solid Waste regulations consistent with the public notice requirements in other media regulations and will ensure that the public notice reaches as many people affected by the action as possible. The official parish journal may or may not be the journal of largest circulation in the parish and may not be in an area where the proposed permit action will take place. The basis and rationale for this proposed Rule are to ensure that public notices regarding solid waste permit activities reach the greatest number of citizens and to make the solid waste public notice regulations consistent with the other media regulations so that the public knows where to expect public notices to be published.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter B. Permit System for Facilities Classified for Upgrade or Closure

§513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and in a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

A.2. - F.2. ...

3. After the five copies are submitted to the Office of Environmental Services, Permits Division, notices will be placed in the department's bulletin (if one is available), the official journal of the state, and in a major local newspaper of general circulation. The Office of Environmental Services, Permits Division shall publish a notice of acceptance for review one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The notices will solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper will be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with the sample public notice provided by the Office of Environmental Services, Permits Division. The applicant is responsible for providing the Office of Environmental Services, Permits Division with proof of publication.

4. - 5. ...

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices will be published at least 20 days before a fact-finding hearing in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. Those persons on the Office of Environmental Services, Permits Division's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

F.7. - G.2. ...

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000), LR 30:

§517. Permit Modifications

A. - A.2.c. ...

d. After distribution of the permit modification, the permit holder is responsible for placing a notice in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The notice will solicit comments from interested individuals and groups. Comments delivered or received within 30 days after the date the notices are published will be reviewed by the Office of Environmental Services, Permits Division. The notice shall be published in accordance with a sample public notice provided by the Office of Environmental Services, Permits Division. The permit holder is responsible for providing the Office of Environmental Services, Permits Division with proof of publication of the notice.

2.e. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), LR 30:

Subpart 2. Recycling

Chapter 105. Waste Tires

§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a waste tire standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

A.2. - F.2. ...

3. After the six copies are submitted to the department, a notice shall be placed in the office bulletin (if one is available), the official journal of the state, and a major local newspaper of general circulation. The department shall publish a notice of acceptance for review one time as a

single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. The notice shall solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the department. The notice shall be published in accordance with the sample public notice provided by the department.

4. - 5. ...

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, a notice shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. Those persons on the department's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

F.7. - G.2. ...

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state will be the only public notice required. The permit holder shall provide proof of publication of the notice(s) to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), LR 27:829 (June 2001), LR 30:

A public hearing will be held on July 26, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference

Room C111, 602 North Fifth Street, Baton Rouge, LA 70802. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW038. Such comments must be received no later than August 2, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW038.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

Wilbert F. Jordan, Jr.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Public Notice Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule has no estimated effect on revenue collections of state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This Rule has no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. This Rule will allow DEQ to perform its duty to notify the public regarding permits more effectively.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This Rule has no estimated effect on competition or employment.

James H. Brent, Ph.D.
Assistant Secretary
0406#026

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division**

RCRA Cluster XIII
(LAC 33:V.105, 2223, 2299.Table 2, and 4139)(HW085*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.105, 2223, 2299.Table 2, and 4139 (Log #HW085*).

This proposed Rule is identical to federal regulations found in 67 FR 48393-48415, July 24, 2002, and 67 FR 62618-62624, October 7, 2002, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The proposed Rule represents rules required for state adoption and authorization for RCRA Cluster XIII. This Rule will allow the state of Louisiana to request authorization for the National Treatability Variance (adopted by EPA October 7, 2002) from the Land Disposal Restrictions (LDR) treatment standards for radioactively contaminated cadmium-, mercury-, and silver-containing batteries by designating new treatment subcategories for these wastes. Macroencapsulation is designated as the required treatment prior to land disposal for the new waste subcategories. Also, this rule will ensure more consistent regulatory framework for the practice of making zinc fertilizer products from recycled hazardous secondary materials. This Rule establishes conditions for excluding hazardous secondary materials used to make zinc fertilizers from the regulatory definition of solid waste. The Rule also establishes new product specifications for contaminants in zinc fertilizers made from those secondary materials. Adoption of regulations is a requirement for the state to request authorization for RCRA Cluster XIII and to maintain delegation of the Hazardous Waste program. The basis and rationale for this rule are to mirror the federal regulations and to obtain authorization of the RCRA program.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental
Quality Hazardous Waste
Chapter 1. General Provisions and Definitions
§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or

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

A. - D.1.r.ii. ...

s. spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or *accumulated speculatively*, as defined in LAC 33:V.109;

t. hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:

i. hazardous secondary materials used to make zinc micronutrient fertilizers must not be *accumulated speculatively*, as defined in LAC 33:V.109;

ii. generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:

(a). submit a one-time notice to the Office of Environmental Services, Permits Division, that contains the name, address, and EPA ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this Subparagraph;

(b). store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support and must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that:

(i). have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;

(ii). provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and

(iii). prevent run-on into the containment system;

(c). with each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this Subparagraph;

(d). maintain, at the generator's or intermediate handler's facility, for no less than three years, records of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the following information:

(i). the name of the transporter and the date of the shipment;

(ii). the name and address of the facility that received the excluded material and documentation confirming receipt of the shipment; and

(iii). the type and quantity of excluded secondary material in each shipment;

iii. manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:

(a). store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in Subclause D.1.t.ii.(b) of this Section;

(b). submit a one-time notification to the Office of Environmental Services, Permits Division, that at a minimum, specifies the name, address, and EPA ID number of the manufacturing facility and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this Subparagraph;

(c). maintain, for a minimum of three years, records of all shipments of excluded hazardous secondary materials received by the manufacturer that must, at a minimum, identify for each shipment the name and address of the generating facility, the name of the transporter, the date the materials were received, the quantity received, and a brief description of the industrial process that generated the material; and

(d). submit to the Office of Management and Finance, Financial Services Division, an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which they were generated;

iv. nothing in this Section preempts, overrides, or otherwise negates the provision in LAC 33:V.1103 that requires any person who generates a solid waste to determine if that waste is a hazardous waste; and

v. interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in Subclause D.1.t.iii.(b) of this Section, and that afterward will be used only to store hazardous secondary materials excluded under this Subparagraph, are not subject to the closure requirements of LAC 33:V.Chapters 9, 15, 17, 19, 21, 23, 25, 27, 28, 29, 31, 32, 33, 35, 37 and 43;

u. zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under this Paragraph, provided that:

i. the fertilizer meets the following contaminant limits:

(a). for metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

(b). for dioxin contaminants, the fertilizer must contain no more than 8 parts per trillion of dioxin, measured as toxic equivalent (TEQ);

ii the manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every 6 months, and for dioxins no less than every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at a concentration above the applicable limit. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce; and

iii the manufacturer maintains, for no less than three years, records of all sampling and analyses performed for purposes of determining compliance with the requirements of Clause D.1.u.ii of this Section. Such records must, at a minimum, include:

(a). the dates and times product samples were taken and the dates the samples were analyzed;

(b). the names and qualifications of the persons taking the samples;

(c). a description of the methods and equipment used to take the samples;

(d). the name and address of the laboratory facility at which analyses of the samples were performed;

(e). a description of the analytical methods used, including any cleanup and sample preparation; and

(f). all laboratory analytical results used to determine compliance with the contaminant limits specified in this Subparagraph.

D.2. - O.2.c.vi. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR

18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§223. Applicability of Treatment Standards

A. - H. ...

I. Effective September 4, 1998, the treatment standards for the wastes specified in LAC 33:V.4901.D as EPA Hazardous Waste Numbers P185, P191, P192, P197, U364, U394, and U395 may be satisfied by either meeting the constituent concentrations presented in LAC 33:V.2299.Appendix, Table 2, Treatment Standards for Hazardous Wastes, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST in LAC 33:V.2299.Appendix, Table 3, for nonwastewaters; and biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST in LAC 33:V.2299.Appendix, Table 3, for wastewaters.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:668 (April 1998), LR 24:1726 (September 1998), LR 25:443 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:280 (February 2000), LR 30:

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴
* * *					
[See Prior Text in D001 ⁹ – D005 ⁹]					
D006 ⁹	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for cadmium based on the toxicity characteristic leaching procedure (TCLP) in SW846	Cadmium	7440-43-9	0.69 and meet LAC 33:V.2233 standards ⁸	0.11 mg/L TCLP and meet LAC 33:V.2233 standards ⁸
	Cadmium-Containing Batteries Subcategory (Note: This subcategory consists of nonwastewaters only.)	Cadmium	7440-43-9	NA	RTHRM
	Radioactively contaminated cadmium-containing batteries (Note: This subcategory consists of nonwastewaters only.)	Cadmium	7440-43-9	NA	Macroencapsulation, in accordance with LAC 33:V.2230
* * *					
[See Prior Text in D007 ⁹ - D008 ⁹]					
D009 ⁹	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that also contain organics and are not incinerator residues (High Mercury-Organic Subcategory)	Mercury	7439-97-6	NA	IMERC; OR RMERC
	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including incinerator residues and residues from RMERC (High Mercury-Inorganic Subcategory)	Mercury	7439-97-6	NA	RMERC
	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are residues from RMERC only (Low Mercury Subcategory)	Mercury	7439-97-6	NA	0.20 mg/L TCLP and meet LAC 33:V.2233 standards ⁸
	All other nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are not residues from RMERC (Low Mercury Subcategory)	Mercury	7439-97-6	NA	0.025 mg/L TCLP and meet LAC 33:V.2233 standards ⁸
	All D009 wastewaters	Mercury	7439-97-6	0.15 and meet LAC 33:V.2233 standards ⁸	NA
	Elemental mercury contaminated with radioactive materials (Note: This subcategory consists of nonwastewaters only.)	Mercury	7439-97-6	NA	AMLGM

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-wastewaters
		Common Name	CAS ² Number	Concentration in mg/L ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code ⁴
	Hydraulic oil contaminated with Mercury Radioactive Materials Subcategory (Note: This subcategory consists of nonwastewaters only.)	Mercury	7439-97-6	NA	IMERC
	Radioactively contaminated mercury-containing batteries (Note: This subcategory consists of nonwastewaters only.)	Mercury	7439-97-6	NA	Macroencapsulation, in accordance with LAC 33:V.2230
* * *					
[See Prior Text in D010 ⁹]					
D011 ⁹	Wastes that exhibit, or are expected to exhibit, the characteristic of toxicity for silver based on the toxicity characteristic leaching procedure (TCLP) in SW846	Silver	7440-22-4	0.43 and meet LAC 33:V.2233 standards ⁸	0.14 mg/L TCLP and meet LAC 33:V.2233 standards ⁸
	Radioactively contaminated silver-containing batteries (Note: This subcategory consists of nonwastewaters only.)	Silver	7440-22-4	NA	Macroencapsulation, in accordance with LAC 33:V.2230
* * *					
[See Prior Text in D012 ⁹ -U411]					

Footnotes 1. - 12. ...

Tables 3. - 12. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:834 (September 1996), LR 23:566 (May 1997), LR 24:301 (February 1998), LR 24:670 (April 1998), LR 24:1732 (September 1998), LR 25:451 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 27:295 (March 2001), LR 29:322 (March 2003), LR 30:

Chapter 41. Recyclable Materials
Subchapter C. Special Requirements for Group III
Recyclable Materials

§4139. Recyclable Materials Used in a Manner
Constituting Disposal

A. - A.2. ...

a. the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means; and

b. such products meet the applicable treatment standards in LAC 33:V.Chapter 22.Subchapter B (or applicable prohibition levels in LAC 33:V.2209 or 2213, where no treatment standards have been established) for each recyclable material (i.e., hazardous waste constituent) that they contain.

3. Fertilizers that contain recyclable materials are not subject to regulation provided that:

a. they are zinc fertilizers excluded from the definition of *solid waste* according to LAC 33:V.105.D.1.u; or

b. they meet the applicable treatment standards in LAC 33:V.2223 for each hazardous waste that they contain.

4. Anti-skid/de-icing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in Paragraphs A.2 and 3 of this Section and remain subject to regulation.

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 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:367 (April 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 22:21 (January 1996), repromulgated LR 22:100 (February 1996), amended LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:

A public hearing will be held on July 26, 2004, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 North Fifth Street, Baton Rouge, LA 70802. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW085*. Such comments must be received no later than July 26, 2004, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental

Planning Division, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW085*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Baratara Street, Lockport, LA 70374 or on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

Wilbert F. Jordan, Jr.
Assistant Secretary

0406#024

NOTICE OF INTENT

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

Targeted Case Management High Risk Pregnant Women (LAC 50:XV.Chapter 115)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services proposes to repeal LAC 50.XV.Chapter 115, High Risk Pregnant Women as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, established targeted case management services for high-risk pregnant women (*Louisiana Register*, Volume 15, Number 6). This rule was subsequently amended (*Louisiana Register*, Volume 19, Number 5 and Volume 25, Number 7). The Rules for these services were compiled and promulgated for *Louisiana Administrative Code* codification purposes in (*Louisiana Register*, Volume 30, Number 5). The department now proposes to terminate this service by repealing these rules as: 1) there have been no requests for high-risk pregnancy case management since 1995; 2) there are no licensed case management agencies for the provision of these services; and 3) no funds are currently budgeted for this program.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 115. High Risk Pregnant Women

§11501. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1042 (May 2004), repealed LR 30:

§11503. Recipient Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1042 (May 2004), repealed LR 30:

§11505. Provider Participation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), repealed LR 30:

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, July 27, 2004 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Targeted Case Management High Risk Pregnant Women

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

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$272 (\$136 SGF and \$136 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will have no programmatic effect on federal revenue collections. \$136 will be collected in FY 2003-2004 as the federal share of expense for promulgation of this proposed rule and the final rule.

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

Implementation of this proposed rule repeals targeted case management for high-risk pregnant women. There have been no requests for this service since 1995, there are no licensed case management agencies to provide this service in Louisiana, and there is no money budgeted for this program. Implementation of this proposed rule will have no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0406#068

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**

Federally Qualified Health Centers
(LAC 50:XI.Chapters 103-105)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XI.Chapters 103-105 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule establishing the reimbursement methodology for federally qualified health centers (FQHCs) in October of 1992 (*Louisiana Register*, Volume 18, Number 10). The bureau subsequently amended the October 20, 1992 Rule to limit reimbursement to FQHCs by applying the Medicare payment limit to core services (*Louisiana Register*, Volume 22, Number 12). The bureau proposes to repeal and replace the October 20, 1992 and December 20, 1996 Rules by establishing a prospective payment system in accordance with Section 1902(aa) of the Social Security Act and the provisions of the Benefits Improvement Act (BIPA) of 2000.

In addition, the bureau proposes to amend the February 20, 1996 Rule which included each FQHC visit (encounter) as one of the 12 outpatient physician visits allowed per year for Medicaid eligibles who are 21 years of age or older. The bureau now proposes to increase the service limit to 15 visits per year for services performed in a FQHC. The bureau also proposes to repeal the provisions in the February 20, 1996 Rule governing the reimbursement methodology for prenatal and post partum care visits, as the new prospective payment system will replace the existing methodology. In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that implementation of this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S.

49:972 as it will increase the number of annual visits allowed for recipients of FQHC services.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Rule governing federally-qualified health centers under the Medical Assistance Program.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 103. Provider Requirements

§10301. Standards for Participation

A. Federally-qualified health centers (FQHCs) must comply with the applicable licensure, accreditation and program participation standards for all services rendered. If a FQHC wishes to initiate participation, it shall be responsible for meeting all enrollment criteria of the program.

B. The FQHC provider shall:

1. maintain an acceptable fiscal record keeping system that will enable the services provided by the FQHC to be readily distinguished from each other type of service that the facility may provide;

2. retain all records as are necessary to fully disclose the extent of services provided to recipients; furnish information regarding such records and any payments claimed for providing such services as the Medicaid Program, the Secretary, or the Medicaid Fraud Control Unit may request for five years from date of service;

3. abide by and adhere to all federal and state regulations, guidelines, policies, manuals, etc.; and

4. if an FQHC receives approval for a satellite site, the satellite site must enter into a separate provider agreement and obtain its own Medicaid number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

§10303. Service Limits

A. FQHC visits (encounters) are limited to 15 visits per year for services rendered to Medicaid recipients who are 21 years of age or older. FQHC visits for eligibles who are under 21 years of age and for prenatal and postpartum care are excluded from the maximum allowable number of physician visits per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Chapter 105. Reimbursement Methodology

§10501. Prospective Payment System

A. In accordance with Section 1902(aa) of the Social Security Act and the provisions of the Benefits Improvement Act (BIPA) of 2000, payments to federally qualified health centers for Medicaid-covered services will be made under a Prospective Payment System (PPS) and paid on a per visit basis.

B. The PPS per visit rate will be provider specific. To establish the baseline rate for 2001, each FQHC's 1999 and 2000 Medicaid allowable costs, as taken from the FQHC's filed 1999 and 2000 Medicaid cost reports, will be totaled and divided by the total number of Medicaid patient visits

for 1999 and 2000. A *visit* is defined as a face-to-face encounter with a licensed practitioner, including:

1. doctors;
2. dentists;
3. clinical psychologists;
4. clinical social workers;
5. nurse practitioners; and
6. physician assistants.

C. For those FQHCs that began operation in 2000 and have only a 2000 cost report available for the determination of the initial PPS per visit rate, the 2000 allowable costs will be divided by the total number of Medicaid patient visits for 2000. Upon receipt of the 2001 cost report, the rate methodology will be applied using 2000 and 2001 costs and Medicaid patient visits to determine a new rate.

D. Upon receipt of the final audited cost reports for 1999 and 2000, the rate will be recalculated using costs and Medicaid patient visits from these reports. Payments will be reconciled against the initial PPS per visit rate with recoupments and lump sum payments issued in accordance with existing state processes for cost report settlement.

E. The baseline calculation will include all Medicaid-covered services provided by the FQHC, regardless of existing methods of reimbursement for said services. This includes, but is not limited to, ambulatory, transportation, laboratory (where applicable), and KidMed and dental services previously reimbursed on a fee-for-service or other nonencounter basis. The per visit rate will be all inclusive. FQHCs shall not bill separately for any Medicaid-covered services.

F. FQHCs are responsible for apportioning visits and statistical data in the 2001 cost report. The apportionment is for the period from the first day of the 2000 cost reporting period through December 31, 2000. This data is used to calculate cost settlements due from or to providers for the final cost-based reimbursement period in calendar year 2000.

1. Providers with a December 31st fiscal year end do not have to conduct the apportionment cited in Subsection F.

G. Upon completion and implementation of PPS rate determination, the state will reconcile payments back to January 1, 2001 by:

1. calculating a payment amount for eligible patient visits under PPS; and
2. comparing the calculation to payments made for encounters under the previous cost-based reimbursement methodology.

H. No interim or alternate payment methodologies will be developed by the state without prior notification to each enrolled Medicaid FQHC.

I. The FQHC is responsible for notifying the Bureau of Health Services Financing, Rate and Audit Review Section, in writing, of any increases or decreases in the scope of services as defined by the Bureau of Primary Health Care (BPHC) Policy Information Notice 2002-07. If the change is for inclusion of an additional service or deletion of an existing service, the FQHC shall include the following in this notification: the approval by BPHC, the current approved organization budget and a budget for the addition or deletion of services. The notice shall also include a presentation of the impact on total visits and Medicaid visits. A new interim rate will be established based upon the

reasonable allowable cost contained in the budget information. Then a final PPS rate will be calculated using the first two years of audited cost reports which include the change in services.

J. If an FQHC receives approval for a satellite site, the PPS per visit rate paid for the services performed at the satellite would be the weighted average cost payment rate per encounter for all FQHCs.

K. The PPS per visit rate for a facility which enrolls and receives approval to operate on or after January 1, 2001 will be the statewide weighted average payment rate per encounter for all FQHCs.

L. Beginning with federal fiscal year 2002, the PPS per visit rate for each facility will be increased on July first of each year by the percentage increase in the published *Medicare Economic Index* (MEI) for primary care services.

M. FQHC services furnished to dual eligibles will be reimbursed reasonable cost which is equivalent to the provider specific prospective payment rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, July 27, 2004 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Federally Qualified Health Centers

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$298,858 for SFY 2004-2005, \$397,191 for SFY 2005-2006 and \$409,107 for FY 2006-2007. It is anticipated that \$544 (\$272 SGF and \$272 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$738,482 for SFY 2004-2005, \$981,467 for SFY 2005-2006 and \$1,010,911 for SFY 2006-2007. \$272 will be collected in

SFY 2003-2004 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

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

This proposed rule increases the number of allowable annual visits from 12 to 15 for services performed at a Federally Qualified Health Center (FQHC) (25 centers) and establishes a reimbursement methodology for FQHC services. It is anticipated that implementation of this proposed rule will increase expenditures to FQHCs by \$1,037,340 for SFY 2004-2005, \$1,378,658 for SFY 2005-2006 and \$1,420,018 for SFY 2006-2007.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0406#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**

**Hospital Program Outpatient Surgery Services
HIPAA Implementation**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for certain surgical procedures when performed in an outpatient setting. The bureau promulgated a rule that increased the reimbursement paid to hospitals for those outpatient surgical procedures included in the four payment groups on the Medicaid outpatient surgery list (*Louisiana Register*, Volume 27, Number 12). Currently, these services must be billed to the Medicaid program using International Classification of Diseases, Ninth Edition (ICD-9) surgical codes and reimbursement for these surgical procedures is set at a flat fee per service per one of four payment groups. The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The department is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau proposes to amend the December 2001 rule governing the billing and reimbursement for outpatient surgery services.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule

has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the rules governing the billing and reimbursement of all outpatient hospital surgery services. Current Standard Healthcare Common Procedure Coding System (HCPCS) codes and modifiers shall be used to bill for all outpatient hospital surgery services. Medicaid payment rates shall be established and assigned to each code based on the Medicare payment rates for outpatient surgery services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, July 27, 2004, at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Frederick P. Cerise, M.D., M.P.H.
Secretary

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

RULE TITLE: Hospital Program Outpatient Surgery Services HIPAA Implementation

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

It is anticipated that there will be no programmatic costs to the state as a result of implementation of this proposed rule. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in SFY 2003-2004 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will have no programmatic effect on federal revenue collections. \$102 will be collected in FY 2003-2004 as the federal share of expense for promulgation of this proposed rule and the final rule.

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

Implementation of this proposed rule amends the rules governing the billing and reimbursement of all outpatient hospital surgery services to comply with Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) standards. Implementation of this proposed rule will have no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will not have an effect on competition and employment.

Ben A. Bearden
Director
0406#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

Choice of Physician Form (LAC 40:I.6664)

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana Department of Labor, Office of Workers' Compensation, pursuant to authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to enact a form permitting injured workers to choose their physician, LAC 40:I.6664 to provide for a choice of physician form. The proposed Rule which is set forth below enacts Chapter 66, Section 6664.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Hearing Rules

Chapter 66. Miscellaneous

Subchapter E. Forms

§6664. Choice of Physician; Form LDOL-WC-1121

Notice to Injured Workers

You have the right to choose your own doctor!

When you are injured at work or become sick because of something that happened at work, the law gives you the right to choose your own doctor in any field or specialty of medicine for medical treatment.

The law also allows your employer to have you see his/her doctor, but you do not have to agree to continue treatment with your employer's doctor unless that is what you want.

If you want your employer's doctor to continue treating you after your first visit with him/her, and after receiving this form, you may choose your employer's doctor as your treating doctor.

Once you choose either your employer's doctor or your own doctor as your treating doctor, you may not be permitted to choose another doctor in that same field or specialty to treat you for your injury or illness later on. However, you are not required to get your employer's approval to change to a doctor in another field or specialty of medicine [LA. R.S. 23:1121(b)(1)].

If your employer denies your right to choose your doctor, you have a right to a speedy hearing before a workers' compensation judge to resolve the denial of your right [LA. R.S. 23:1121(b)(1) and 1124(b)].

I hereby choose my own doctor to treat me for my injury or illness:

Dr. _____

or

By signing this form, I state that I know about my right to choose my own treating doctor, and being so advised, I hereby accept and choose to continue treating with my employer's doctor:

Dr. _____

Date Signature of Employee Printed Name of Employee

Date Signature of Employee Printed Name of Employee

(Note: If the employee is illiterate or has a language barrier, an authorized representative of the employer/insurer shall attest by their signature that this form and right of physician choice has been reasonably explained to that employee prior to his/her signature on this form. Failure to do so can jeopardize the employer's /insurer's right to subsequently refuse consent to the employee's request for treatment by a different physician within the same field or specialty.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 30:

Inquiries concerning the proposed adoption may be directed to Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration, Department of Labor, P.O. Box 94094, Baton Rouge, LA 70804-9094.

Interested persons may submit data, views, arguments, information or comments on the proposed repeal and enactment in writing, to the Louisiana Department of Labor, P.O. Box 94094, Baton Rouge, LA 70804-9094, Attention: Karen Reiners Winfrey, Assistant Secretary, Office of Workers' Compensation Administration. Written comments must be submitted 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.

John Warner Smith
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Choice of Physician Form**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units as a result of these administrative rule changes.
- 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 as a result of this legislation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no estimated cost to directly affected persons or nongovernmental groups as a result of these changes.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Proposed rule changes will not effect competition and employment among those using the form.

John Warner Smith
Secretary
0406#008

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Rules of Play
(LAC 42:IX.Chapter 31 and XIII.Chapter 31)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:IX.3103-3107 and XIII.3101-3107 and to repeal LAC 42:IX.3115-3132 and XIII.3115-3133 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42
LOUISIANA GAMING**

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 31. Rules of Play

§3103. Rules of Play

A. As approved by the division in writing, the casino operator shall adopt and make available to all patrons at the casino written and comprehensive rules of play governing wagering transactions with patrons.

B. Without limiting the generality of the foregoing, the casino operator's rules of play must specify the amounts to be paid on winning wagers.

C. The casino may offer side wagers for a bonus or progressive jackpot by receiving various combinations in any authorized game, as long as the rules relating to such wagers are clearly specified in the rules of play pursuant to this chapter and approved by the division in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:

§3105. Submission of Rules

A. The casino operator shall submit in writing to the division for review and approval the proposed rules of play prior to the commencement of gaming operations. The casino operator's rules of play shall be attached as an exhibit in the casino operator's internal controls. The casino operator's rules of play shall contain detailed procedures for each game including but not limited to:

1. object of the game and method of play, including what constitutes win, loss or tie bets;
2. physical characteristics of the game, gaming equipment and gaming table;
3. opening and closing of the gaming table;
4. wagers:
 - a. permissible wagers and payout odds;
 - b. manner in which wagers may be made;
 - c. minimum and maximum wagers;
 - d. maximum table payouts as applicable;
5. for each game that uses the following, inspection procedures for:
 - a. cards;
 - b. dice;
 - c. wheels and balls;
 - d. manual and electronic devices used to operate and display progressive games;
6. for each game that uses cards:

- a. shuffling procedures;
- b. card cutting procedures;
- c. procedures for dealing, taking, removing used, damaged and burning cards;
- d. cards, number of decks, number of cards in deck and the valuation of the cards;

7. procedures for the collection of bets and payouts including all requirements for Internal Revenue Service purposes;

8. describe procedures for handling disputes including documenting and reports needed. Include copies of such reports being provided to the Casino Gaming Section;

9. describe procedures for handling suspected cheating or irregularities including the immediate notification to the Casino Gaming Section;

10. describe procedures for dealers/box persons etc. conducting each game including procedures for being relieved;

11. procedures describing irregularities of each game.

B. All table games utilizing cards, for which procedures are described above, shall be dealt from a shoe or shuffling device, except card games which have been approved by the Casino Gaming Section.

C. Any change in the casino's rules of play including permissible rules, wagers and payout odds must be submitted in writing and gain prior written approval by the division before implementation.

D. The casino shall not permit any game to be played other than those specifically named in the act, these regulations, or the casino operator's rules of play in the internal controls as approved by the division. For each game, the casino shall provide a written set of procedures to the division 120 days in advance of commencing the game's operation or within such time period as the division, in its sole discretion, may authorize in writing.

E. Rules of play shall not be considered confidential and copies shall be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:

§3107. Wagers

A. All wagers at gaming tables shall be made by placing gaming chips or tokens on the appropriate area of the gaming table layout. In addition, each player shall be responsible for the correct positioning of their wager or wagers on the gaming layout regardless of whether or not they are assisted by the dealer. Each player must ensure that any instructions they give to the dealer regarding the placement of their wager are correctly carried out.

B. Minimum and maximum wagers and maximum table payouts shall be posted on a sign at each table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1959 (October 1999), amended LR 30:

§3115. Blackjack (Twenty-One)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1960 (October 1999), repealed LR 30:

§3116. Royal Match 21

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1961 (October 1999), repealed LR 30:

§3117. Craps

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999), repealed LR 30:

§3119. Roulette

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999), repealed LR 30:

§3120. Baccarat

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1962 (October 1999), repealed LR 30:

§3121. Mini-Baccarat

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999), repealed LR 30:

§3122. Midi-Baccarat

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999), repealed LR 30:

§3123. Big Six Wheel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1963 (October 1999), repealed LR 30:

§3125. Bourée

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1964 (October 1999), repealed LR 30:

§3127. Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1964 (October 1999), repealed LR 30:

§3128. Caribbean Stud Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1965 (October 1999), repealed LR 30:

§3129. Pai Gow Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1966 (October 1999), repealed LR 30:

§3130. Let It Ride Stud Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1966 (October 1999), repealed LR 30:

§3131. Let It Ride Bonus Stud Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1967 (October 1999), repealed LR 30:

§3132. Casino War

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1968 (October 1999), repealed LR 30:

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 31. Rules of Play

§3101. Authority and Applicability

A. ...

B. The games and gaming activities authorized by this Chapter shall be conducted pursuant to rules and procedures contained in the division's rules and the licensee's rules of play as are approved by the division in writing. In the event of a conflict or inconsistency between the division's rules and the licensee's rules of play, the division's rules shall prevail unless the division issues a written order indicating otherwise in that particular case.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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 LR 30:

§3103. Rules of Play

A. As approved by the division in writing, each licensee shall adopt and make available to all patrons at its licensed premises written and comprehensive rules of play governing wagering transactions with patrons.

B. Without limiting the generality of the foregoing, the rules of play must specify the amounts to be paid on winning wagers.

C. A licensee may offer side wagers for a bonus or progressive jackpot by receiving various combinations in any authorized game, as long as the rules relating to such wagers are clearly specified in the rules of play pursuant to this Chapter and approved by the division in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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 LR 30:

§3105. Submission of Rules

A. Each licensee shall submit in writing to the division for review and approval the proposed rules of play prior to the commencement of gaming operations. The licensee's rules of play shall be included in the licensee's internal controls. The licensee's rules of play shall contain detailed procedures for each game including but not limited to:

1. object of the game and method of play, including what constitutes win, loss or tie bets;
2. physical characteristics of the game, gaming equipment and gaming table;
3. opening and closing of the gaming table;
4. wagers:
 - a. permissible wagers and payout odds;
 - b. manner in which wagers may be made;
 - c. minimum and maximum wagers;
 - d. maximum table payouts as applicable;
5. for each game that uses the following, inspection procedures for:
 - a. cards;
 - b. dice;
 - c. wheels and balls;
 - d. manual and electronic devices used to operate and display progressive games;
6. for each game that uses cards:
 - a. shuffling procedures;
 - b. card cutting procedures;
 - c. procedures for dealing, taking, removing used, damaged and burning cards;
 - d. cards, number of decks, number of cards in deck and the valuation of the cards;
7. procedures for the collection of bets and payouts including all requirements for Internal Revenue Service purposes;
8. describe procedures for handling disputes including documenting and reports needed. Include copies of such reports being provided to the Casino Gaming Section;
9. describe procedures for handling suspected cheating or irregularities including the immediate notification to the Casino Gaming Section;
10. describe procedures for dealers/box persons etc. conducting each game including procedures for being relieved;
11. procedures describing irregularities of each game.

B. All table games utilizing cards, for which procedures are described above, shall be dealt from a shoe or shuffling device, except card games which have been approved by the Casino Gaming Section.

C. Any change in the licensee's rules of play including permissible rules, wagers and payout odds must be submitted in writing and gain prior written approval by the division before implementation.

D. No licensee shall permit any game to be played other than those specifically named in the act, these rules, or the licensee's rules of play as approved by the division. For each game, the licensee shall provide a written set of game rules to the division 120 days in advance of commencing the game's operation or within such time period as the division may designate.

E. The rules of play shall not be considered confidential and copies shall be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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 LR 30:

§3107. Wagers

A. All wagers at gaming tables shall be made by placing gaming chips or tokens on the appropriate area of the gaming table layout. In addition, each player shall be responsible for the correct positioning of their wager or wagers on the gaming layout regardless of whether or not they are assisted by the dealer. Each player must ensure that any instructions they give to the dealer regarding the placement of their wager are correctly carried out.

B. Minimum and maximum wagers and maximum table payouts shall be posted on a sign at each table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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 LR 30:

§3115. Blackjack

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3117. Craps

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3119. Roulette

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3121. Mini-Baccarat Rules of the Game

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3123. Big Six Wheel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3125. Bourée

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3127. Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3129. Variations of Poker

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3131. Red Dog

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

§3133. Sic Bo

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 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), repealed LR 30:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board through its chairman, has considered the potential family impact of amending LAC 42:IX.3103-3107 and XIII.3101-3107 and repealing LAC 42:IX.3115-3132 and XIII.3115-3133

It is accordingly concluded that amending LAC 42:IX.3103-3107 and XIII.3101-3107 and repealing LAC 42:IX.3115-3132 and XIII.3115-3133 would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons may contact Tom Warner, Attorney General's Gaming Division, (225) 326-6500, and may submit comments relative to these proposed rules, through July 9, 2004, to 1885 North Third Street, Suite 500, Baton Rouge, LA 70802.

H. Charles Gaudin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Rules of Play**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no implementation costs to state or local government units estimated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no determinable 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 cost and/or economic benefit to directly affected persons or non-governmental groups is estimated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition or employment is estimated.

H. Charles Gaudin
Chairman
0406#062

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

License Plates; Types of License Plates
(LAC 55.III.325 and 389)

Under the authority of R.S. 47:511, R.S. 47:305.50 and R.S. 47:321 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of Motor Vehicles (Department), hereby gives notice of intent to amend the existing rules regarding the adoption of the International Registration Plan, and the sales tax exemption on commercial motor vehicles issued apportioned plates and used in interstate commerce. These amendments are technical in nature and do not change the substance of the rules.

The first proposed amendment adopts the current International Registration Plan by reference. The International Registration Plan authorizes the apportioned registration of fleets of vehicles among the various jurisdictions in which the vehicles are operated. This plan provides that for one license plate even though the motor vehicle is registered in more than one jurisdiction. Louisiana was approved to participate in the plan on December 1, 1975, and began participating in the plan on April 1, 1976.

The second amendment amends the existing Rule regarding the expiration of the exemption from state and local sales and use taxes for commercial motor vehicles registered pursuant to the International Registration Plan. This amendment reflects the change made by Act 10, of the First Extraordinary Session of 2004, to R.S. 47:305.50 that deleted the language that provided for the expiration of the exemption to occur on June 30, 2004.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter A. Types of License Plates

§325. International Registration Plan

A. The Department of Public Safety and Corrections, Office of Motor Vehicles, hereby adopts by reference, the International Registration Plan, hereinafter referred to as the plan, adopted in August 1994 and as revised through October 1, 2003 by the member jurisdictions, and published by International Registration Plan, Inc. The department only adopts the articles and sections contained in the agreement, as well as the exceptions to the plan as reflected in the October 1, 2003 revision and included in Appendix C of the plan. The commentary and governing board decisions included with the adopted plan shall not be part of this Rule, but may be considered by the department in interpreting and implementing the various sections of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:511.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 26:89 (January 2000), amended LR 29:605 (April 2003), LR 30:

Subchapter C. Tax Exemption for Certain Trucks and Trailers Used 80 Percent of the Time in Interstate Commerce

§389. Expiration of Exemption

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2258 (November 1999), repealed LR 30:

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules should not have any affect on the stability of the family. These rules regulate the use of commercial motor vehicles

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules should not have any affect on the authority and rights of parents regarding the education and supervision of their children. These rules regulate the use of commercial motor vehicles

3. The Effect of these Rules on the Functioning of the Family. These rules should not have any affect on the functioning of the family. These rules regulate the use of commercial motor vehicles

4. The Effect of these Rules on Family Earnings and Family Budget. These rules should not have any affect on family earnings and family budget. These rules regulate the use of commercial motor vehicles

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules should not have any affect on the behavior and personal responsibility of children. These rules regulate the use of commercial motor vehicles

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules should not have any affect on the ability of the family or local government to perform the function as contained in the proposed rules. These rules regulate the use of commercial motor vehicles

Persons having comments or inquiries may contact Stephen A. Quidd, Attorney for the Office of Motor Vehicles, by writing to P.O. Box 66614, Baton Rouge, LA 70896, by calling (225) 925-4068, or by sending a facsimile to (225) 925-3974. These comments and inquiries should be received by July 26, 2004. A public hearing on these Rules is tentatively scheduled for Wednesday, July 28, 2004, at 9 a.m., in the Executive Conference Room at the Office of Motor Vehicles Headquarters at 7979 Independence Blvd., Baton Rouge, LA 70806. Any person wishing to attend the public hearing should call to confirm the time and the location of the hearing. If the requisite number of comments are not received, no hearing will be held.

Stephen J. Hymel
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: License Plates; Types of License Plates

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

There will be no savings or increased costs in connection with the amendment to LAC 55, Part III, Chapter 3, Subchapter A, §325, as the International Registration Plan (IRP) is an existing program in which the Department has participated since 1976. The amendment to the International Registration Plan (IRP) rule updates the reference to the current version of the International Registration. The amendment to the sales tax exemption rule for commercial motor vehicles in interstate commerce reflects the change by Act 10 of the 2004 First Extraordinary Session which repealed the expiration of the exemption.

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

There should be no effect on revenue collections of state or local governments. The proposed amendments do not change the manner in which state or local sales and use taxes are collected. The registration license tax due at the initial registration and at each subsequent renewal is also unchanged.

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

There should be no costs and/or economic benefit to directly affected persons or nongovernmental groups in connection with the proposed amendment to §325. The changes to the Plan do not impact the way the Plan is enforced. The elimination of the expiration date will result in no change to the sales tax exemption currently in place.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment as a result of these proposals as there are no changes in the effect of the IRP or the sales tax exemption.

Chris Keaton
Undersecretary
0406#075

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
State Employees' Retirement System**

DROP Disbursements (LAC 58:I.2713)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58.I.2713. This amendment is needed to allow LASERS to more efficiently administer DROP accounts.

**Title 58
RETIREMENT**

**Part I. Louisiana State Employees' Retirement System
Chapter 27. DROP Program
Subchapter C. Withdrawal
§2713. Time for Disbursement**

A. - C. ...

D. Requested withdrawals from DROP accounts which would leave a balance in that account of \$500 or less shall be processed as a request for disbursement of the entire balance. All such withdrawal requests shall result in the closing of the account. LASERS may, at its option, conduct audits to identify DROP accounts with a balance of \$500 or less and may disburse the entire amount to the person in whose name the account exists or to their beneficiary after giving notice of at least 30 days prior to disbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:

Family Impact Statement

The proposed amendment of LAC 58.I.2713 concerns the disbursement of DROP accounts. This regulation should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

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

No preamble for these rules is necessary. Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 10, 2004, to Steve Stark, Board

of Trustees for the Louisiana State Employees' Retirement, P.O. Box 44213, Baton Rouge, LA 70804.

Robert L. Borden
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: DROP Disbursements**

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

No implementation costs to state or local governmental units are anticipated to result from the implementation of this rule. This rule will reduce administration of DROP accounts, which will in return produce a cost savings for LASERS.

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

No effect on revenue collections to state or local governmental units is expected to result from the implementation of these rules.

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

No costs or economic benefits are expected to either DROP participants are expected to result from the implementation of these rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected to result from the implementation of these rules.

Robert L. Borden
Executive Director
0406#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Alligator Licenses, Permits, Fees (LAC 76:V.701)

The Wildlife and Fisheries Commission does hereby advertise its intent to suspend a portion of the alligator tag fee.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators, tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Fur and Refuge Division.

1. - 3. ...

4. Licenses, Permits and Fees

a. The licenses and fees required for activities authorized by these regulations are as prescribed under

provisions of Title 56, or as prescribed in these regulations, and are:

i. - x. ...

xi. \$4 for each alligator hide tag; provided however, that this commission does hereby suspend the collection of \$1 of the \$4 tag fee. This suspension shall commence on September 20, 2004 and continue for a period of 2 years or until such time this commission takes further action, whichever occurs first.

4.a.xii. - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:

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 Brandt Savoie, Fur & Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, August 5, 2004.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Alligator Licenses, Permits, Fees

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

There will be no state or local governmental implementation costs or savings associated with this proposed Rule change.

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

Total revenue collections of the state are estimated to increase by \$464,000 over a two-year period beginning in September 2004. In fiscal year (FY) 04-05, FY 05-06, and FY 06-07, the Department of Wildlife and Fisheries estimates that there will be an increase in revenue collections of \$174,000, \$232,000 and \$58,000, respectively. Revenue collections of local governmental units will not be affected.

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

Any licensed individual that can legally ship alligator skins out-of-state, tan alligator hides in state or use any alligator hide for taxidermy purposes will be directly affected.

The proposed Rule change will suspend \$1 of the \$4 alligator hide tag fee that is scheduled to become effective in September 2004, and will continue for a two-year period. Currently, licensed individuals pay a \$2 alligator hide tag fee, based on a similar action taken by the commission in 2002 that suspended \$2 of the \$4 tag fee per hide. Thus, licensed individuals will incur an additional cost of \$1 per alligator hide above the \$2 tag fee currently being charged. Total accumulated cost to license holders over the two-year period is estimated to be \$464,000. No workload adjustments or additional paperwork will be required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change may cause a slight decrease in competition and employment within the alligator hide industry.

Janice A. Lansing
Undersecretary
0406#047

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass Daily Take and Size Limits (LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby advertises its intent to amend the following Rule on black bass (*Micropterus* spp.) on Poverty Point Reservoir, located North of the town of Delhi in Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations Daily Take and Size Limits

A. - B.3. ...

4. Poverty Point Reservoir (Richland Parish)

a. Size limit: 15 inch-19 inch slot. A 15-19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measured inclusive.

b. Daily Take: 8 fish with only one fish over 19 inches per person.

i. On water possession Same as daily limit per person.

*Maximum total length The distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with the mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR:14:364 (June 1988), amended LR 17:277 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:373 (March 2003), LR 30:

Interested persons may submit written comments of the proposed Rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., Thursday, August 5, 2004.

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.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Black Bass Daily Take and Size Limits**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed Rule will have no implementation costs. Enforcement of the proposed Rule will be carried out using existing staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed Rule change is anticipated to have no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Sport fishermen who fish in the Poverty Point Reservoir will be affected by the proposed action. They will be required to release black bass from 15 inches to 19 inches in length and be able to retain up to 8 black bass in their daily creel, with only 1 fish over 19 inches.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed Rule change will have no effect on competition and employment in the public and private sectors.

Janice A. Lansing Robert E. Hosse
Undersecretary General Government Section Director
0406#045 Legislative Fiscal Office

NOTICE OF INTENT

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

Crappie Daily Take (LAC 76:VII.197)

The Wildlife and Fisheries Commission hereby advertises its intent to establish the following Rule on Crappie (*Pomoxis* spp.) on Poverty Point Reservoir, located North of the town of Delhi in Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§197. Crappie Regulations Daily Take

A. Poverty Point Reservoir (Richland Parish)

1. Daily limit: 25 fish per person:

a. on water possession Same as daily limit per person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:325.1(c).

HISTORICAL NOTE: Promulgated in accordance with Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 30:

Interested persons may submit written comments of the proposed Rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000 no later than 4:30 p.m., Thursday, August 5, 2004.

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.

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Bill A. Busbice, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Crappie Daily Take**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed Rule will have no implementation costs. Enforcement of the proposed Rule will be carried out using existing staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed Rule change is anticipated to have no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Recreational anglers who fish in the Poverty Point Reservoir will be affected by the proposed Rule. They will be limited to a crappie daily creel limit of 25 fish.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed Rule change will have no effect on competition and employment in the public and private sectors.

Janice A. Lansing Robert E. Hosse
Undersecretary General Government Section Director
0406#046 Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Natural Resources Office of the Secretary

Orphaned Oilfield Sites

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

Operator	Field	District	Well Name	Well Number	Serial Number
Brown & Woods	Golden Meadow	L	Hogan	001	023160
Fohs Oil Company	Gillis-English Bayou	L	Ida Airhart	2	019104 (30)
Fohs Oil Company	Gillis-English Bayou	L	Powers	3	019422 (28)
Fohs Oil Company	Gillis-English Bayou	L	A. D. Daharsh	1	019525
York Oilfield Service Co., Inc.	West Hackberry	L	Carter & Sweeney	11	020400
Gravis & Sanlou Production Co.	St. Gabriel	L	Opdenwer-Alcus Cypress Co.	1	036058
Gravis & Mitchell	St. Gabriel	L	Pontchartrain	1	040642
Gravis & Mitchell	St. Gabriel	L	O. A. Cypress	5	048671
Gravis & Mitchell	St. Gabriel	L	Opdenweyer-Alcus Cypress Co.	2	038462
Lea Exploration, Inc.	Cut Off	L	11200 Rq1 SU1; J. L. Defelice	1	121656
Howell, Holloway & Howell	Happytown	L	Iberville Land Co.	1-U-D	064509 (30)
Austral Oil & Exploration, Inc.	Abbeville	L	Sd 2 RA SUA: Brookshire et al.	002-ALT	224181
Austral Oil & Exploration, Inc.	Abbeville	L	J. N. Sellers	001-D	124683
Austral Oil & Exploration, Inc.	Abbeville	L	9800 RA SUA, J. N. Sellers	002	208649 (30)
Austral Oil & Exploration, Inc.	Abbeville	L	10100 RA SUA, N. B. Leblanc	1	224423
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	009	132730
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	001	194412
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	002	194413
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	003	194414
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	004	194415
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	005	194416

Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	006	197183
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	007	197184
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	008	197185
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	009	197186
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	011	197188
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	012	197189
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	014	197294
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	015	197295
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	017	197364
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	018	197365
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	019	197366
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	020	197367
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	021	197368
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	023	197465
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Joyce	026	197662
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	001	198906
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	002	198966
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	003	198967
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	007	199081
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	004	199082
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	005	199083
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	006	199213
Austral Oil & Exploration, Inc.	Caddo Pine Island	S	Fuller Pat	008	199310
Austral Oil & Exploration, Inc.	Starks, West	L	UY 7 RA SUA, Etheredge	001	217824

James H. Welsh
Commissioner

0406#050

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 10 claims in the amount of \$37,481.36 were received for payment during the period May 1, 2004 - May 31, 2004.

There were 8 claims paid and 2 claims denied.

Loran Coordinates of reported underwater obstructions are:

27304	46929	Jefferson
27890	46861	Terrebonne
29291	47031	St Bernard

Latitude/Longitude Coordinates of reported underwater obstructions are:

2908.233	8919.894	Plaquemines
2910.441	9027.921	Terrebonne
2918.239	8953.184	Jefferson
2939.951	9007.528	Jefferson
2944.230	8928.198	St Bernard
2950.916	8938.662	St Bernard
3002.761	8946.779	Orleans

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Scott A. Angelle
Secretary

0406#061

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