NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Affairs and Criminal Investigations Division

Miscellaneous Corrections to Radiation Regulations

(LAC 33:XV.102, 328, 342, 390, 499, 763, 1519, 1613, 1615, and 1637) (RP062ft)

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.102, 328, 342, 390, 499, 763, 1519, 1613, 1615, and 1637 (Log #RP062ft).

This Rule is identical to federal regulations found in 10 CFR 19, 20, 37, 40, 61, and 71, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule makes minor changes to recordkeeping, reciprocity and physical protection. Also, all references to Indian tribes are changed to Indian Tribes. This rule was promulgated by the Nuclear Regulatory Commission (NRC) as RATS ID 2015-4 and 2015-5. This Rule will update the state regulations to be compatible with changes in the federal regulations. The changes in the state regulations are category B, C and H&S requirements for the State of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. 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.

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Hearing**

A public hearing will be held on October 30, 2018, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP062ft. Such comments must be received no later than October 30, 2018, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@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 RP062ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. 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; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson

General Counsel

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.

\* \* \*

*Indian Tribe—*an Indian or Alaska Native T~~t~~ribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian T~~t~~ribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5130~~479a~~.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), 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, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:283 (February 2014), LR 40:1338 (July 2014), LR 40:1926 (October 2014), LR 41:1276 (July 2015), LR 41:2321 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

**Chapter 3. Licensing of Byproduct Material**

**Subchapter D. Specific Licenses**

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

A. — J.2.d.i. …

ii. the individual practiced at a pharmacy at a government agency or a federally recognized Indian T~~t~~ribe before November 30, 2007, or at all other pharmacies before August 8, 2009, or at an earlier date as recognized by the Nuclear Regulatory Commission;

J.2.e. — e.iv. …

v. documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian T~~t~~ribe before November 30, 2007, or at all other locations of use before August 8, 2009, or at an earlier date as noticed by the NRC; and

J.2.e.vi. — M.4.g. …

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

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 18:34 (January 1992), 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 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:2179 (October 2007), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:286 (February 2014), LR 40:1341 (July 2014), LR 41:1278 (July 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

§342. Records

A. Each person who receives source or byproduct material in accordance with a license issued in accordance with these regulations shall keep records showing the receipt, transfer, and disposal of this source or byproduct material as follows.

1. The licensee shall retain each record of receipt of source or byproduct material as long as the material is possessed and for three years following transfer or disposition of the source or byproduct material.

2. The licensee who transferred the material shall retain each record of transfer of source or byproduct material until the department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

3. The licensee shall retain each record of disposal of source or byproduct material until the department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

4. If source or byproduct material is combined or mixed with other licensed material and subsequently treated in a manner that makes direct correlation of a receipt record with a transfer, export, or disposition record impossible, the licensee may use evaluative techniques (e.g., first-in, first-out), to make the records that are required by this Chapter account for 100 percent of the material received.

B. The licensee shall retain each record that is required by the regulations in this Chapter or by license condition for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, each record must be maintained until the department terminates the license that authorizes the activity that is subject to the recordkeeping requirement.

C. Prior to license termination, each licensee authorized to possess source material, in an unsealed form, shall forward the following records to the department:

1. records of disposal of licensed material made under LAC 33:XV.461, 462, 463, and 464; and

2. records required by LAC 33:XV.472.B.4.

D~~A~~. If licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, each licensee authorized to possess radioactive material, ~~with a half-life greater than 120 days,~~ in an unsealed form, shall transfer the following records to the new licensee, and the new licensee will be responsible for maintaining these records until the license is terminated:

1. records of disposal of licensed material made under LAC 33:XV.461, 462, 463, and 464; and

2. records required by LAC 33:XV.472.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1018 (May 2000), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

Subchapter E. Reciprocity

§390. Reciprocal Recognition of Licenses

A. Subject to these regulations, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, any other agreement state, or any licensing state and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state, except in areas of exclusive federal jurisdiction, for not more than 180 days in any calendar year~~any period of time deemed appropriate by the department~~ provided that the following conditions are met.

A.1. — C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

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 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 26:2768 (December 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 33:2181 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

**Chapter 4. Standards for Protection against Radiation**

**Subchapter Z. Appendices**

**§499. Appendices A, B, C, D, E**

A. Appendix A — C. Appendix C …

\* \* \*

D. Appendix D

**Requirements for Transfer of Low-Level Radioactive Waste for Disposal at Land Disposal Facilities and Manifests**

A. — B. …

C. NRC Forms 540, 540A, 541, 541A, 542, and 542A, and the accompanying instructions, in hard copy, may be obtained by writing or calling the Office of the Chief Information Officer~~from the Information and Records Management Branch, Office of Information Resources Management~~, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-5877~~232~~ or by visiting the NRC’s Web site at [*http://www.nrc.gov*](http://www.nrc.gov) and selecting forms from the index found on the home page.

D. — H.5.b. …

E. Appendix E

**Classification and Characteristics of Low-Level Radioactive Waste**

A. — C. …

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

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 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 28:1012 (May 2002), amended by the Office of Environmental Assessment, LR 31:48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:2183 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014), LR 40:1341 (July 2014), LR 41:1279 (July 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

Chapter 7. Use of Radionuclides in the Healing Arts

§763. Training

A. — B.2. …

3. A radiation safety officer, a medical physicist, or a nuclear pharmacist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a government agency or federally-recognized Indian T~~t~~ribe before November 30, 2007, or at any other location of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of Subsection A, J, or K of this Section, respectively, when performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and time period identified in this Paragraph, qualifies as an authorized nuclear pharmacist or an authorized medical physicist, respectively, for those materials and uses performed before these dates, for purposes of this Chapter.

4. — 5. …

6. A physician, dentist, or podiatrist who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses performed at a government agency or federally-recognized Indian T~~t~~ribe before November 30, 2007, or at any other location of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of this Section when performing the same medical uses. A physician, dentist, or podiatrist who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses at the locations and time period identified in this Paragraph, qualifies as an authorized user for those materials and uses performed before these dates, for purposes of this Chapter.

B.7. — M. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:983 (June 2008), LR 34:2121 (October 2008), LR 36:1772 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:1342 (July 2014), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

Chapter 15. Transportation of Radioactive Material

§1519. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste  
[Formerly §1516]

A. As specified in Subsections B, C, and D of this Section, each licensee shall provide advance notification to the governor, or to the governor's designee, of the shipment of licensed material, within or across the boundary of Louisiana, before the transport, or delivery to a carrier for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage. A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the *Federal Register* on June 30, 1995 (60 FR 34306). The list of governor’s designees and T~~t~~ribal official’s designees of participating T~~t~~ribes will be published annually in the *Federal Register* on or about June 30 to reflect any changes in the information. The list of the names and mailing addresses of the governors' designees and T~~t~~ribal official’s designees of participating T~~t~~ribes is also available on request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. In Louisiana, the governor's designee is the Louisiana State Police, 7919 Independence Boulevard, Box 66614 (#A2621), Baton Rouge, LA 70896-6614.

1. As specified in Subsections B, C, and D of this Section, after June 11, 2013, each licensee shall provide advance notification to the *T~~t~~ribal official* as defined in LAC 33:XV.102 of participating T~~t~~ribes referenced in Subsection A of this Section, or the official’s designee, of the shipment of licensed material, within or across the boundary of the T~~t~~ribe’s reservation, before the transport, or delivery to a carrier for transport, of licensed material outside the confines of the licensee’s plant, or other place of use or storage.

B. — F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.B and 21113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1269 (June 2000), LR 26:2602 (November 2000), amended by the Office of Environmental Assessment, LR 30:2029 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:2190 (October 2007), LR 34:2111 (October 2008), amended by the Office of the Secretary, Legal Division, LR 40:1928 (October 2014), LR 41:2325 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

**Chapter 16. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material**

Subchapter B. Background Investigations and Access Control Program

§1613. Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material

A. — B.2. …

C. Procedures for Processing of Fingerprint Checks

1. For the purpose of complying with this Subchapter, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit ~~all information and fees regarding fingerprinting~~ to the U.S. Nuclear Regulatory Commission~~.~~, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB–05 B32M, Rockville, Maryland 20852, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 1–630–829–9565, or by email to *FORMS.Resource@nrc.gov*. Guidance on submitting electronic fingerprints can be found at *http://www.nrc.gov/site-help/e-submittals.html*.

2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 301–492–3531. Combined payment for multiple applications is acceptable. The commission publishes the amount of the fingerprint check application fee on the NRC's public web site. To find the current fee amount, go to the Electronic Submittals page at *http://www.nrc.gov/site-help/e-submittals.html* and see the link for the criminal history program under electronic submission systems.

3. The commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:2329 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

§1615. Relief from Fingerprinting, Identification, and Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

A. — A.9. …

10. commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;

A.11. — B.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:2330 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:

Subchapter C. Physical Protection Requirements During Use

§1637. Reporting of Events

A. The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Office of Environmental Compliance by telephone at (225) 765-0160 ~~as soon as possible~~. In no case shall the notification to the department be later than four hours after the discovery of any attempted or actual theft, sabotage, or diversion.

B. — C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:2334 (November 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44: